

2012

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**MAGISTRATES COURT (ELECTORAL INFRINGEMENT NOTICES) REGULATION
2012**

SUBORDINATE LAW SL2012-27

EXPLANATORY STATEMENT

**Circulated by authority of
Mr Simon Corbell MLA
Attorney-General**

Magistrates Court (Electoral Infringement Notices) Regulation 2012

Overview

Part 3.8 of the *Magistrates Court Act 1930* provides that offences prescribed by a regulation made under the Magistrates Court Act can be dealt with by way of an infringement notice. The *Magistrates Court (Electoral Infringement Notices) Regulation 2012* is made under Part 3.8 of the Magistrates Court Act and will enable infringement notices to be issued for the offences of the sections 236(1) and 236(2) of the *Electoral Act 1992*.

Infringement notices are intended to provide an alternative to prosecution. Under the Magistrates Court Act a person authorised to issue an infringement notice for an offence has the discretion to decide whether or not to issue a notice.

The offences to which this regulation applies are certain strict liability offences in the Electoral Act. Infringement notices may be issued to individuals and companies who do not comply with certain disclosure requirements under the Act. The Act sets out the framework within which ACT Legislative Assembly elections are conducted.

Summary of Clauses

Clause 1 – Name of regulation – provides that the regulation is called the *Magistrates Court (Electoral Infringement Notices) Regulation 2012*.

Clause 2 – Commencement – provides that the regulation commences on 1 July 2012.

Clause 3 – Dictionary – provides that the dictionary at the end of the regulation is part of the regulation. The dictionary defines certain terms used in the regulation.

A definition in the dictionary applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

Clause 4 – Notes – provides that a note included in the regulation is, in law, purely explanatory and is not part of the regulation. See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Clause 5 – Purpose of Regulation – provides the purpose of the regulation is to allow for infringement notices under the *Magistrates Court Act 1930*, part 3.8 for certain offences against the Act.

Clause 6 – Administering authority – provides that the administering authority for an infringement notice offence against the Act is the electoral commissioner.

Clause 7 – Infringement notice offences – provides that infringement notices can be issued for the offences mentioned in the regulation at schedule 1, column 2.

Clause 8 – Infringement notice penalties – provides for the penalty that is payable by an individual or a corporation with an infringement notice. The penalty for individuals for each infringement notice is set in column 4 of schedule 1. The penalty for corporations in the same circumstances is five times the amount prescribed in column 4 of schedule 1.

This section also prescribes that the cost of service of a relevant reminder notice under the Magistrates Court Act, for a relevant infringement notice offence is \$34. That is the amount payable by the person to whom the reminder notice is issued.

Clause 9 – Contents of infringement notices – identifying authorised person - provides that the infringement notice must identify the authorised person serving the notice by their full name, or their surname and initials, or the unique number given to them by the administering authority.

Clause 10 – Contents of infringement notices – other information – provides that a reminder notice served on a company must include the company's ACN (Australian Company Number). In this section **company** means a company registered under the *Corporations Act 2001*. The requirement is additional to the requirement under the *Magistrates Court Act 1930*, s 121 (1) (c).

This section also provides that, in this section, **company** means a company registered under the Corporations Act.

Clause 11 – Contents of reminder notices – identifying authorised person – provides that an infringement notice must identify the authorised person who served the notice by their full name, or their surname and initials, or the unique number given to them by the administering authority.

Clause 12 - Authorised people for infringement notice offences – provides that an authorised person under *Magistrates Court Act 1930*, s 134A is authorised to service infringement notices and reminder notices for infringement notice offences against the *Electoral Act 1992*.

Schedule 1 –

The schedule lists the infringement notice offences and penalties under the *Magistrates Court Act 1930* that are prescribed by sections 7 and 8.

The offences to be dealt with by way of an infringement notice under the regulation are relatively minor in nature, and have infringement notices penalties ranging from \$440 to \$1100 for individuals and \$2200 to \$5500 for corporations. These penalty values have been set so that the nominal amount on an infringement notice is 20% of the maximum fine stipulated in the offence.

The offences are all strict liability, and breaches should be readily apparent without the need for further inquiry, or the need to weigh up competing or contradictory evidence.