NSW GOVERNMENT

New South Wales
Law Reform Commission

Summary Report
132-S

Penalty notices - Summary

February 2012
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This is a summary of the NSW Law Reform Commission's Report on *Penalty Notices* (Report 132). This summary report provides an overview of the Commission's approach and reasoning and a complete list of recommendations. As background, we also include a list of all submissions received and consultations undertaken as part of this inquiry, a list of legislation under which penalty notices may be created, and a figure illustrating the penalty notice lifecycle.

To access the full text of Report 132, please visit the NSW Law Reform Commission website: http://www.lawlink.nsw.gov.au/lrc.

Table of contents

Participants v

Terms of reference vi

Executive summary 1

Part One Preliminary matters 1

Part Two Penalty notice offences and amounts 2

Part Three Issuing and enforcing penalty notices 3

Warnings and cautions 3

Issuing penalty notices 4

Internal review 5

Enforcing penalty notices 6

Mitigation measures 8

Criminal Infringement Notices 9

Part Four Vulnerable people 10

Part Five Maintaining the integrity and fairness of the penalty notice system 11

Recommendations 13

Appendix A: Submissions 23

Appendix B: Consultations 25

Appendix C: Statutory provisions under which penalty notices may be issued 33

Appendix D Penalty notice lifecycle 37

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Terms of reference

I, JOHN HATZISTERGOS, Attorney General of New South Wales, having regard to the importance of a fair, just and effective penalty notice system,

REFER to the New South Wales Law Reform Commission, for inquiry and report pursuant to section 10 of the Law Reform Commission Act 1967, the laws relating to the use of penalty notices in New South Wales.

In carrying out this inquiry, the Commission will have particular regard to:

1. whether current penalty amounts are commensurate with the objective seriousness of the offences to which they relate;

2. the consistency of current penalty amounts for the same or similar offences;

3. the formulation of principles and guidelines for determining which offences are suitable for enforcement by penalty notices;

4. the formulation of principles and guidelines for a uniform and transparent method of fixing penalty amounts and their adjustment over time;

5. whether penalty notices should be issued to children and young people, having regard to their limited earning capacity and the requirement for them to attend school up to the age of 15. If so:

   (a) whether penalty amounts for children and young people should be set at a rate different to adults;

   (b) whether children and young people should be subject to a shorter conditional "good behaviour" period following a write-off of their fines; and

   (c) whether the licence sanction scheme under the Fines Act 1996 should apply to children and young people;

6. whether penalty notices should be issued to people with an intellectual disability or cognitive impairment; and

7. any related matter.

In undertaking this reference, the Commission will consult with agencies that issue and enforce penalty notices.

While the Commission may consider penalty notice offences under road transport legislation administered by the Minister for Roads, the Commission need not consider any potential amendments to these offences as these offences have already been subject to an extensive review.

[Reference received 5 December 2008]

Executive summary

Part One Preliminary matters

1 The NSW Law Reform Commission Report 132 ***Penalty Notices*** reviews and makes recommendations in relation to the penalty notice system in NSW. Penalty notices are imposed most often for minor offences, but the topic is nevertheless an important one. People are far more likely to have contact with the justice system through a penalty notice than through a court. In 2009/10, 2.83 million penalty notices were issued in NSW, with a total value of more than $491 million dollars. In comparison, in 2009 the NSW Local Court imposed 116,915 penalties, of which 53,543 were fines. If, as appears likely, people make judgments about the justice system on the basis of experience with penalty notices, the fairness, consistency, and transparency of the penalty notice system is important, not only to those who receive a penalty notice, but potentially to the reputation of the justice system more broadly.

2 The efficiencies associated with issuing and enforcing penalty notices act as an inducement to extend the number of offences dealt with in this way. NSW has over 7,000 penalty notice offences under some 110 different statutes. The number of penalty notice offences is growing steadily and the seriousness of the offences is increasing. Most recently, penalty notices in the form of Criminal Infringement Notices (CINs) are being issued for minor criminal offences that have traditionally been dealt with by courts.

3 Penalty notices were introduced, and have expanded in scope, because of their significant advantages, especially their cost benefits. They save time and money for the agencies that issue them, for courts that avoid lengthy lists of minor offences, and for recipients who do not have to take time off work to attend court or pay court or legal costs. The penalty is immediate and certain and is usually significantly lower than the maximum penalty available for the offence, were it to be dealt with by a court. Penalty notice recipients also avoid having a conviction recorded.

4 However penalty notices also have disadvantages. One of these is their tendency to proliferate in ways that are not always consistent and fair. The inconsistencies in the present system, dealt with in Part Two of this report, are severe enough to threaten the reputation of the penalty notice system. They have lead to suggestions, reported to this inquiry, that penalty notice offences may be created, and penalty levels set, for improper reasons such as revenue raising.

5 The ease with which penalty notices are issued may also fuel a tendency for notices to be issued when they should not be, or when a warning or caution may be more appropriate (the 'net-widening' effect). A penalty notice may be seen as the first response to offending when, in reality, there are other options. For example a warning can be given (such as a request to 'take your feet off the train seat') or a caution delivered to educate and deter future offending.

6 The penalty notice system does not have the transparency normally associated with justice systems in democratic societies. Penalty notices are issued by a wide range of issuing officers and agencies. Most people simply pay the penalty. Only 1% elect

to go to court, so that the guilt or innocence of the recipient is rarely scrutinised. It may be the case that some people who believe that they are not guilty nevertheless pay the penalty because they are apprehensive about courts or because of the cost benefits of doing so. There are avenues for independent review of a penalty notice, but they are limited. Further the system is regulated by guidelines. Some of these are public but others are not. This can leave people, and their legal representatives, at a loss to know how to proceed.

7 However, responding to these problems by reintroducing all of the protections of the criminal justice system would remove many advantages of the penalty notice system. It is important to get the balance right.

8 A further problem with penalty notices is that the penalty is fixed and cannot be tailored to the circumstances of the recipient. Members of some vulnerable groups may be particularly susceptible to receiving penalty notices and also be ill-equipped to pay a monetary penalty. For example, people with intellectual disabilities may not understand what is required to avoid offending, what a penalty notice is, or where to go for help. They may accrue significant penalty notice debts that they cannot pay. People who live in regional areas may have their driver licence withdrawn for failing to pay a penalty, with significant flow-on effects. If they continue to drive to access essential services they commit more offences, and may accrue more penalties. More seriously they may ultimately be imprisoned, not for penalty notice debt, but for offences such as driving while disqualified, that flow on from penalty notice debt. Consultations and submissions demonstrated that the extent of this problem is significant.

