

2008

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

**MAGISTRATES COURT (OCCUPATIONAL HEALTH AND SAFETY
INFRINGEMENT NOTICES) AMENDMENT REGULATION 2008 (No 1)**

SUBORDINATE LAW NO SL2008-9

EXPLANATORY STATEMENT

Presented by the authority of
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Attorney-General

Magistrates Court (Occupational Health and Safety Infringement Notices) Amendment Regulation 2008 (No 1)

Outline

Part 3.8 of the *Magistrates Court Act 1930* provides that, for the breach of certain offences, infringement notices may be issued as an alternative to prosecution. If an infringement notice is issued, the offence may be expiated by payment of a penalty. Section 117 of the *Magistrates Court Act* provides that an *infringement notice offence* is an offence declared under the regulations to be an offence to which Part 3.8 applies.

The Magistrates Court (Occupational Health and Safety Infringement Notices) Regulation 2004 prescribes the provisions in the *Occupational Health and Safety Act 1989* (the OHS Act) which are infringement notice offences, and the penalties that are payable for the infringement notice offences.

The OHS Act provides for the promotion and improvement of the standards of occupational health, safety and welfare, and for related purposes.

The Occupational Health and Safety (General) Regulation 2007 (the OHS Regulation) is made under the section 229 of the OHS Act.

The OHS Regulation repeals the Occupational Health and Safety Regulation 1991 and replicates its provisions relating to the management of risks at a workplace; training for health and safety representatives; and reporting of, and record keeping in relation to, dangerous occurrences at the workplace. The OHS Regulation replicates the offences in the 1991 OHS Regulation.

The OHS Regulation also provides for particular duties and safety measures that relate to the management at workplaces of amenities, noise, and other workplace health and safety matters. Breaches of certain offences in the OHS Regulation have also been scheduled as infringement notice offences.

A maximum of 10 penalty points is provided for these offences.

The Magistrates Court (Occupational Health and Safety Infringement Notices) Amendment Regulation 2008 (No) (the Regulation) amends the Magistrates Court (Occupational Health and Safety Infringement Notices) Regulation 2004 to bring it into line with the changes made by the OHS Regulation.

Section 2 of the OHS Regulation provides for commencement of the Regulation to be on the day that is the later date of either the day that is 6 months after its notification day; or the day on which the *Occupational Health and Safety (Regulatory Services) Legislation Amendment Act 2007* commences. The commencement of the Regulation is to be on the day on which the OHS Regulation commences.

Notes on Specific Provisions

Section 1 Name of regulation

Section 1 provides that name of the Regulation is the Magistrates Court (Occupational Health and Safety Infringement Notices) Amendment Regulation 2008 (No 1).

Section 2 Commencement

Section 2 provides for commencement of the Regulation to be on the day on which the Occupational Health and Safety (General) Regulation 2007 commences.

Section 3 Legislation amended

Section 3 provides that the Regulation amends the Magistrates Court (Occupational Health and Safety Infringement Notices) Regulation 2004.

Section 4 Section 3

Section 4 amends section 3 of the Magistrates Court (Occupational Health and Safety Infringement Notices) Regulation 2004 to update the reference to Part 3.8 of the *Magistrates Court Act 1930* which provides for infringement notices to be issued for offences declared under the regulations to be an offence to which Part 3.8 applies.

Section 5 Section 3, note

Section 5 provides for a change to the note relating to section 3 of the Magistrates Court (Occupational Health and Safety Infringement Notices) Regulation 2004 which corresponds to the change made in section 4 of the Regulation to update the reference to Part 3.8 of the *Magistrates Court Act 1930* which provides for infringement notices to be issued for certain offences.

Section 6 Section 5, definition of *occupational health and safety legislation*, paragraph (b)

Section 6 provides for the reference in paragraph 5(b) to be amended as a consequence of the making of the OHS Regulation.

Section 7

Section 7 amends section 7 of the Magistrates Court (Occupational Health and Safety Infringement Notices) Regulation 2004 to substitute the correct reference to Part 3.8 of the *Magistrates Court Act 1930*.

Section 8 Schedule 1, part 1.2

Section 8 amends Part 1.2 of the Magistrates Court (Occupational Health and Safety Infringement Notices) Regulation 2004 to substitute the updated references to the provisions in the OHS Regulation that provide for infringement notice offences.

Section 8 also schedules new offences under the OHS Regulation as infringement notice offences.