

2005

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**MAGISTRATES COURT (DANGEROUS SUBSTANCES INFRINGEMENT
NOTICES) AMENDMENT REGULATION 2005 (NO 1)**

SUBORDINATE LAW SL2005-24

EXPLANATORY STATEMENT

**Circulated by the authority of
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MAGISTRATES COURT (DANGEROUS SUBSTANCES INFRINGEMENT NOTICES) AMENDMENT REGULATION 2005 (NO 1)

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Background and Outline

The Magistrates Court (Dangerous Substances Infringement Notices) Amendment Regulation 2005 (No 1) (the Amending Regulation) amends the Magistrates Court (Dangerous Substances Infringement Notices) Regulation 2004 (the Principal Regulation) which makes provision for the issue of infringement notices for certain offences under the *Dangerous Substances Act 2004* and the Dangerous Substances (Explosives) Regulation 2004.

The Amending Regulation is made under Part 3.8 of the *Magistrates Court Act 1930* which provides for making regulations to issue infringement notices for listed offences. The Amending Regulation clarifies that a police officer issuing an infringement notice could identify himself or herself with the officer's service number, provides that infringement notices may be issued for offences under sections 182(1)(a) and 182(1)(b) of the Dangerous Substances (Explosives) Regulation, and enables infringement notices to be issued for certain offences under the Dangerous Substances (General) Regulation 2004.

The Dangerous Substances Act regulates the import, manufacture, transport, storage, handling, supply and use of dangerous substances in the ACT. This statutory framework is designed to minimise the risk these materials can pose to the health and safety of people working with these substances, the general community and the environment. The regulatory framework established by the Dangerous Substances Act is supported by the regulations made under it.

The ability to issue infringement notices for offences against the Dangerous Substances Act and regulations under it encourages compliance with the legislation and allows for immediate action to be taken against people who are breaching the legislation. This should provide greater protection for the ACT community.

Clause Notes

Clause 1 provides that the regulation is the Magistrates Court (Dangerous Substances Infringement Notices) Amendment Regulation 2005 (No 1).

Clause 2 provides that the regulation commences on the day after the date that the regulation is notified.

Clause 3 provides that the regulation amends the Magistrates Court (Dangerous Substances Infringement Notices) Regulation 2004.

Clauses 4 and 5 amend section 5 of the Principal Regulation. The effect of these amendments is to expand the meaning of 'dangerous substances legislation' so as to include the Dangerous Substances (General) Regulation 2004.

Clause 6 amends sections 10 and 11 of the Principal Regulation. Section 207(1)(a) of the Dangerous Substances Act provides that police officers are inspectors for the Act. The amendment requires police officers issuing an infringement notice or a reminder notice to identify themselves by their service number. Public servants who are appointed as inspectors under section 207(1)(b) of the Dangerous Substances Act who issue such notices are still required to identify themselves either by their full name, their surname and initials, or with any unique number given to them by the administering authority.

Clause 7 amends Schedule 1, part 1.2, item 38, column 2 and replaces the reference to section 182(1) of the Dangerous Substances (Explosives) Regulation with the reference to section 182(1)(a) of that Regulation. This would enable an infringement notice to be issued to a person in control of premises who has not ensured that an explosive is used in the premises only by a person authorised to use it. Currently, under the Principal Act, there is an ambiguity as to whether an infringement notice could be issued only where there is a breach of both paragraphs (a) and (b) of section 182. This clause and clause 8 clarify that a notice could be issued for a breach of any of these paragraphs.

Clause 8 amends Schedule 1, part 1.2, item 39, column 2 and replaces the reference to section 182(2) of the Dangerous Substances (Explosives) Regulation with the reference to section 182(1)(b) of that Regulation. This would enable an infringement notice to be issued to a person in control of premises who has not ensured that an explosive is used in the premises only in accordance with a blasting permit for the explosive. Section 182(2) is not an offence provision.

Clause 9 adds a new part 1.3 to Schedule 1 of the Principal Regulation. This part lists offences within the Dangerous Substances (General) Regulation for which an infringement notice can be issued. The schedule lists the maximum number of penalty units for the offence (column 3) and the penalty that can be imposed for the offence by infringement notice (column 4). In accordance with section 8 of the Principal Regulation, five times such penalty would apply to a corporate offender.