

TASMANIA

MONETARY PENALTIES ENFORCEMENT (MISCELLANEOUS AMENDMENTS) BILL 2011

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**MONETARY PENALTIES ENFORCEMENT
(MISCELLANEOUS AMENDMENTS) BILL 2011**

*(Brought in by the Minister for Justice, the Honourable David
John Bartlett)*

A BILL FOR

An Act to amend the *Monetary Penalties Enforcement Act 2005*, the *Annulled Convictions Act 2003*, the *Commissions of Inquiry Act 1995*, the *Crime (Confiscation of Profits) Act 1993*, the *Inland Fisheries Act 1995*, the *Judicial Review Act 2000*, the *Living Marine Resources Management Act 1995*, the *Local Government (Highways) Act 1982*, the *Radiation Protection Act 2005*, the *Road Safety (Alcohol and Drugs) Act 1970* and the *Sentencing Act 1997*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Monetary Penalties Enforcement (Miscellaneous Amendments) Act 2011*.

2. Commencement

- (1) Except as provided in this section, this Act commences on a day or days to be proclaimed.

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 2

Part 1 – Preliminary

- (2) Part 3 is taken to have commenced on 28 April 2008.

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

s. 3

**PART 2 – MONETARY PENALTIES ENFORCEMENT
ACT 2005 AMENDED**

3. Principal Act

In this Part, the *Monetary Penalties Enforcement Act 2005** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting paragraph (c) from the definition of “fine” and substituting the following paragraphs:
 - (c) a compensation levy under the *Victims of Crime Compensation Act 1994*; and
 - (d) a pecuniary penalty order made under the *Crime (Confiscation of Profits) Act 1993* –
- (b) by omitting the definition of “notice of election” and substituting the following definition:

“notice of election” means a notice of election under section 15(1)(d) or section 17(1)(d);

*No. 57 of 2005

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 5

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

5. Section 9 amended (Director to collect and enforce monetary penalties)

Section 9 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:

- (4) Notwithstanding subsection (1), a fee-paying public sector body may enforce payment of a fine, or part of a fine, through the Civil Division of the Magistrates Court or the Supreme Court, if under section 109 the fine has been deemed by the Director to be uncollectable in full or in part and the uncollectable amount has been removed from any record of monies owing to the Director.

6. Section 10 amended (Functions and powers of Director)

Section 10(1) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) is to perform such functions and may exercise such powers as are imposed or conferred on him or her as a fine enforcement officer under Part 7 of the *Service and Execution of Process Act 1992* of the Commonwealth; and

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

s. 7

7. Section 12 amended (Staff)

Section 12 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- (3) The Director may appoint as an enforcement officer a person who is a State Service employee or State Service officer appointed, or made available to the Director, under this section.

8. Section 23 amended (Withdrawal of infringement notice)

Section 23 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “fee-paying public sector body or a” after “A”;
- (b) by omitting from subsection (2) “it has been accepted.” and substituting “the person on whom it was served is taken, under section 20, to have been convicted of the offence.”;
- (c) by inserting in subsection (3) “fee-paying public sector body or a” after “withdrawn by a”;
- (d) by omitting from subsection (3)(c) “notify” and substituting “in the case of the withdrawal of an infringement notice by a non-fee paying public body, notify”;

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 9

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

- (e) by omitting from subsection (4)(a) “been” and substituting “been, or could be,”.

9. Section 24 repealed

Section 24 of the Principal Act is repealed.

10. Section 25 amended (Effect of withdrawal of infringement notice)

Section 25(1)(b) of the Principal Act is amended by omitting “been” and substituting “been, or could be,”.