9 This report is divided into five parts. In the first of these we outline the broad themes that are important to the penalty notice system and evaluate its strengths and weaknesses. For those who are not familiar with it, we describe how the penalty notice system operates and examine the ways in which it is regulated by law through the *Fines Act 1996* (NSW) (*Fines Act*) and the guidelines promulgated under that Act. We recommend clarification of the guidelines-making power in the *Fines Act* (Recommendation 2.2).

Part Two Penalty notice offences and amounts

10 Part Two of the report deals with the principles that govern which offences should be penalty notice offences and the setting of penalty notice amounts. Penalty notice offences and amounts are created and administered by various government agencies, each with expertise in its own sphere of responsibility. One consequence of this diversity is that some penalty notice offences have developed without reference to developments in other areas of regulation, so that significant inconsistencies, and consequent unfairness, have arisen in the system over time.

11 Penalty notices are generally used for high-volume, minor offences involving a low penalty notice amount. However, even this simple statement raises a number of questions, such as what is meant by a minor offence, and what constitutes a low penalty notice amount? Further, where an offence involves a mental element, or where serious breaches are punishable by imprisonment, is that offence suitable to be a penalty notice offence? Government departments and agencies in NSW

making decisions about which offences are suitable to be subject to the penalty notice system presently have no principles to assist them in answering such questions. We recommend that guidelines be developed to assist these decisions (Recommendation 3.1). We examine the principles that are important when making such decisions and make recommendations about the content of the proposed guidelines (Recommendations 3.2 – 3.12).

12 Significant inconsistencies exist in relation to penalty notice amounts in NSW. There are sometimes widely divergent penalty notice amounts for the same or similar behaviour. For example, offensive language penalties range from $100 to $400, depending not on the seriousness of the offending behaviour, but on the location of the alleged offence. Some minor offences, such as spitting on a railway platform, attract a comparatively high penalty of $400 compared to a penalty of $353 for offences that involve unsafe conduct such as tailgating or driving through a red light. This does little to enhance respect for the penalty notice system. Again there is no clear, consistent set of principles to guide government agencies in the setting of penalty notice amounts. We recommend that guidelines be developed to govern penalty notice amounts (Recommendation 4.1). We consider the principles that are important when setting penalty notice amounts and make recommendations as to the content of the proposed guidelines (Recommendations 4.2 – 4.8).

Part Three Issuing and enforcing penalty notices

13 Part Three of the report deals with issuing and enforcing penalty notices. It follows the pathway from the initial decision about whether or not to issue a penalty notice through to review, enforcement and the mitigation measures designed to assist people who have genuine difficulty meeting a financial penalty. It builds on an earlier review of fines and penalty notices by the Sentencing Council and the evaluation of the 2008 amendments to the *Fines Act* by the Department of Attorney General and Justice.

Warnings and cautions

14 An officer who is considering issuing a penalty notice has a number of options. The officer can simply deliver a warning on the run, as when a RailCorp officer asks a passenger to take his or her feet off the seat of a train. The officer can also give a caution. A caution can take a number of forms, depending on context, ranging from a verbal caution delivered on the spot to a letter received after a period of time.

15 Cautions use education and persuasion as a first response to offending. They maintain respect for the system through proportionate and fair responses to offending. They are particularly helpful in relation to vulnerable people who may have difficulty understanding that their behaviour is wrong or in paying a penalty notice. They have been evaluated as a successful part of the penalty notice system. However, there are ways in which cautioning practice in NSW can be improved. There is evidence that some agencies do not issue cautions; that others issue them according to guidelines that are not made public; and that cautions could be used much more for vulnerable people in appropriate cases.

16 We recommend that it be mandatory for issuing officers to consider, each time, whether or not a caution is appropriate instead of a penalty notice (Recommendation 5.1). This recommendation does not restrict the discretion of issuing officers but rather is designed to ensure that they turn their mind to the possibility of a caution in all cases. Deciding whether to issue a caution or a penalty notice is not a simple task. It involves knowledge of the *Fines Act* and the exercise of judgment and discretion. We recommend mandatory training on cautions for issuing officers, especially in identifying vulnerable people for whom a penalty notice may be an ineffective response. To assist in maintaining and improving standards in cautioning we also recommend that agency practice and training in this area be monitored (Recommendation 5.2).

17 Most agencies that issue cautions do so according to guidelines. Many use the guidelines issued by the Department of Attorney General and Justice (AGJ), which have wide acceptance; others use their own internal guidelines. Where agencies use their own guidelines we recommend that they be published and scrutinised for consistency with the Attorney General's Caution Guidelines (Recommendation 5.3). Perhaps most importantly, we recommend that cautions be issued in writing in order to increase their educational effect and so that cautioning practice can be monitored and, if necessary, improved (Recommendation 5.4).

18 Finally, we recommend that the Attorney General's Caution Guidelines should apply to police officers, or alternatively that NSW Police should issue its own, publicly available, guidelines (Recommendation 5.5). Police perform a very important function in the penalty notice system. They have considerable discretion to issue warnings and cautions but there is little publicly available information about how they exercise their discretion.

Issuing penalty notices

19 Fairness and justice require that certain basic information appear on all penalty notices. However there is great variation in the content of these notices in practice. We recommend (Recommendation 6.1) that all penalty notices contain sufficient detail to allow the recipient to identify:

- the alleged offending behaviour
- the law that has been allegedly infringed
- how to respond to the notice, including the possibility of electing to go to court, and
- basic information about sources of help.

20 Other information that should be on the notice, or otherwise easily accessible, includes:

- information about payment options
- the availability of time-to-pay arrangements
- the consequences of court election, and

- information about the right to internal review.

21 We recommend that provision for electronic service of penalty notices be made where the recipient consents (Recommendation 6.2). To give penalty notice recipients a reasonable chance of remembering the circumstances of their alleged offending behaviour we recommend that there be time limits, set according to the context of the particular offence, within which a penalty notice should be served. Where exceptions to the time limits are appropriate these should be defined (Recommendation 6.3).

22 Some issuing agencies engage private contractors to issue penalty notices. We make recommendations designed to ensure that, where this happens, proper safeguards are put into place to ensure that those notices are issued fairly and appropriately (Recommendation 6.4).

23 In response to concerns about the issuing of multiple penalty notices arising out of the same incident, we recommend that the 'totality principle' be embodied in the penalty notice legislation and guidelines, so that the issuing and reviewing officers take into account whether the aggregate penalty imposed on the offender is proportionate to the totality of his or her offending (Recommendation 6.5).

