

2008

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

Magistrates Court (Crimes Infringement Notices) Regulations 2008

SL2008-14

EXPLANATORY STATEMENT

Circulated by the authority of
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Attorney General

Outline

Part 8 of the *Magistrates Court Act 1930* provides for the issue of infringement notices for offences listed in regulations. The Magistrates Court (Crimes Infringement Notices) Regulations 2008 (the regulations) enable notices to be issued for certain offences against the *Crimes Act 1900* (the Act).

In 1993, Mr Terence Connolly, the then Attorney General, referred 'the law relating to behaviour in public places and the right of freedom of public assembly' to the Community Law Reform Commission (CLRC). The CLRC report, which dealt extensively with street offences, was eventually tabled in the Assembly on 25 September 1997.

The regulations are part of a package that modernises and builds on the provisions adopted in the Legislative Assembly following the careful consideration of the CLRC report by the third ACT Legislative Assembly. The regulations are accompanied by the Crimes Amendment Bill 2008 and another set of regulations — the Magistrates Court (Liquor Infringement Notices) Regulation 2008.

The regulations enable infringement notices to be issued when a person urinates in a public place, defaces premises or fails to follow a direction to cease the emission of an offensive noise. The ability to issue an infringement notices for offences against the Act will allow police officers and in the case of defacing premises, Territory and Municipal Services officers to take immediate action against people who breach these provisions. The intention is to apply an immediate consequence to alleged offenders and thereby deterring future offending.

Clause Notes

1. Name of regulations

This clause establishes the name of the regulations as the *Magistrates Court (Crimes Infringement Notices) Regulations 2008*.

2. Commencement

This is a formal provision specifying when the regulation will commence. provides that the regulations commence on the commencement of the *Crimes Amendment Act 2008*.

3. Purpose of regulations

This clause provides that the purpose of the regulations is to create a system of infringement notices under the *Magistrates Court Act 1930*, part 8 for certain offences against the Crimes Act.

4. Dictionary

This clause provides that the dictionary at the end of the regulation forms part of the regulation.

5. Notes

This clause provides that a note found in the regulations is explanatory and is not part of the regulations.

6. Administering authority

This clause provides that the administering authority for an infringement notice offence is the Chief Police Officer.

7. Service of infringement notices, Act, s120 — belief about age of individual

This clause provides that an authorised person must not issue an infringement to a person unless the authorised person sees evidence of the individual's identity and age. Note 1 provides that the offence in schedule 1 does not apply to individuals under 16 years of age.

8. Service of infringement notices, Act, s120 — witnessing conduct

This clause provides that for an authorised person to have reasonable grounds that a person has committed an infringement notice offence, they must see the person committing the offence. The intention of this clause is to support the integrity of the infringement notice scheme for offences in the Crimes Act. The requirement of the authorised officer to witness the offence will result in fewer people disputing liability for infringement notice offences. Where an authorised person is confronted with conflicting accounts of an alleged offence, and the offence warrants the commencement of criminal proceedings, it is more appropriate that the court resolve the question of a person's guilt or innocence.

9. Infringement notice offences

This clause provides that infringement notices can be issued for the offences listed in schedule 1, column 2.

10. Infringement notice penalties

This clause provides that the penalties for the offences against these offences in the Crimes Act are listed in column 4 of schedule 1.

This regulation also provides that the cost for the issue of a reminder notice for an infringement notice offence is \$34.

11. Contents of infringement notices - other information

This clause specifies that infringement notices served on a company must include the company's ACN.

12. Contents of infringement notices - identifying authorised person

This clause provides that an infringement notice must identify the authorised person who served the notice. In the case of a police officer, the infringement notice must identify the police officer's service number. Otherwise, an authorised person may be identified in the notice by their full name, or surname and initials, and the position held by the authorised person as it appears in his or her identity card. Alternatively, the notice may identify him or her by any unique number given to them by the administering authority.

13. Contents of reminder notices - identifying authorised person

This clause provides that a reminder notice for an infringement notice must identify the authorised person who served the notice. In the case of a police officer, the infringement notice must identify the police officer's service number. Otherwise, an authorised person may be identified in the notice by their full name, or surname and initials, and the position held by the authorised person as it appears in his or her identity card. Alternatively, the notice may identify him or her by any unique number given to them by the administering authority.

14. Service of notices by authorised people

This clause provides that a police officer or an authorised person under the Litter Act 2004 may serve infringement notices and reminder notices for infringement notice offences.

Schedule 1 Crimes Act infringement notice offences and penalties

This schedule lists the infringement notice offences and penalties under Regulations 9 and 10.