11. Section 27 amended (Application to Director for variation of payment conditions)

Section 27 of the Principal Act is amended as follows:

- (a) by inserting in subsection (5) “take any, or any further, action to” after “not to”;
- (b) by inserting the following subsections after subsection (5):
 - (5A) If, after an administrative sanction under Part 6 has been imposed on a person, a variation of payment conditions notice is issued to that person –

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

s. 11

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- (a) that sanction remains in effect after the issue of that notice until the Director determines that he or she is satisfied that the person is, and is likely to continue, complying with that notice; and
 - (b) on the determination of the Director that he or she is satisfied that the person is, and is likely to continue, complying with that notice –
 - (i) the sanction is revoked; and
 - (ii) the Director is to give written notice of the revocation of the sanction to the person and, if appropriate, the Registrar; and
 - (c) if after making a determination that the person is, and is likely to continue, complying with that notice the Director determines that the person has contravened that notice –

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 11

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

- (i) the sanction is revived; and
 - (ii) the Director is to give written notice of the revival of the sanction to the person and, if appropriate, the Registrar.
- (5B) If, after a civil sanction under Division 2 or 3 of Part 7 has been imposed on a person, a variation of payment conditions notice is issued to that person –
 - (a) that sanction remains in effect after the issue of that notice; but
 - (b) on the determination of the Director that he or she is satisfied that the person is, and is likely to continue, complying with that notice, no action or further action is to be taken to enforce that sanction; but
 - (c) if after making a determination that the person is, and is likely to continue, complying with

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

s. 12

that notice the Director determines that the person has contravened that notice, action or further action may be taken to enforce that sanction.

(5C) If –

- (a) a redirection of money owing order has been issued in respect of an enforcement debtor; and
- (b) an application for a variation of payment conditions notice is then made under this section –

that application is taken to include an application under section 85 to cancel or vary, as appropriate, the redirection of money owing order.

12. Section 35 amended (Calculation, &c., of community service for default in payment of fine)

Section 35 of the Principal Act is amended by inserting after subsection (3) the following subsection:

(4) In this section –

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 13

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

“prescribed unit” means the prescribed unit prescribed by regulations made under the *Sentencing Act 1997* for the purposes of section 48(1) of that Act.

13. Part 4: Heading amended

Part 4 of the Principal Act is amended by omitting **“NOTIFICATION TO DIRECTOR OF ISSUE OF FINE”** from the heading to that Part and substituting **“NOTIFICATION TO DIRECTOR OF ISSUE OF FINE, PAYMENT OF FINE AND RELATED MATTERS”**.

14. Section 43 amended (Director not responsible for civil enforcement)

Section 43 of the Principal Act is amended by omitting subsection (2).

15. Section 43A inserted

After section 1 of the Principal Act, the following section is inserted in Part 4:

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

s. 16

43A. Payment by Director to person entitled to compensation

On receiving an amount of compensation required to be paid under a compensation order, the Director is to pay that amount to the person entitled to the compensation under the order.

16. Part 5, Division 1: Heading amended

Division 1 of Part 5 of the Principal Act is amended by inserting in the heading to that Division “*and service*” after “*Issue*”.

17. Section 46A inserted

After section 46 of the Principal Act, the following section is inserted in Division 1:

46A. Service of enforcement order

On the issue of an enforcement order under this Division, the Director is to serve the enforcement order on the person in respect of whom it is issued.

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 18

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

18. Section 50 amended (Effect of appeal on enforcement order)

Section 50(2) of the Principal Act is amended by omitting “been” second occurring and substituting “been, or could be,”.

19. Section 54 amended (Administrative sanctions)

Section 54(1) of the Principal Act is amended by omitting “a variation of payment conditions or an MPCSO has not been granted,” and substituting “either a variation of payment conditions or an MPCSO has not been granted or the Director determines that the enforcement debtor is not satisfactorily complying with a variation of payment conditions,”.

20. Section 56 amended (Registrar to suspend driver licence)

Section 56 of the Principal Act is amended as follows:

(a) by omitting subsection (2) and substituting the following subsections:

(2) Subject to section 55(2) and (3), on receipt of a notification under subsection (1), the Registrar must –

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

s. 20

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- (a) suspend the relevant driver licence; and
 - (b) whether or not the enforcement debtor holds a driver licence, record the direction in the driver licence register kept under the *Vehicle and Traffic Act 1999* –

until notified by the Director that the suspension has been revoked.
 - (2A) On suspending the driver licence of an enforcement debtor under subsection (2), the Registrar must give to the enforcement debtor written notice of –
 - (a) that suspension; and
 - (b) the day on which the suspension takes effect.
 - (b) by omitting subsections (4) and (5) and substituting the following subsections:
 - (4) If a driver licence is suspended under this section, the licence may not be renewed or replaced, or a duplicate of the licence issued, while the suspension is in place.