24 Further we make recommendations regarding the withdrawal of penalty notices (Recommendation 6.6).

Internal review

25 Amendments to the *Fines Act* in 2008 introduced provisions for the internal review of penalty notices. Their purpose was to divert vulnerable groups out of the system and to enable reviewing officers to consider whether a person should have been given a caution. Guidelines on internal review have been issued by the Attorney General. Any internal review guidelines issued by other agencies must be consistent with the Attorney General's Internal Review Guidelines. There is no guideline-making power in the *Fines Act* in relation to internal review and we recommend that this omission be corrected (Recommendation 2.2).

26 Some agencies use their own internal review guidelines and not all of these are publicly available or consistent with the Attorney General's Internal Review Guidelines. We recommend that these problems be addressed in the interests of consistency and transparency. Review of the State Debt Recovery Office (SDRO) guidelines for quality and consistency is also recommended. Further, we recommend monitoring of all internal review guidelines to improve their overall quality and consistency (Recommendation 7.1).

27 Internal review of penalty notices issued to vulnerable people should be made more effective. Presently, people who have cognitive and mental health impairments who apply for internal review must prove that their disability means they are unable to understand that their conduct constituted an offence or that they are unable to control their conduct. We heard that this test deters meritorious applications because it sets a threshold that is difficult to satisfy. We recommend relaxing the test so that people with cognitive and mental health impairments need only show that their impairment was a contributing factor to the commission of an offence or

that it reduced their responsibility for the offence (Recommendation 7.2). This maintains the nexus between the offending behaviour and the disability but makes the test less onerous.

28 We also recommend that the grounds for internal review should be extended so that a penalty notice may be withdrawn where severe substance dependence was a contributing factor or lessened the responsibility of the person for the offence (Recommendation 7.3). This ground would only apply to people with a long-term serious substance addiction, not to people temporarily affected by drugs or other substances. There was strong support for this change in submissions, especially because of the frequent coexistence of serious substance addiction with other grounds for internal review such as mental illness.

29 Training of reviewing officers on the impact of penalty notices on vulnerable people is important, and is recommended (Recommendation 7.4). If the circumstances of vulnerable people are not taken into account at this stage, and penalty notices withdrawn where appropriate, more expensive problems may arise later.

30 It appears to be generally assumed that the internal review provisions of the *Fines Act* do not apply to NSW Police. We have considered whether this is appropriate, and recommend that the *Fines Act* be amended to clarify that the internal review provisions do apply to NSW Police (Recommendation 7.6). While police are well trained and qualified to issue penalty notices, mistakes may sometimes be made. It should not be necessary for people who receive a penalty notice from a police officer to go to court for a review when a much simpler and far less expensive administrative review could be made available, and would have been available had the notice been issued by any other agency.

31 We also recommend various steps to improve and simplify the process for applying for internal review, and suggest certain technical amendments to deal with the relationship between court election and internal review (Recommendations 7.5, 7.7, 7.8).

Enforcing penalty notices

32 Enforcement measures ensure that the integrity of the penalty notice system is maintained through effective sanctions against non-compliance. If a penalty notice has not been paid within 21 days, a reminder notice is issued. After a further 28 days, enforcement processes are instituted. At this point enforcement costs are added to the penalty notice debt.

33 While some people try to evade payment and therefore vigorous efforts to secure it are appropriate, others have a good reason for not responding to a penalty notice. They nevertheless accrue enforcement costs and sanctions that make their situation worse. For example, a person with an intellectual disability may not understand the notice and may not seek help for some time, by which time his or her debt has increased by the addition of enforcement costs. We recommend that the SDRO develop a fee-waiver policy for deserving cases. If a person wishes to challenge a penalty notice after the enforcement process has begun he or she must apply for annulment – but this application involves further costs that appear to be deterring applications in deserving cases. Therefore we recommend that the fee-

waiver policy should apply to people who are in receipt of Centrelink benefits and who apply for their penalty notice to be annulled (Recommendation 8.1).

34 Driver licence sanctions are the first enforcement measure imposed in NSW. They are generally very effective. However they can cause severe problems, especially for people who live in areas not well served by public transport and who require a driver licence to work or to access essential services. Some people may continue to drive after their licence has been suspended and acquire subsequent convictions for driving without a licence and driving while disqualified. Ultimately, they may be imprisoned for these flow-on offences. This has been called the 'slippery slope'. Thus, although imprisonment for penalty notice debt is not permitted in NSW in theory, it can occur indirectly by way of this 'slippery slope'.

35 Penalty notice recipients at the top of the 'slippery slope' do have options that would allow them to retrieve their licence, including time-to-pay arrangements (see 'mitigation measures' below). However it appears that many do not know about these options and do not access them. Therefore we recommend increasing education about, and access to, these mitigation options, especially in regional, rural and remote areas (Recommendation 8.2). We also recommend technical amendments so that certain driver licence sanctions cannot be imposed on young people who commit non-traffic offences (Recommendation 8.3).

36 If driver licence sanctions are not effective, civil enforcement measures such as seizing property and garnisheeing wages can be imposed on those who do not pay. Finally, the SDRO can impose a community service order (CSO). In the event of non-compliance the person can be imprisoned. In NSW, the SDRO has been given the power to impose these sanctions even though they involve deprivation of liberty. As a general rule in democratic societies, such sanctions can only be imposed by a judicial officer in open court in the presence of the person likely to be affected by the sanction. Although used very infrequently, the present arrangements in relation to CSOs appear to be contrary to basic principles of natural justice and procedural fairness. Therefore we recommend the abolition of imprisonment for non-compliance with a CSO imposed in these circumstances; CSOs should only be imposed by a Local Court, on application, after a hearing (Recommendation 8.4).

37 A further issue concerns the relevance of penalty notice offences to a court faced with the task of sentencing a person for another offence. A penalty notice does not involve a conviction and, arguably, if paid, there should be no further consequences for the recipient. However, sometimes a person's penalty notice history is placed before a court, such as where there is a history of similar offences demonstrating a clear pattern of behaviour that goes to the person's character or prospects of rehabilitation (or other matters of relevance for the purposes of s 21A *Crimes (Sentencing Procedure) Act 1999* (NSW). An example would be a series of penalty notices issued by a food hygiene agency showing a history of deliberate disobedience to health and safety laws. We recommend that it be possible for a penalty notice history to be presented to a sentencing court but with guidelines governing the situations where this is appropriate (Recommendation 8.5.)

Mitigation measures

38 Mitigation measures are designed to assist people who have difficulty paying their penalty notices, or have no realistic prospect of doing so. People on government benefits can sign up to a time-to-pay arrangement so they can pay their debt by instalments. Time-to-pay arrangements are governed by guidelines that are not presently made public. We recommend that there be publicly available guidelines governing time-to-pay arrangements and that their operation be monitored (Recommendation 9.1). We also recommend that these payment arrangements be made available to apprentices, trainees, and people who experience unavoidable financial hardship (Recommendation 9.2).

