



# NORTHERN TERRITORY OF AUSTRALIA

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No. 55 of 1988

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## AN ACT

to amend the *Justices Act*

[Assented to 17 November 1988]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Justices Amendment Act* (No. 3) 1988.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. NEW DIVISION

The *Justices Act* is amended by inserting after section 60 the following:

*"Division 2A - Territory Infringement  
Notices Enforcement Scheme*

"60A. INTERPRETATION

"In this Division, unless the contrary intention appears -

'appropriate officer' means -

- (a) a person authorized by or under an Act to serve or issue an infringement notice; or

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(b) the holder of a prescribed office;

'certificate' means a certificate referred to in section 60D;

'courtesy letter' means a letter served under section 60C;

'enforcement agency', in relation to an infringement notice, means a person or body authorized by or under an Act to take proceedings against a person for the offence for which the infringement notice was served or issued;

'enforcement order' means an order made under section 60E;

'infringement notice' means -

(a) a traffic infringement notice served under regulation 87 of the Traffic Regulations;

(b) a parking notice served under regulation 65 of the Traffic Regulations;

(c) a traffic infringement notice or parking notice issued under the by-laws of a council or community government council made under, or continued in force by, the *Local Government Act*; or

(d) a notice served or issued under a prescribed provision of an Act, regulations or by-laws;

'infringement penalty' means the amount specified in an infringement notice as payable for the offence for which it was served or issued;

'notice of enforcement order' means a notice in the prescribed form, served under section 60F;

'penalty' means the amount payable, including for costs, under an enforcement order.

"60B. APPLICATION OF DIVISION

"(1) The procedures set out in this Division may be used, in substitution for any other procedure under a law of the Territory, to enforce an infringement notice.

"(2) The procedures set out in this Division may be used to enforce an infringement notice whether issued before or after the commencement of this Division.

"60C. COURTESY LETTERS

"(1) If it appears to an appropriate officer that an infringement penalty has not been paid within the time for payment specified in an infringement notice, the appropriate officer may serve on the person on whom the infringement notice was served a letter stating -

- (a) that the person has a further 14 days in which to pay the infringement penalty together with the prescribed costs, if any (including, in the case of an infringement notice issued under the *Traffic Act* or the *Local Government Act*, any costs incurred in obtaining proof of the ownership of a motor vehicle under the *Motor Vehicles Act*);
- (b) that in default of payment, the person may be dealt with under this Division; and
- (c) such other information, if any, as is prescribed.

"(2) On the service on a person of a courtesy letter, the time for payment of the infringement penalty is extended until the expiration of the period of 14 days after the service and the infringement penalty, together with the prescribed costs, if any, may be paid within that extended period as if the law under which the infringement notice was served also required the payment of those costs.

"(3) A person served with a courtesy letter may, within 14 days after service, decline to be dealt with under this Division for the offence alleged to have been committed, by serving on the relevant enforcement agency a written statement stating that the person declines to be so dealt with.

"(4) A statement under subsection (3) may be served by posting it to the address of the enforcement agency specified in the courtesy letter, or by leaving it at the enforcement agency's office or place of business with a person apparently employed at that office or place who has apparently attained the age of 18 years.

"60D. REGISTRATION OF INFRINGEMENT PENALTIES

"(1) If a person served with a courtesy letter does not, within 14 days after service -

- (a) pay the infringement penalty and prescribed costs, if any; or
  - (b) decline to be dealt with under this Division,
- an appropriate officer may lodge with the Clerk a certificate stating that -

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- (c) an infringement notice has been served on the person or otherwise as permitted by law in relation to an offence referred to in the certificate;
- (d) a courtesy letter has been served on the person after the expiration of the time specified in the infringement notice for payment of the infringement penalty;
- (e) not less than 14 days have elapsed since the courtesy letter was served;
- (f) the full amount of the infringement penalty and prescribed costs, if any, have not been paid at the date of the certificate;
- (g) the person has not, in accordance with section 60C(3), declined to be dealt with under this Division;
- (h) a complaint in relation to the offence has not been laid, and the time within which such a complaint may be laid has not expired; and
- (j) in the case of an infringement notice served under the *Local Government Act* in relation to a traffic or parking infringement or under regulation 65 of the Traffic Regulations, the person named in the certificate -
  - (i) was the person on whom the infringement notice was served;
  - (ii) was, at the time of the alleged offence, the owner of the motor vehicle within the meaning of the *Motor Vehicles Act*; or
  - (iii) was, at the time of the alleged offence, in control of the motor vehicle as shown in a statutory declaration furnished pursuant to regulation 64(3)(b) of the Traffic Regulations or a by-law made in pursuance of section 212(c) of the *Local Government Act*,

and containing such other particulars, if any, as are prescribed.