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 21

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

- (5) An enforcement debtor is ineligible to be issued with a driver licence while a direction of the Director in respect of the enforcement debtor's driver licence is recorded, in accordance with subsection (2), in the driver licence register kept under the *Vehicle and Traffic Act 1999*.

21. Section 58 amended (Effect of suspension of driver licence)

Section 58 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “suspended; and” and substituting “suspended.”;
- (b) by omitting paragraph (c) from subsection (1);
- (c) by omitting subsection (2).

22. Section 59 amended (Suspension of vehicle registration)

Section 59 of the Principal Act is amended by omitting subsection (2).

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

s. 23

23. Section 60 amended (Registrar to suspend vehicle registration)

Section 60 of the Principal Act is amended as follows:

(a) by inserting the following subsections after subsection (2):

(2A) On suspending the registration of a vehicle registered to an enforcement debtor under subsection (2), the Registrar must give to the enforcement debtor written notice of –

(a) that suspension; and

(b) the day on which the suspension takes effect.

(2B) If the registration of a vehicle is suspended under this section, the registration may not be renewed, or a duplicate of the certificate of registration issued, while the suspension is in place.

(b) by omitting subsection (4).

24. Section 68 substituted

Section 68 of the Principal Act is repealed and the following section is substituted:

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 24

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

68. Enforcement warrant imposing charge on registered land

- (1) If an enforcement debtor has unpaid monetary penalties totalling more than \$1 000, the Director may issue an enforcement warrant imposing a charge on any land of which the enforcement debtor is a registered proprietor.
- (2) Before issuing an enforcement warrant under subsection (1) in respect of any land, the Director is to serve on the enforcement debtor, and all other registered proprietors of the land, written notice that unless the debt is discharged within the time specified in the notice an enforcement warrant will be issued, without further notice.
- (3) Notice under subsection (2) is to –
 - (a) specify a period of time, being at least 10 days, within which the enforcement debtor may discharge the debt and avoid the issue of the enforcement warrant; and
 - (b) inform the enforcement debtor, and any other registered proprietor of the specified land, that an enforcement warrant issued under this Act will be registered under the *Land Titles*

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

s. 24

Act 1980 as a charge against that
land; and

- (c) inform the recipients –
 - (i) that it is an offence under section 72 of this Act, punishable by a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 months, for them to sell, transfer or otherwise deal with, or attempt to sell, transfer or otherwise deal with, the land; and
 - (ii) that in addition to prosecution for an offence under this Act the enforcement debtor remains liable for any unpaid monetary penalty.
- (4) An enforcement warrant is to be in an approved form.
- (5) On issuing an enforcement warrant, the Director is to serve it on the enforcement debtor.
- (6) The Director may lodge a priority notice under the *Land Titles Act 1980* in respect of land of which the enforcement debtor is a registered proprietor and, for the purposes of section 52(1)(b) of that Act,

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 25

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

the Director is taken to be a person entitled to deal with the land.

- (7) The Director is to lodge an enforcement warrant issued and served under this section with the Recorder.
- (8) The Recorder is to register an enforcement warrant lodged with the Recorder under subsection (7) on the folio of the Register stated in the enforcement warrant.
- (9) The Director may exercise the rights and powers of a mortgagee set out in Division 5 of Part VI of the *Land Titles Act 1980* in relation to land in respect of which an enforcement warrant is issued and served under this section.
- (10) For the purpose of Division 5 of Part VI of the *Land Titles Act 1980*, an enforcement warrant registered by the Recorder under this section is taken to be a mortgage.

25. Section 69 amended (Effect of enforcement warrant imposing charge on land)

Section 69(1) of the Principal Act is amended by omitting “Section 77 of the *Land Titles Act 1980* is” and substituting “Section 77(1) and (2) of the *Land Titles Act 1980* are”.

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

s. 26

26. Section 70 amended (Discharge of enforcement warrant issued under this Division)

Section 70 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) A discharge of an enforcement warrant is to be in an approved form.
- (4) The Director is to lodge with the Recorder the discharge of an enforcement warrant.
- (5) On the lodgement with the Recorder of a discharge of an enforcement warrant, the Recorder is to discharge the enforcement warrant and remove it from the Register.