39 Work and development orders (WDOs) allow people who cannot pay a financial penalty to deal with their fine or penalty notice debt through work, education or treatment. They are available to people who have cognitive or mental health impairments, who are homeless, or who are experiencing acute economic hardship. The WDO scheme has been positively evaluated by the AGJ and provides benefits such as reduced reoffending, reduced costs to government, reduced stress and hopelessness among participants, as well as the positive engagement of participants with constructive activities. We strongly support the roll-out of WDOs, especially their extension into regional areas, and recommend that the regional network of WDO support teams now being established be enabled to provide advice, not only about WDOs, but also about other mitigation measures (Recommendation 9.3).

40 Further, we recommend a relaxation of the test for admission to the WDO scheme on the basis of acute economic hardship to allow people to apply where they have the support of a practitioner or organisation for a WDO and are in receipt of eligible Centrelink benefits (Recommendation 9.4). We also recommend the extension of WDOs so that they are available to prisoners who meet the eligibility criteria (Recommendation 9.5). This will allow prisoners to engage in constructive activities while in custody that will have the added benefit of reducing their debt and assisting their reintegration into the community on release. We further recommend the inclusion of Centrelink Mutual Obligation Activities within the scheme (Recommendation 9.6).

41 The *Fines Act* provides that the SDRO can write off penalty notice debt where a person is unable to pay because of financial, medical or personal circumstances. The pursuit of penalty notice debt from people who cannot pay is futile, causes additional hardship, and wastes resources. It is presently very difficult to make a write-off application, not least because the guidelines that govern applications are not public. We recommend that the guidelines governing write-off applications be made public and that the *Fines Act* be amended to authorise this (Recommendation 9.7).

42 Presently, when a penalty notice debt is written off, it can be reinstated if another offence is committed within five years. This period is disproportionate to similar good behaviour periods available to the courts and reportedly deters legitimate write-off applications. We recommend that there be no good behaviour period, except in cases where the SDRO decides that such a period is justified by the seriousness of the offending and its likely deterrent effect. We recommend that the

maximum good behaviour period be two years for adults and six months for children and young people (Recommendation 9.8).

43 There has been a cap on the number of hours that can be served for a WDO of 300 hours for adults and 100 hours for children and young people. The evaluation of the WDO program by the AGJ recommended the removal of this cap. However, we are concerned that there is a potential for WDOs to be extended in a way that could be too onerous. Consequently we recommend that the cap on hours for WDOs be retained but with the possibility of extension where that would not be unduly onerous (Recommendation 9.9).

44 There is no cap on the length of time-to-pay arrangements. In this inquiry we were told of cases where vulnerable people on government benefits in very difficult circumstances were given time-to-pay arrangements lasting potentially for several decades. We find it undesirable that vulnerable people should be required to make payments for very long periods without their circumstances being recognised and consideration being given to writing off their debts, at least in part. We therefore recommend a two-year cap on time-to-pay arrangements (Recommendation 9.9).

45 At the end of the capped period for time-to-pay arrangements and WDOs the SDRO should automatically consider, without requiring an application, writing off the debts of people who are subject to WDOs and time-to-pay arrangements. The write-off guidelines should provide that the successful completion of the time-to-pay period or the WDO should be given significant weight, along with other factors, in making the relevant decision (Recommendation 9.9).

46 The Hardship Review Board reviews decisions of the SDRO. However the Board deals with very few cases, and there is little information about the way the Board operates and the grounds on which it will review SDRO decisions. We recommend the provision of further information for the public about these matters (Recommendation 9.10).

Criminal Infringement Notices

47 Criminal Infringement Notices (CINs) are penalty notices issued by police for minor criminal offences. The question of which offences are suitable to be dealt with by way of a CIN can be a controversial one. We recommend that there be guidelines to govern this issue, and that the guidelines proposed in Chapter 3 of this report be adopted and used for this purpose (Recommendation 10.1).

48 Particular concerns were raised during this inquiry about the net-widening effect of CINs, especially in relation to the offences of offensive language and offensive conduct. The problems identified with offensive language were: the indeterminacy of the test for offensiveness; the change in community standards in relation to offensive language; the frequent use of swear words in popular culture; the net-widening effect of the offence, especially in its impact on Aboriginal communities and where it is used as part of a ‘trifecta’ (three notices issued, for example, for an original offence, offensive language, and offensive conduct.) We were also told that this offence has a particularly detrimental effect on the reputation of the justice system because those who issue the notices (in common with many other people) use the same ‘offensive’ language for which penalty notices are issued.

49 We recommend that there be a further inquiry into the abolition of the offence of offensive language with consideration being given, at the same time, to what might be encompassed within the offence of offensive conduct. If abolition of offensive language is not ultimately recommended, that inquiry should determine what action should be taken to deal with the problems identified with this offence (Recommendation 10.3). If these offences are retained, the issue of CINS for these offences should be subject to mandatory review by a senior police officer (Recommendation 10.2).

Part Four Vulnerable people

50 Part Four deals with the impact of penalty notices on vulnerable people, including people on low incomes (Chapter 11); children and young people (Chapter 12); people with cognitive and mental health impairments (Chapter 13); homeless people (Chapter 14); people living in regional, rural and remote areas (Chapter 15); Aboriginal people and Torres Strait Islanders (Chapter 16); and people in custody (Chapter 17). Each chapter provides background information about the impact of penalty notices on the group under discussion. It sets out the ways in which the present penalty notice system accommodates, or fails to accommodate, the needs of that group. Finally each chapter sets out the ways in which the recommendations of this report respond to the specific needs of that group. We make additional recommendations where necessary.

51 In relation to children and young people, we recommend that penalty notices not be imposed on a person under the age of 14 years (Recommendation 12.1). This coincides with the practice of many enforcement agencies and with the common law presumption of criminal responsibility. However, we recommend that it be possible to administer cautions to children aged 10 to 14 years because of their educative role (Recommendation 12.1). To ensure greater consistency and fairness, we also recommend that the guidelines provide that penalty levels for children and young people should be set at 25% of the adult rate. The guidelines should recognise exceptions for offences only committed by children and young people (where penalty levels already accommodate their needs); offences not likely to be committed by children and young people; and serious traffic offences. Enforcement costs should be set at half the adult rate for this group (Recommendation 12.2).

