

2012

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**Magistrates Court (Liquor Infringement Notices)
Amendment Regulation 2012 (No 1)**

SL2012-28

EXPLANATORY STATEMENT

**Circulated by the authority of
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Magistrates Court (Liquor Infringement Notices) Amendment Regulation 2012 (No 1)

SUBORDINATE LAW 2012-28

Statutory Rules

Overview

Part 3.8 of the *Magistrates Court Act 1930* (Magistrates Court Act) provides that offences prescribed by a regulation made under the Magistrates Court Act can be dealt with by way of an infringement notice.

Section 134A (2) of the Magistrates Court Act provides that a regulation may prescribe a person to be an authorised person for the serving of an infringement notice.

The *Magistrates Court (Liquor Infringement Notices) Regulation 2010* allows infringement notices to be issued for offences under the *Liquor Act 2010* by authorised investigators under the *Fair Trading (Consumer Affairs) Act 1973* and police officers.

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. Infringement notices may be issued to individuals and businesses.

This regulation amends the *Magistrates Court (Liquor Infringement Notices) Regulation 2010* by inserting the responsible service of alcohol (RSA) offences in division 8.1 of the *Liquor Act 2010* (Liquor Act) into schedule 1.

The Liquor Act makes it mandatory for licensees and commercial permit holders (excluding influential people of a corporation who do not supply liquor), employees supplying liquor and crowd controllers to have successfully completed an Australian Capital Territory approved RSA training course by 1 June 2012.

The Office of Regulatory Services maintains a list of Registered Training Organisations that have been approved to conduct RSA training in the Australian Capital Territory. This list can be found at:

http://www.ors.act.gov.au/resources/attachments/Registered_Training_Organisations_Approved_to_Conduct_Responsible_Service_of_Alcohol_Training_in_the_ACT.pdf

People who have completed an unapproved RSA course (in any jurisdiction) since 1 June 2010 will not need to complete an approved course until 1 June 2013.

Under the Liquor Act, the licensee or a commercial permit holder, an employee of the licensee or commercial permit holder who serves liquor at the premises, or a crowd controller who works at the premises, are required to undertake RSA training every three years.

Some RSA infringement notice offences in schedule 1 may be committed by individuals who are under 18 years old. Infringement notices for these offences, however, may only be given to individuals who are 16 years old or older (see schedule 1, column 2).

Summary of Clauses

Clause 1 – Name of regulation

This clause declares the name of the regulation as the Magistrates Court (Liquor Infringement Notices) Amendment Regulation 2012 (No 1).

Clause 2 – Commencement

This clause provides that the regulation commences on the day after it is notified.

Clause 3 – Legislation amended

This clause states the name of the regulation it is amending.

Clause 4 – Schedule 1, new items 3A to 3L

This clause inserts the RSA offences and penalties in the Liquor Act into schedule 1 to allow authorised investigators and police officers to issue infringement notices for these offences. The RSA offences included in the schedule are strict liability offences with maximum penalties in the Liquor Act up to 50 penalty units.

The infringement notice penalty amounts in schedule 1, column 4, represent 20 per cent of the maximum penalty provided for that offence for an individual. The infringement notices penalties for the RSA offences range from \$220 to \$1100 for individuals.

The penalty payable by a corporation for an RSA offence in the Liquor Act under an infringement notice for the offence is five times the amount mentioned in schedule 1, column 4 for the offence.

The Regulation is made under section 321 of the Magistrates Court Act.