27. Section 109 amended (Amount may be deemed to be uncollectable)

Section 109 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (2A) If an enforcement debtor has become a bankrupt, within the meaning of the *Bankruptcy Act 1966* of the Commonwealth, and the amount of his or her monetary penalty is provable in bankruptcy under that Act, the Director may deem that amount uncollectable despite subsection (2).

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 28

Part 2 – Monetary Penalties Enforcement Act 2005 Amended

28. Section 120 amended (Non-reviewable decision)

Section 120(1) of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraphs:

- (c) a decision of the Director to issue an enforcement order;
- (ca) a decision of the Director to direct the suspension of a driver licence, prescribed licence or vehicle registration;

29. Section 121A inserted

After section 121 of the Principal Act, the following section is inserted in Division 2:

121A. Evidentiary certificate

In any legal proceedings, a document purporting to be a certificate signed by the Director and relating to any one or more of the following matters is evidence of the facts stated in it:

- (a) that a person was served with an enforcement order;
- (b) that a specified communication has taken place with, or a specified document has been given to, a person, and the content of that communication or document.

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 3 – Monetary Penalties Enforcement Act 2005 Further Amended

s. 30

**PART 3 – MONETARY PENALTIES ENFORCEMENT
ACT 2005 FURTHER AMENDED**

30. Principal Act

In this Part, the *Monetary Penalties Enforcement Act 2005** is referred to as the Principal Act.

31. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by inserting after paragraph (c) in the definition of “public sector body” the following paragraph:

- (ca) any person, or a person of any class of persons, authorised under an Act to issue or serve an infringement notice;

32. Section 14 amended (Form of infringement notice)

Section 14 of the Principal Act is amended as follows:

- (a) by omitting “An” and substituting “(1) An”;
- (b) by inserting the following subsection:
 - (2) In subsection (1)(a)(ii) –

*No. 57 of 2005

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 32 Part 3 – Monetary Penalties Enforcement Act 2005 Further Amended

“prescribed penalty or penalties” means the penalty or penalties prescribed under this Act or the Act that creates the offence or offences in respect of which the infringement notice is served.

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 4 – Annulled Convictions Act 2003 Amended

s. 33

**PART 4 – ANNULLED CONVICTIONS ACT 2003
AMENDED**

33. Principal Act

In this Part, the *Annulled Convictions Act 2003** is referred to as the Principal Act.

34. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting “acceptance of an infringement notice,” from the definition of “conviction” and substituting “person being taken under section 20 of the *Monetary Penalties Enforcement Act 2005* to have been convicted of the offence,”.

*No. 46 of 2003

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 35

Part 5 – Commissions of Inquiry Act 1995 Amended

**PART 5 – COMMISSIONS OF INQUIRY ACT 1995
AMENDED**

35. Principal Act

In this Part, the *Commissions of Inquiry Act 1995** is referred to as the Principal Act.

36. Section 32 amended (Fines for contempt)

Section 32 of the Principal Act is amended as follows:

- (a) by omitting “section 397A of the *Criminal Code*” and substituting “Part 4 of the *Monetary Penalties Enforcement Act 2005*”;
- (b) by omitting “on a conviction for a crime.” and substituting “under section 7 of the *Sentencing Act 1997*.”.

*No. 70 of 1995

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 6 – Crime (Confiscation of Profits) Act 1993 Amended

s. 37

**PART 6 – CRIME (CONFISCATION OF PROFITS) ACT
1993 AMENDED**

37. Principal Act

In this Part, the *Crime (Confiscation of Profits) Act 1993** is referred to as the Principal Act.

38. Section 21 amended (Pecuniary penalty orders)

Section 21 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (3):
 - (3A) The penalty amount payable under a pecuniary penalty order is to be paid within 28 days after the order is made unless the order specifies another time or period for payment.
- (b) by omitting from subsection (4) “civil debt due by that person to the State.” and substituting “fine enforceable under the *Monetary Penalties Enforcement Act 2005*.”; and
- (c) by omitting from subsection (5) “A pecuniary penalty order made by a court

*No. 20 of 1993

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 38

Part 6 – Crime (Confiscation of Profits) Act 1993 Amended

under this section” and substituting “If the pecuniary penalty payable under a pecuniary penalty order has been deemed uncollectable in full or in part under section 109 of the *Monetary Penalties Enforcement Act 2005*, the amount so deemed uncollectable is taken to be a civil debt due by that person to the State and”.