"(2) The Clerk may, if satisfied that the facts as alleged in the certificate constitute the offence and that sufficient particulars of those facts are set out in the certificate, register the infringement penalty and the prescribed costs, if any, payable in relation to the courtesy letter and certificate, for the purpose of enforcement under this Division.

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"(3) A certificate lodged under this section with the Clerk shall be -

- (a) in the prescribed form; and
- (b) signed by the appropriate officer or affixed with a facsimile of his or her signature by or at his or her direction.

"60E. ENFORCEMENT ORDERS

"(1) On registering an infringement penalty and prescribed costs, if any, the Clerk shall make an order -

- (a) in the case of a natural person - that the person pay to the Court within 28 days after the date of a notice of enforcement order, the amount of the infringement penalty together with the prescribed amount for costs, and that in default of payment -

- (i) the person be imprisoned for a period determined in accordance with the prescribed ratio; or

- (ii) the amounts be recovered by a warrant of distress; and

- (b) in the case of a corporation - that the corporation pay to the Court, within 28 days after the date of a notice of enforcement order, the amount of the infringement penalty together with the prescribed amount for costs, and that in default of payment that amount or those amounts, as the case may be, be recovered by a warrant of distress.

"(2) An enforcement order shall be deemed to be an order of the Court.

"(3) In this section 'the prescribed amount for costs' is the sum of -

- (a) the prescribed costs, if any, charged in relation to the relevant courtesy letter and certificate;
- (b) the costs, if any, prescribed under the *Motor Vehicles Act* for obtaining proof of the ownership of a motor vehicle (in the case of an infringement notice issued under the *Local Government Act* or the *Traffic Act*);
- (c) the prescribed costs, if any, of the enforcement order; and
- (d) any other costs required to be charged in relation to the enforcement order under this or any other Act.

"60F. NOTICE OF ENFORCEMENT ORDER

"(1) On the making of an enforcement order, the Clerk shall issue a notice of enforcement order and cause -

- (a) the notice of enforcement order; and
- (b) a statement in writing, in the prescribed form, setting out a summary of the provisions of this Division and the Regulations relating to the allowance of time to pay and payment by instalments and applications for revocation of enforcement orders,

to be served on the person against whom the enforcement order is made.

"(2) The notice of enforcement order shall state that if the penalty is not paid within 28 days after the date of the notice -

- (a) in the case of a natural person - a warrant will be issued for the commitment of that person to prison for the period specified in the order or a warrant of distress will be issued; and
- (b) in the case of a corporation - a warrant of distress will be issued.

"60G. APPLICATIONS

"(1) A person against whom an enforcement order is made may apply to the Clerk personally or in writing, or in any other manner approved by the Clerk, for an order that -

- (a) the time within which the penalty is to be paid be extended; or
- (b) the penalty be paid by instalments.

"(2) On receipt of an application under subsection (1), the Clerk may, by order -

- (a) allow additional time for the payment of the penalty or the balance of the penalty; or
- (b) direct payment of the penalty to be made by instalments at specified times.

"(3) An order made under this section by the Clerk is deemed to be an order of the Court.

"60H. WARRANTS

"(1) If within the time specified in a notice of enforcement order or an order under section 60G a person on whom the notice is served does not pay the full amount of a penalty or part of a penalty, as required by the notice or order -

- (a) in the case of a natural person - the Clerk shall issue a warrant of commitment or distress against the person; and
- (b) in the case of a corporation - the Clerk may either issue a warrant of distress against the corporation or register the penalty with the Local Court as a debt.

"(2) A warrant issued under this section shall, when executed, recover the costs prescribed for its execution in addition to the penalty, or part thereof, which is unpaid.

"(3) A warrant issued under this section shall be in the prescribed form but otherwise shall be subject to the relevant provisions of this Act relating to warrants of commitment or distress as if the warrant were issued by a Court or Justice.