52 In relation to people with cognitive and mental health impairments, we recommend new, more inclusive, definitions of cognitive and mental health impairment that are derived from our reference on people with cognitive and mental health impairment in the criminal justice system (Recommendation 13.1). We also recommend that the SDRO establish and publicise a system whereby a person with a cognitive or mental health impairment, or his or her guardian, may apply for the person to be identified as eligible for automatic withdrawal of penalty notices (Recommendation 13.2). This system would apply to people whose impairment is a contributing factor to offending, or reduces their responsibility for offending, and is unlikely to improve. It will deal with those few people who repeatedly offend, for example by travelling on trains without a ticket; who cannot control their offending behaviour; and who are repeatedly issued with penalty notices that they do not have the resources to pay. Imposing and enforcing penalty notices against these people is ineffective as a sanction, and creates pointless administrative cost.

53 Debt, including penalty notice debt, is a very significant problem for people in custody. It may be a barrier to reintegration into the community on release and appears likely to lead to reoffending in some cases. While we received proposals that essentially involved writing off the debt of prisoners, we instead recommend options that reward prisoners for making positive contributions to society and their own rehabilitation. In addition to our recommendation that the WDO scheme be extended to people in custody (Recommendation 9.5) we recommend that prisoners in prison-based employment be entitled, on top of the small payment they receive for their work, to a credit against their penalty notice debt. We also recommend that the three-month moratorium on enforcement of penalty notice debt post-release be extended to six months. Consideration should be given to extending this period further (Recommendation 17.4). We further recommend that imprisonment and its consequences be a factor to be taken into account when deciding whether to write off a penalty notice debt (Recommendation 17.1). Taking into account the significant levels of penalty notice and fine debt amongst prisoners, and the many people in custody who have cognitive or mental health impairments, we recommend that the SDRO establish a specialist unit to provide advice and assistance to this group (Recommendation 17.2).

Part Five Maintaining the integrity and fairness of the penalty notice system

54 A reliably fair, consistent and effective penalty notice system is important to NSW. In 2009/10 the SDRO collected $214.9 million dollars on behalf of state government agencies, which helped to fund the activities of those agencies. A person in NSW is far more likely to have contact with the penalty notice system than any other part of the criminal justice system. Public confidence in the system is therefore a significant issue. In particular there should be awareness and confidence that the system is focused on fairness and justice, not revenue raising.

55 Further, because a penalty notice imposes a single, inflexible, penalty on all recipients, for some sections of the community they can exacerbate social problems, provide an impetus to reoffending, and create significant costs for those agencies that provide help for vulnerable people with penalty notice debt. Balancing efficiency with fairness to vulnerable people is a significant challenge.

56 We recommend that some limited institutional support be provided to ensure that the system is fair, transparent, effective, and responsive to the needs of those who use it. It will assist in achieving these aims to have an oversight agency to rationalise policy; improve some of the guidelines that support the system; ensure consistency; support best practice across the whole of government; monitor the system and its standards; retain efficiency and cost-effectiveness; and avoid importing the complexity and expense of the court system.

57 To carry out this role we recommend the establishment of a Penalty Notice Oversight Agency (PNOA) (Recommendation 18.1). Taking into account the nature of its role and the important issue of cost, we have concluded that the PNOA should be a modest unit located in the AGJ (Recommendation 18.4).

58 The functions of the PNOA will be to:

- provide policy advice to the Government, through the Attorney General, on the penalty notice system
- develop whole-of-government guidelines for setting penalty notice offences and amounts and for key aspects of issuing and enforcing penalty notices
- provide advice to the Government in relation to new penalty notice offences and amounts proposed by issuing agencies
- review existing penalty notice offences and amounts
- work with issuing agencies to support and disseminate best practice, and
- monitor and report publicly on issuing agencies' compliance with the legislation and guidelines.

59 We anticipate that the PNOA will generally operate in a collaborative and consultative manner. Where new or revised penalty notices offences are proposed the PNOA will scrutinise the proposal to check for compliance with relevant guidelines and provide any necessary advice and assistance to the relevant department or agency. It is proposed that the minister responsible for the legislative or regulatory amendments would need to obtain a certificate of compliance with the guidelines from the PNOA. If the proposal is not compliant the offence must go to Cabinet for consideration (Recommendation 18.2).

60 Many of the current inconsistencies in the penalty notice system have arisen because there has not been a whole-of-government perspective applied to penalty notices. The proposed PNOA will provide that perspective so that any departures from guidelines designed to keep the penalty notice system fair and consistent will be subject to careful consideration by the Government, with advice from the Attorney General and the relevant minister. The proposed PNOA will also conduct a review of existing penalty notices to update them and ensure consistency with guidelines (Recommendation 18.3).

61 One of the most persistent issues raised in this inquiry was the response of the system to vulnerable people who have difficulty paying penalty notices. To assist the SDRO in this regard, we recommend that it establish an advisory committee of key stakeholders to provide advice on ways to improve and develop its activities in relation to vulnerable people (Recommendation 18.5).

Recommendations

Page numbers refer to pages in Report 132.

	Chapter 2 – Regulating penalty notices	page
2.1	The *Fines Act 1996* (NSW) should be reviewed to: (a) distinguish court fines and penalty notices, and (b) improve its clarity and accessibility.	37
2.2	(1) The powers in the *Fines Act 1996* (NSW) to issue guidelines relating to penalty notices should be consolidated and rationalised. (2) The power to issue guidelines should be vested in the Attorney General and, where relevant, should require consultation with the Minister for Finance and Services. (3) The proposed Penalty Notice Oversight Agency should support the Attorney General in the development of these guidelines. (4) Provision should be made in the *Fines Act 1996* (NSW) for the issue of guidelines in relation to internal review.	42
	Chapter 3 - Guidelines for creating penalty notice offences	**page**
3.1	The Government should adopt guidelines regulating which offences should be penalty notice offences.	50
3.2	The proposed guidelines on penalty notice offences should be based on principles of responsive regulation. They should emphasise that: (a) penalty notice offences are part of the criminal justice system and their creation should be informed by considerations of fairness and justice, and (b) revenue raising is not a relevant consideration in relation to the creation of penalty notice offences.	54
3.3	(1) The proposed guidelines on penalty notice offences should require consideration of the impact of the proposed penalty notice offence on vulnerable people. (2) Where a penalty notice offence is likely to affect vulnerable people adversely, the following issues should be considered (a) whether there are more appropriate alternatives to a penalty notice offence (b) whether there are ways in which the impact on vulnerable people can be ameliorated.	57
3.4	(1) Where penalty notice offences contain a mental element, defence or proviso, the proposed guidelines on penalty notice offences should provide that: (a) any mental element, defence or proviso should be clear and simple to assess from the context of the offence (b) issuing agencies should (i) clearly state in their public documentation what constitutes offending behaviour and the right to go to court (ii) provide officers with special training and internal operational guidelines before they may issue such penalty notices (iii) report periodically on these penalty notice offences as required by the proposed Penalty Notice Oversight Agency. (2) The proposed Penalty Notice Oversight Agency should report publicly on the operation of penalty notice offences containing a mental element, defence or proviso.	62
3.5	(1) The proposed guidelines on penalty notice offences should provide that, where an offence requires an issuing officer to make a judgment based on community standards, issuing agencies must: (a) clearly state in their public documentation what constitutes offending behaviour and the right to go to court	64

(b) provide officers with special training and internal operational guidelines before they may issue such penalty notices

(c) report periodically on these penalty notice offences as required by the proposed Penalty Notice Oversight Agency.

