

2006

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**MAGISTRATES COURT (TREE PROTECTION INFRINGEMENT NOTICES)
REGULATION 2006**

SUBORDINATE LAW NO SL2006-6

EXPLANATORY STATEMENT

Circulated by authority of the
Attorney General
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Overview

The *Magistrates Court Act 1930* part 3.8 provides a system of infringement notices for offences against various Acts. The infringement notice system is intended to provide an alternative to prosecution. The *Magistrates Court (Tree Protection Infringement Notices) Regulation 2006* (the Regulation) enables infringement notices to be issued for certain offences in the *Tree Protection Act 2005* (the Tree Protection Act).

On 29 March 2005 the Legislative Assembly passed the Tree Protection Act. The legislation sets out provisions for the protection of trees in the urban area. The legislation contains provisions for:

- establishment of a register of trees of high importance with appropriate levels of protection;
- establishment of comprehensive tree protection measures to be applied in areas where urban forest values are at risk of degradation;
- approval of tree damaging activities;
- approval of groundwork activities within the tree protection zone of a protected tree;
- approval of tree management plans;
- offence and enforcement provisions;
- ability for the Conservator of Flora and Fauna (the Conservator) to make directions with regard to tree protection matters;
- ability for the Conservator to declare a site as protected following the death of a registered tree; and
- establishment of a Tree Advisory Panel.

The objective of the Regulation is to ensure that infringement notices are in place for offences relating to damaging protected trees as part of a business, doing prohibited groundwork as part of a business, contravening tree protection conditions of a Development Application and contravening conditions of approval. The ability to issue infringement notices for these offences will encourage compliance with the legislation and will allow immediate action to be taken against businesses and people who breach the legislation. This should provide greater protection for protected trees in the ACT.

Clauses

Section 1 – Name of regulation

This section provides that the regulation is the *Magistrates Court (Tree Protection Infringement Notices) Regulation 2006*.

Section 2 – Commencement

This section provides that the regulation commences on the commencement of the Tree Protection Act.

Section 3 – Purpose of Regulation

This section provides that this regulation is to provide for infringement notices under the *Magistrates Court Act 1930*, part 3.8 for certain offences against the Tree Protection Act.

Section 4 – Dictionary

The dictionary at the end of the regulation is part of the regulation.

Section 5 – Notes

This section provides that a note is explanatory and is not part of the regulation.

Section 6 – Administering authority

This section provides that the administering authority is the chief executive.

Section 7 – Infringement notice offences

This section provides that the *Magistrates Court Act 1930*, part 3.8 applies to an offence against a provision of the Tree Protection Act in schedule 1, column 2.

Section 8 – Infringement notice penalties

This provision provides that the penalties payable for an offence in schedule 1, column 2 for an individual is the amount mentioned in the schedule and for a corporation is 5 times the amount listed in the schedule. The cost of serving a reminder notice for an infringement notice offence against the Tree Protection Act is \$34.

Section 9 – Contents of infringement notices – other information

This section provides that an infringement notice served on a company must include the company's ACN. A company is a company registered under the Corporations Act.

Section 10 – Contents of infringement notices – identifying authorised person

This section provides that an infringement notice served on a person by an authorised person must identify the authorised person's full name or surname and initials or any unique number given to the authorised person by the administering authority.

Section 11 – Contents of reminder notices – identifying authorised person

This section provides that a reminder notice served on a person by an authorised person must identify the authorised person's full name or surname and initials or any unique number given to the authorised person by the administering authority.

Section 12 – Authorised people for infringement notice offences

This section provides that an authorised person under the Tree Protection Act (section 85) may serve an infringement notice for an infringement notice offence and a reminder notice for an infringement notice offence against the Tree Protection Act.

Schedule 1 – Tree Protection Act infringement notice offences and penalties

This schedule outlines the offence penalty units and infringement penalties for offences under section 16 (5), 18 (4), 20 (3) and 30 (1) of the Tree Protection Act.

Dictionary

The Dictionary for the regulations.