

Magistrates Court (Waiver of Penalty) Guidelines 2024 (No 1)

Disallowable instrument DI2024-152

made under the

Magistrates Court Act 1930, section 131AG (Guidelines for waiver of penalty)

EXPLANATORY STATEMENT

Section 131AG of the *Magistrates Court Act 1930* (the Act) provides the Minister may make guidelines for waiver of infringement notice penalties. An administering authority must comply with the guidelines. A waiver can only be granted for the infringement notice penalty. Any other penalties associated with the offence will still apply.

An administering authority must waive an infringement notice penalty when all of the following elements are satisfied:

- the applicant does not currently have, and is unlikely to have in the future, the financial ability to pay the infringement notice; and
- relevant circumstances exist in relation to the applicant; and
- enforcement action has not resulted in, or is unlikely to result in, the payment of the infringement notice (for example, previous sanctions did not result in payment); and
- the applicant is not a suitable person to discharge the infringement notice by completing an approved community work or social development program.

The administering authority has discretion to waive an infringement notice penalty in circumstances where only some of these elements are satisfied.

Clause 1 and 2 are formal provisions that deal with the name and commencement of the instrument.

Clause 3 establishes that schedule 1 contains the guidelines for waiver of infringement notice penalties. Schedule 1 outlines the methods and grounds for an application for waiver of an infringement notice penalty.

Clause 4 sets out the definitions used in the instrument.