(2) The proposed Penalty Notice Oversight Agency should report publicly on the operation of penalty notice offences requiring an enforcing officer to make a judgment based on community standards.

3.6 The proposed guidelines on penalty notice offences should provide that penalty notices are suitable for minor offences. 67

3.7 The proposed guidelines on penalty notice offences should provide that penalty notices are not suitable for offences involving violence. 69

3.8 The proposed guidelines on penalty notice offences should provide that penalty notices are not suitable for indictable offences. 70

3.9 The proposed guidelines on penalty notice offences should not limit penalty notice offences to offences that attract low maximum penalties. 72

3.10 (1) The proposed guidelines on penalty notice offences should provide that: 75

(a) an offence where imprisonment is an available sentencing option can qualify as a penalty notice offence if there is a demonstrated public interest in dealing with breaches involving lower levels of seriousness by way of penalty notice

(b) issuing agencies must

(i) provide officers with special training and internal operational guidelines before they may issue such penalty notices

(ii) report periodically on these penalty notice offences as required by the proposed Penalty Notice Oversight Agency.

(2) The proposed Penalty Notice Oversight Agency should report publicly on the operation of penalty notice offences for which imprisonment is an available sentencing option.

3.11 The proposed guidelines on penalty notice offences should not limit penalty notice offences to high volume offences. 78

3.12 (1) The imposition of multiple penalties for continuing offences should be dealt with in the legislation prescribing the offence. 83

(2) The proposed guidelines on penalty notice offences should provide that continuing offences require that:

(a) careful consideration be given to whether it is appropriate for multiple penalty notices to be issued and, if so, whether it is appropriate that there be an escalation in the penalty for a continuing breach, or whether continuing infringements should instead be referred to a court

(b) relevant provisions state clearly when an offence is a continuing offence for which multiple penalty notices can be issued

(c) relevant provisions state clearly the increasing penalties that apply.

Chapter 4 - Guidelines for penalty notice amounts page

4.1 The Government should adopt guidelines regulating the setting of penalty notice offences and their adjustment over time. 91

4.2 The proposed guidelines on penalty notice amounts should provide that the penalty notice amount should reflect the nature and seriousness of the offence. 96

4.3 The proposed guidelines on penalty notice amounts should provide that penalty notice amounts should be consistent for comparable penalty notice offences. 100

4.4 The proposed guidelines on penalty notice amounts should provide that penalty notice amounts should be set at a level designed to deter offending, but be considerably lower than a court might generally be expected to impose for the offence. 104

4.5 The proposed guidelines on penalty notice amounts should provide that 108

(a) a penalty notice amount should not exceed 25% of the maximum court fine for that offence

(b) only in exceptional circumstances involving demonstrated public interest may a penalty notice amount be up to 50% of the maximum court fine, for example where

(i) the harm caused by the offence is likely to be particularly severe

(ii) there is a need to provide effective deterrence because the offender stands to make a profit from the activity, or

(iii) the great majority of offences are dealt with by way of penalty notices, so that the maximum court penalty is less significant as a comparator.

4.6 The proposed guidelines on penalty notice amounts should provide that the pattern of fines previously imposed by the courts, where that information is available, is a relevant factor to be taken into account when setting penalty notice amounts. 111

4.7 The proposed guidelines on penalty notice amounts should provide that, where penalty notice offences can be committed by both natural and corporate persons, higher penalty notice amounts should apply to corporations. 118

4.8 The proposed guidelines on penalty notice amounts should provide that the impact of the penalty amount on vulnerable people should be taken into consideration. 119

Chapter 5 - Official cautions page

5.1 The *Fines Act 1996* (NSW) s 19A should be amended to provide that, in every case where a penalty notice offence is committed, the appropriate officer must consider whether it is appropriate to issue an official caution instead of a penalty notice. 134

5.2 (1) The Attorney General's Caution Guidelines should be amended to include a statement of principle reinforcing the need to reduce the involvement of vulnerable people in the penalty notice system. 137

(2) All agencies that issue penalty notices should ensure that issuing officers receive training that covers s 19A of the *Fines Act 1996* (NSW) and the Attorney General's Caution Guidelines (or their own internal guidelines), and has a particular focus on working with vulnerable people.

(3) All issuing agencies should report periodically to the proposed Penalty Notice Oversight Agency on the system they have in place to ensure that all issuing officers are adequately trained to issue cautions and work with vulnerable people.

(4) The proposed Penalty Notice Oversight Agency should

(a) report periodically on whether or not issuing agencies are meeting their training obligations, and

(b) disseminate information to issuing agencies about best practice in cautions training.

5.3 (1) Section 19A of the *Fines Act 1996* (NSW) should be amended to provide that, where an issuing agency issues its own guidelines, the agency should publish those guidelines, including on the agency's website. 139

(2) The proposed Penalty Notice Oversight Agency should

(a) monitor agency-specific caution guidelines for consistency with the *Fines Act 1996* (NSW) and the Attorney General's Caution Guidelines, and

(b) make recommendations, and take other measures where necessary, to improve issuing agencies' caution guidelines.

5.4 (1) Where a caution is issued, as opposed to an informal warning, it should be issued in writing. 144

(2) Issuing agencies should be required to collect the minimum data currently recommended under the Attorney General's Caution Guidelines in a form that can be analysed. That is the:

(a) date of the caution

(b) name of the officer who gave the caution

(c) offence for which the caution was given

(d) name and address of the person given the caution, and

(e) date, place and approximate time that the offence was alleged to have been committed.

(3) Issuing agencies should report periodically to the proposed Penalty Notice Oversight Agency on the number of cautions and penalty notices, by offence, that it issues.

(4) Issuing agencies should implement policies to ensure compliance with the relevant caution guidelines as well as measures to monitor compliance.

(5) Issuing agencies should report periodically to the proposed Penalty Notice Oversight Agency on these policies and measures.

(6) The proposed Penalty Notice Oversight Agency, in consultation with issuing agencies, should further develop methods to measure compliance with the relevant caution guidelines. Particular attention should be given to their effectiveness in ensuring the use of cautions for vulnerable people.