"60J. EFFECT OF ENFORCEMENT ORDER

"(1) Subject to section 60K, where an enforcement order is made in relation to an offence alleged to have been committed by a person -

- (a) the matter of the alleged offence shall be deemed to have been heard and determined according to law;
- (b) the person shall not for that reason be taken to have been convicted of the offence;
- (c) the person shall not be proceeded against (except in respect of the enforcement order) for the alleged offence;
- (d) the making of the order does not affect or prejudice a civil claim, action or proceeding arising out of the same occurrence; and
- (e) payment pursuant to the enforcement order is not an admission of liability for the purpose of, and does not affect or prejudice, a civil claim, action or proceeding arising out of the same occurrence.

"(2) An amount recovered as a result of the making of an enforcement order shall be dealt with in the same way as an amount recovered as a result of a conviction.

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"60K. REVOCATION OF ENFORCEMENT ORDER

"(1) The relevant enforcement agency or a person against whom an enforcement order is made may apply to the Clerk in writing in the prescribed form for the revocation of the enforcement order, unless a warrant issued under this Division has been executed in enforcement of the order.

"(2) On receipt of an application under subsection (1) the Clerk shall revoke the enforcement order and on revocation it ceases to have effect.

"60L. PROCEDURE AFTER REVOCATION

"Where an enforcement order is revoked under section 60K, the Clerk shall -

- (a) cause a notice of revocation to be delivered or sent to the enforcement agency and to the person against whom the enforcement order was made; and
- (b) not later than 14 days after the revocation, refer the relevant certificate to the Court for hearing of the offence, unless notice of withdrawal under section 60M has been received by the Clerk.

"60M. WITHDRAWAL OF CERTIFICATE

"(1) An enforcement agency may, by notice in writing in the prescribed form, request the Clerk to withdraw a certificate lodged under section 60D with the Clerk.

"(2) If a notice under subsection (1) is received by the Clerk before the referral of the certificate to the Court under section 60L, the Clerk shall withdraw the certificate and notify the relevant enforcement agency and person of that fact.

"(3) A certificate withdrawn under this section has no further effect under this Division.

"60N. EFFECT OF CERTIFICATE

"Where a certificate is referred under section 60L(b) to the Court, it shall be deemed to be a complaint in relation to the alleged offence, laid at the time the certificate was lodged under section 60D with the Clerk, by the appropriate officer whose signature, or a facsimile of whose signature, appears on the certificate.



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"60P. COURT MAY HEAR MATTER

"Where a certificate in relation to an alleged offence is referred under section 60L(b) to the Court, the Court may hear and determine the matter of the alleged offence even if a copy of the certificate has not been served on the defendant.

"60Q. NOTICE OF HEARING

"(1) The Clerk shall, as soon as practicable after a certificate is referred under section 60L(b) to the Court, give to the relevant enforcement agency and person notice of the time and place of the hearing relating to the alleged offence.

"(2) The hearing relating to the alleged offence may proceed despite an omission or error in a notice under subsection (1), or a failure to give notice, if the Court is satisfied that -

- (a) the defendant and the enforcement agency had knowledge of the time and place of hearing and were not prejudiced by the omission, error or failure; or
- (b) the defendant is avoiding service or cannot, after reasonable search and inquiry, be found.

"60R. SERVICE OF DOCUMENTS

"(1) Except where provided to the contrary under this Division, all notices or documents authorized or required under this Division to be delivered or served may be served personally or by post or in any other prescribed manner.

"(2) Where a courtesy letter is served by post, it shall be addressed -

- (a) if served in relation to an infringement notice served under the *Local Government Act* in relation to a traffic or parking infringement or regulation 65 of the *Traffic Regulations* -
  - (i) to the last known residential or postal address of the owner of the motor vehicle within the meaning of the *Motor Vehicles Act*; or
  - (ii) where a statutory declaration has been furnished by the owner of the vehicle pursuant to regulation 64(3)(b) of the *Traffic Regulations* - to the last known residential or postal address of the person alleged in the declaration to have been in charge of the vehicle; or

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- (b) in any other case - to the last known residential or postal address of the person alleged to have committed the offence,  
and shall be deemed to have been effected -
- (c) where the address to which it was sent is within a municipality - at the time it was posted by pre-paid post; and
- (d) where the address to which it was sent is not within a municipality - at the time it would be delivered in the ordinary course of post.

"(3) A notice or document, other than a courtesy letter, served by post under this Division shall be addressed -

- (a) to the address given by the person on whom the notice or document is required to be served; or
  - (b) where no such address has been given - to the address shown in the certificate lodged under section 60D."
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