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Act No. of

Part 7 – Inland Fisheries Act 1995 Amended

s. 39

PART 7 – INLAND FISHERIES ACT 1995 AMENDED

39. Principal Act

In this Part, the *Inland Fisheries Act 1995** is referred to as the Principal Act.

40. Section 110 amended (Forfeiture on acceptance of infringement notice)

Section 110(1) of the Principal Act is amended by omitting “accepts an infringement notice in relation to an offence and the infringement notice is not withdrawn,” and substituting “is taken under section 20 of the *Monetary Penalties Enforcement Act 2005* to have been convicted of an offence,”.

*No. 110 of 1995

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 41 Part 8 – Living Marine Resources Management Act 1995 Amended

**PART 8 – LIVING MARINE RESOURCES
MANAGEMENT ACT 1995 AMENDED**

41. Principal Act

In this Part, the *Living Marine Resources Management Act 1995** is referred to as the Principal Act.

42. Section 226 amended (Forfeiture on acceptance of infringement notice)

Section 226(1) of the Principal Act is amended by omitting “accepts an infringement notice and the infringement notice is not withdrawn,” and substituting “is taken under section 20 of the *Monetary Penalties Enforcement Act 2005* to have been convicted of an offence,”.

*No. 25 of 1995

**PART 9 – LOCAL GOVERNMENT (HIGHWAYS) ACT
1982 AMENDED**

43. Principal Act

In this Part, the *Local Government (Highways) Act 1982** is referred to as the Principal Act.

44. Section 94A amended (Proceedings in relation to offences under this Part)

Section 94A of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (2):

(2A) Subject to this section, where an offence to which this section applies occurs in relation to a thing other than a vehicle, the person who, at the time the offence occurred, was the owner of the thing is, by virtue of this section, guilty of the offence as if he or she were the person in charge of the thing at that time.

- (b) by inserting in subsection (3) “or subsection (2A)” after “subsection (2)”;

*No. 57 of 1982

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

s. 44

Part 9 – Local Government (Highways) Act 1982 Amended

- (c) by inserting in subsection (3) “or thing” after “vehicle”;
- (d) by inserting in subsection (4) “or owner” after “operator”;
- (e) by inserting in subsection (4) “or thing” after “of the vehicle”;
- (f) by inserting in subsection (4)(b)(ii) “or thing” after “vehicle”;
- (g) by omitting from subsection (4)(b)(iii) “transferee.” and substituting “transferee; or”;
- (h) by inserting the following subparagraph after subparagraph (iii) in subsection (4)(b):
 - (iv) the person was not the owner of the thing and stating the name of the owner.
- (i) by inserting the following subsection after subsection (5):
 - (5A) If an infringement notice in relation to an offence is withdrawn on the basis of a statutory declaration provided to the corporation under subsection (4)(b)(ii), (iii) or (iv), this section applies to and in respect of the person named in the statutory declaration as being

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 9 – Local Government (Highways) Act 1982 Amended

s. 45

in charge of the vehicle or thing,
as being the transferee of the
vehicle or as being the owner of
the thing as if he or she were the
registered operator of the vehicle
or the owner of the thing in
relation to which the offence
occurred.

- (j) by omitting from subsection (9)
“vehicle –” and substituting “vehicle, or
2 owners of a thing –”;
- (k) by inserting in subsection (10) “or 2 or
more owners of a thing” after “vehicle”;
- (l) by inserting in subsection (11)(a) “or
thing” after “vehicle”;
- (m) by omitting from subsection (11)(b)
“vehicle –” and substituting “vehicle or
thing –”;
- (n) by inserting in subsection (11) “or thing”
after “that the person named in the
statutory declaration as being in charge
of the vehicle”;
- (o) by inserting in subsection (11) “or thing”
after “was in charge of the vehicle”.