(7) The proposed Penalty Notice Oversight Agency should report periodically on issuing agencies' compliance with s19A of the *Fines Act 1996* (NSW) and the relevant caution guidelines.

5.5 Section 19A of the *Fines Act 1996* (NSW) should be amended to provide that, unless it develops its own consistent guidelines, the NSW Police Force is covered by the Attorney General's Caution Guidelines. 147

Chapter 6 - Issuing a penalty notice page

6.1 (1) The *Fines Act 1996* (NSW) should be amended to provide that all penalty notices, as issued to the recipient, should: 159

(a) provide enough information to enable that person to identify the alleged offending behaviour

(b) specify the legislative provisions alleged to have been breached: a law part code is not sufficient for this purpose, and

(c) contain information about the possibility of court election.

(2) Regulations under the *Fines Act 1996* (NSW) should provide that all penalty notices should include a telephone number and website for

(a) the issuing agency or the State Debt Recovery Office, whichever is relevant, and

(b) LawAccess NSW.

(3) Issuing agencies should include the following information in full on a penalty notice:

(a) a comprehensive list of payment options, including the option of payment in cash

(b) information about the availability of time to pay options

(c) information about the consequences of court election, and

(d) information about the right to have a penalty notice reviewed.

Alternatively, this information may be provided in short form, together with details of where to obtain further information.

6.2 The *Fines Act 1996* (NSW) should be amended to allow issuing agencies to serve penalty notices and subsequent notices (including reminder notices and enforcement notices) electronically where the penalty notice recipient has provided consent in advance. 166

6.3 (1) Where legislation prescribes penalty notice offences, it should set time limits for service of penalty notices. Time limits should take into account the need of the penalty notice recipient to recollect and respond to the alleged offence. 169

(2) When issuing agencies set time limits for penalty notice offences within their jurisdiction, they should consider whether it is appropriate to permit exceptions to those limits, the circumstances in which any exceptions should be permitted, and the consequences of exceeding time limits.

6.4 Issuing agencies that engage private contractors to issue penalty notices should ensure that: 173

(a) the final decision to issue, or not to issue, a penalty notice is taken by an employee of the issuing agency and not by a private contractor

(b) accountability for the conduct of issuing officers remains at all times with the government agency

(c) issuing officers are, at all times, subject to the control and direction of the issuing agency

(d) issuing officers employed by private contractors are adequately trained to carry out work under the contract

(e) training is provided on the elements and standard of proof required for the offences, as well as the relevant caution guidelines

(f) the performance of contractors, including issuing officers, is monitored, and

(g) the performance of issuing officers is never assessed by the number of penalty notices issued, nor should there be perverse incentives such as quotas or targets.

6.5 (1) The Attorney General's Caution Guidelines should be amended to require issuing officers to consider whether the issue of multiple penalty notices in response to a single set of circumstances would unfairly or disproportionately punish a person in a way that does not reflect the totality, seriousness or circumstances of the offending behaviour. 179

(2) Section 24E(2) of the *Fines Act* 1996 (NSW) should be amended to provide that an issuing agency must withdraw one or more penalty notices where it finds that multiple penalty notices have been issued in relation to a single set of circumstances, and that this unfairly punishes the recipient in a way that does not reflect the totality, seriousness and circumstances of the offending behaviour.

6.6 If legislation provides for discretion to withdraw a penalty notice in favour of prosecution, this discretion should only be available 182

(a) in respect of serious offences where the nature and gravity of the offence was not apparent at the time of issuing a penalty notice, and

(b) subject to a time limit of 28 days.

Chapter 7 - Internal review page

7.1 (1) The State Debt Recovery Office Review Guidelines should be reviewed and amended 194

(a) to achieve consistency with the *Fines Act 1996* (NSW) and the Attorney General's Internal Review Guidelines

(b) to reflect more effectively the right of penalty notice recipients to make an application for internal review.

(2) All agencies that conduct internal review should

(a) use the Attorney General's Internal Review Guidelines or develop and use guidelines that are consistent with the Attorney General's Internal Review Guidelines

(b) make publicly available the guidelines that they use, including on their website

(c) report periodically to the proposed Penalty Notice Oversight Agency on their use of each of the review grounds under ss 24E(2) and (3) of the *Fines Act 1996* (NSW).

(3) The proposed Penalty Notice Oversight Agency should

(a) monitor the published guidelines of agencies that conduct their own internal reviews to ensure consistency with the *Fines Act 1996* (NSW) and the Attorney General's Internal Review Guidelines

(b) monitor compliance by reviewing agencies with the provisions of ss 24E(2) and (3) of the *Fines Act 1996* (NSW)

(c) make recommendations, and take other measures as appropriate, to improve agency practice in reviewing penalty notices

(d) report periodically on its findings.

7.2 Section 24E(2)(d) of the *Fines Act 1996* (NSW) and the Attorney General's Internal Review Guidelines should be amended to provide that a penalty notice must be withdrawn if the person to whom it was issued has an intellectual disability, a mental illness, a cognitive impairment or is homeless, which was a contributing factor to the commission of an offence or reduced the person's responsibility for the offending behaviour. 199

7.3 Section 24E(2)(d) of the *Fines Act* and Attorney General's Internal Review Guidelines should be amended to require withdrawal of a penalty notice where a person has a severe substance dependence, as defined in s 5 of the *Drug and Alcohol Treatment Act 2007* (NSW), which was a contributing factor or reduced the responsibility of the person for the offending behaviour. 203

7.4 All agencies that carry out internal review of penalty notices should ensure that reviewing officers receive training about the impact of penalty notices on vulnerable people. 206

7.5		The Attorney General's Internal Review Guidelines should be reviewed and updated to explain and clarify the circumstances in which an agency may legitimately decline to conduct internal review under s 24B of the *Fines Act 1996* (NSW).	208
7.6		The internal review provisions in Part 3 Division 2A of the *Fines Act 1996* (NSW) should be amended to clarify that they apply to the NSW Police Force.	212
7.7	(1)	The Attorney General's Internal Review Guidelines and the State Debt Recovery Office Review Guidelines should be revised to minimise, so far as possible, the requirements for documentary proof including to allow for the acceptance of information from practitioners providing services to applicants.	218
	(2)	The Attorney General's Internal Review Guidelines should be reviewed and updated to include examples of acceptable supporting evidence in an application for internal review.	
	(3)	The State Debt Recovery Office should further develop memoranda of understanding with government departments and agencies and should extend this approach to non-government organisations. One function of such agreements should be the facilitation of internal review.	
	(4)	All agencies that conduct, or are otherwise engaged in, internal review should raise public awareness about the availability of internal review.	
	(5)	All agencies that conduct, or are otherwise engaged in, internal review should train reviewers to provide an effective service to people with cognitive and mental health impairments. Training should cover the impact of cognitive and mental health impairments on a person's capacity to understand and avoid offending behaviour, as well as capacity to pursue internal review.	
7.8	(1)	The *Fines Act 1996* (NSW) should be reviewed and amended to simplify the time limits governing court election and internal review.	224
	(2)	Section 24F(3) of the *Fines Act 1996* (NSW) should be repealed and s 36(2) of the *Fines Act 1996* (NSW) should be amended to allow an applicant the opportunity to make a court election, regardless of whether any payment towards the penalty notice has been made.	
	(3)	Section 24I of the *Fines Act 1996* (NSW) should be amended so that, if a person elects to have a matter dealt with by a court while a review is in progress, the review is not terminated on the making of that election.	

