

2005

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**Magistrates Court (Environment Protection Infringement Notices) Regulation
2005**

Subordinate Law No SL2005-37

EXPLANATORY STATEMENT

Circulated by the authority of
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Magistrates Court (Environment Protection Infringement Notices) Regulation 2005

Outline

Part 3.8 of the *Magistrates Court Act 1930* provides for the issue of infringement notices for offences listed in regulation. *The Magistrates Courts (Environment Protection Infringement Notices) Regulation 2005* (the regulations) create a system of infringement notices for certain offences against the *Environment Protection Act 1997* and *Environment Protection Regulation 2005*.

The *Environment Protection Act 1997* and Regulation provides for the protection of the environment and related matters.

Financial implications

Nil

Notes on the sections

Section 1 - Name of regulation – provides that the regulations are the *Magistrates Court (Environment Protection Infringement Notices) Regulation 2005*.

Section 2 - Commencement – provides that the regulations commence on the commencement of the *Statute Law Amendment Act 2005* part 3.19 (scheduled to be 12 November 2005).

Section 3 - Purpose of the regulation – provides that the purpose of the regulations is to create a system of infringement notices under the *Magistrates Court Act 1930*, part 3.8, for certain offences against the environment protection legislation.

Section 4 – Dictionary – the dictionary at the end of the regulation is part of the regulation

Section 5 -Notes – explains that the notes included in the regulation are explanatory and are not part of the regulation.

Section 6 - Administering authority – provides that the administering authority for an infringement notice offence against the *Environment Protection Act 1997* and *Environment Protection Regulation 2005* is the Environment Protection Authority.

Section 7 - Infringement notice offences – provides that infringement notices can be issued for an offence against a provision of the environment protection legislation mentioned in schedule 1, column 2.

Section 8 - Infringement notice penalties - subsection (1) provides that an infringement notice penalty for an offence is the amount mentioned in schedule 1, column 4 for the offence. Subsection (2) provides that the penalty payable by a company is five times that payable by an individual. Subsection (3) provides that the cost of serving a reminder notice for an infringement notice is \$34.

Section 9 – Contents of infringement notices – other information

Subsection (1) provides that an infringement notice served on a company must include the company's ACN number.

Subsection (2) explains that a company is registered under the Corporations Act.

Section 10 – Contents of infringement notices - identifying authorised person

An inspector under the *Environment Protection Act 1997* is an authorised person for the purposes of issuing an infringement notice under these regulations. The information required on the infringement notice to identify the authorised person serving the notice will either be the authorised person's full name or surname and initials or any unique number given to the authorised person by the administering authority.

This identification method is used because there have been instances where named authorised persons who have issued infringement notices for offences under the *Environment Protection Act 1997* have received threats and in certain instances been assaulted. Some of these officers will be authorised officers for the regulation and providing unique number identification on their identification cards could avert such instances.

Section 11 – Contents of reminder notices - identifying authorised person – specifies information required on a reminder notice. The information specified is the same as that specified under section 10 for an infringement notice.

Section 12 - Authorised people for infringement notice offences -

An authorised officer under the *Environment Protection Act 1997* section 14(3) may serve an infringement notice and a reminder notice for an infringement notice against the environment protection legislation.

Section 13 – Expiry – sch 1, pt 1.1 – provides for the expiry of the schedule 1, part 1.1 which provides for infringement notices under the *Environment Protection Act 1997* on the day the *Criminal Code 2002* applies to all ACT offences. This 'sunset clause' is included to ensure infringement notices schemes for Acts yet to be harmonised with the Criminal Code are reviewed. The Criminal Code applies to the Environment Protection Regulation 2005, which is part 1.2 of the schedule, and so it is not necessary to review the Regulation as part of the harmonisation process.

Schedule 1 - Environment protection legislation infringement notice offences and penalties.

This schedule outlines the offence penalty and infringement penalties for offences under the *Environment Protection Act 1997* (Part 1.1) and the *Environment Protection Regulation 2005* (Part 1.2)

Dictionary - This is the dictionary for the Regulation.