45. Section 100 amended (Infringement notices)

Section 100 of the Principal Act is amended as
follows:

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Act 2011
Act No. of

s. 45

Part 9 – Local Government (Highways) Act 1982 Amended

- (a) by inserting in subsection (1) “or on the owner of another thing” after “a vehicle”;
- (b) by inserting in subsection (1) “or thing” after “the vehicle”;
- (c) by inserting the following subsection after subsection (1):
 - (1A) A parking attendant or a council clerk may serve an infringement notice on a person referred to in section 94A(5A) in respect of an offence relating to a vehicle or other thing if of the opinion that the vehicle or other thing has been used in the commission of an offence under section 97, 98 or 99.

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Act 2011
Act No. of

Part 10 – Radiation Protection Act 2005 Amended

s. 46

**PART 10 – RADIATION PROTECTION ACT 2005
AMENDED**

46. Principal Act

In this Part, the *Radiation Protection Act 2005** is referred to as the Principal Act.

47. Section 86 amended (Regulations)

Section 86(5)(c) of the Principal Act is amended by omitting “Act and for the service and acceptance of an infringement notice in respect of that offence.” and substituting “Act, for the service and issue of an infringement notice and for related matters.”.

*No. 48 of 2005

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
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s. 48

Part 11 – Road Safety (Alcohol and Drugs) Act 1970 Amended

PART 11 – ROAD SAFETY (ALCOHOL AND DRUGS)
ACT 1970 AMENDED

48. Principal Act

In this Part, the *Road Safety (Alcohol and Drugs) Act 1970** is referred to as the Principal Act.

49. Section 6 amended (Driving with excessive concentration of breath or blood alcohol)

Section 6 of the Principal Act is amended by inserting after subsection (3A) the following subsection:

(3B) For the purposes of subsection (3)(a), a person –

- (a) whose driver licence, within the meaning of the *Vehicle and Traffic Act 1999*, is suspended under Part 6 of the *Monetary Penalties Enforcement Act 2005*; or
- (b) who is ineligible to hold such a driver licence by reason of Part 6 of the *Monetary Penalties Enforcement Act 2005* but would otherwise be eligible to hold such a driver licence –

*No. 77 of 1970

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
Act No. of

Part 11 – Road Safety (Alcohol and Drugs) Act 1970 Amended

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is taken to hold an Australian driver
licence.

Monetary Penalties Enforcement (Miscellaneous Amendments)
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s. 50

Part 12 – Sentencing Act 1997 Amended

PART 12 – SENTENCING ACT 1997 AMENDED

50. Principal Act

In this Part, the *Sentencing Act 1997** is referred to as the Principal Act.

51. Section 45 amended (Enforcement of Supreme Court fine)

Section 45 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “taken, for the purposes of this Part,” and substituting “taken, for all purposes,”;
- (b) by inserting the following subsection after subsection (2):
 - (3) On receipt of the sealed copy of the order, the Administrator of Magistrates Courts is to –
 - (a) refer the order to the Director, Monetary Penalties Enforcement Service, appointed under section 8 of the *Monetary Penalties Enforcement Act 2005*; and

*No. 59 of 1997

Monetary Penalties Enforcement (Miscellaneous Amendments)
Act 2011
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Part 12 – Sentencing Act 1997 Amended

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- (b) notify that Director of the date that the order setting out the fine takes effect.

52. Section 68 amended (Compensation order)

Section 68(2) of the Principal Act is amended by omitting “court” and substituting “Supreme Court”.

53. Section 69 amended (Enforcement of compensation order)

Section 69 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

- (2) A compensation order made by a court of petty sessions is taken to be a fine enforceable under the *Monetary Penalties Enforcement Act 2005*.
- (3) If the amount payable under a compensation order made by a court of petty sessions has been deemed uncollectable in full or in part under section 109 of the *Monetary Penalties Enforcement Act 2005*, the order is taken to be a judgement of the Magistrates Court (Civil Division) and is enforceable under the *Magistrates Court (Civil Division) Act 1992*.

Monetary Penalties Enforcement (Miscellaneous Amendments)
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Part 13 – Miscellaneous

PART 13 – MISCELLANEOUS

54. Repeal of Act

This Act is repealed on the ninetieth day from the day on which all of the provisions of this Act commence.