Chapter 8 - Enforcement page

8.1	(1)	The State Debt Recovery Office should develop and make public a fee-waiver policy.	230
	(2)	The fee-waiver policy should provide for waiver of annulment fees for a person in receipt of an eligible Centrelink benefit (as defined by the Director of the State Debt Recovery Office) who makes a reasonable and genuine application.	
8.2	(1)	The State Debt Recovery Office, Centrelink, and Roads and Maritime Services should make arrangements to enable people to apply for time to pay at Centrelink and Roads and Maritime Services offices.	236
	(2)	The State Debt Recovery Office should extend, develop, and increase the frequency of its licence restoration activities, especially in rural, regional and remote areas and in relation to Aboriginal and Torres Strait Islander communities.	
	(3)	The proposed regional network of work and development order support teams should raise stakeholder awareness about the full range of fine mitigation measures available to facilitate licence restoration.	
8.3		The *Fines Act 1996* (NSW) should be amended to provide that no enforcement action may be taken under s 68 if the offence was not a traffic offence and the fine defaulter was under the age of 18 years at the time of the offence.	238
8.4	(1)	Part 4 Division 6 of the *Fines Act 1996* (NSW) should be repealed to remove the possibility of imprisonment as a sanction for breach of a community service order under that Act.	247
	(2)	Part 4 Division 5 of the *Fines Act 1996* (NSW) should be amended to	
		(a) remove the power of the State Debt Recovery Office to make a community service order, and	
		(b) substitute a provision to allow the State Debt Recovery Office to apply to the Local Court for an order imposing a community service order, and	

(c) empower that court to make the order after a hearing.

8.5	(1)	The *Fines Act 1996* (NSW) should be amended to provide that a penalty notice or Criminal Infringement Notice may be referred to in any report provided to a court for sentencing.	252
	(2)	The proposed Penalty Notice Oversight Agency, in consultation with key stakeholders, should develop guidelines setting out when a penalty notice history may be presented to a sentencing court.	

Chapter 9 - Mitigation measures			page
9.1	(1)	The *Fines Act 1996* (NSW) should be amended to provide that the Attorney General, in consultation with the Minister for Finance and Services, should issue guidelines on time to pay.	256
	(2)	The proposed Penalty Notice Oversight Agency should, in consultation with the State Debt Recovery Office and key stakeholders, develop time-to-pay guidelines.	
	(3)	The time-to-pay guidelines should be publicly available, including on the State Debt Recovery Office website.	
	(4)	The proposed Penalty Notice Oversight Agency should monitor the operation of the time-to-pay guidelines.	
	(5)	The State Debt Recovery Office should report periodically on the operation of the time-to-pay guidelines as required by the proposed Penalty Notice Oversight Agency.	
	(6)	The proposed Penalty Notice Oversight Agency should report publicly on the operation of the time-to-pay guidelines.	
9.2	(1)	The *Fines Act 1996* (NSW) should be amended to enable apprentices and trainees to enforce voluntarily their penalty notices for the purposes of entering into a time-to-pay arrangement.	260
	(2)	The *Fines Act 1996* (NSW) should be amended to enable people who are experiencing unavoidable financial hardship to enforce voluntarily their penalty notices for the purposes of entering into a time-to-pay arrangement.	
	(3)	The time-to-pay guidelines should include provisions relating to eligibility for time-to-pay arrangements for apprentices, trainees, and people experiencing financial hardship.	
9.3		The recently established regional network of work and development order support teams should provide information in relation to time-to-pay and write off arrangements, as well as in relation to work and development orders.	266
9.4	(1)	The definition of acute economic hardship for the purposes of work and development orders should be taken to be satisfied if the person is in receipt of an eligible Centrelink benefit (as defined by the Director of the State Debt Recovery Office) and an approved organisation or health practitioner supports the application for the work and development order.	268
	(2)	The definition of economic hardship, as it applies to people applying for a work and development order who are not on Centrelink benefits, should be amended so that it is less stringent and the application process should be simplified.	
	(3)	When the proposed time-to-pay guidelines are developed, consideration should be given to using the same definition of financial hardship for the purposes of eligibility for a work and development order.	
9.5		Prisoners and detainees (whether on remand or under sentence) who meet the eligibility criteria for a work and development order should be able to count voluntary activities and work undertaken while in custody or under supervision as eligible activities for a work and development order.	270
9.6		Mutual obligation activities undertaken for the purposes of Centrelink benefits should be eligible activities for a work and development order.	271
9.7	(1)	The exemption in section 120(2) of the *Fines Act 1996* (NSW), which provides that the Minister is not required to make public the guidelines on writing off unpaid fines, should be reversed to contain a requirement that these guidelines be made public.	275
	(2)	The proposed Penalty Notice Oversight Agency should, in consultation with the State Debt Recovery Office and key stakeholders, develop write-off guidelines.	
	(3)	The write-off guidelines should be publicly available, including on the State Debt Recovery Office website.	
	(4)	The proposed Penalty Notice Oversight Agency should monitor the operation of the write-off	

guidelines.

(5) The State Debt Recovery Office should report periodically on the operation of the write off guidelines as required by the proposed Penalty Notice Oversight Agency.

(6) The proposed Penalty Notice Oversight Agency should report publicly on the operation of the write-off guidelines.

9.8 Section 101(4) of the *Fines Act* 1996 (NSW) should be amended to provide: 278

(a) a presumption that a debt, once written off, cannot be reinstated

(b) a discretion to impose a good behaviour period only in cases where it is justified by the seriousness of the offending and its likely deterrent effect

(c) that the maximum good behaviour period should be two years for adults and six months for children and young people under the age of 18 years.

9.9 (1) The cap on hours in the Attorney General's Work and Development Order Guidelines should be retained. 283

(2) The Attorney General's Work and Development Order Guidelines should prescribe that the cap may be exceeded where:

(a) the person wishes to exceed the cap

(b) the approved organisation or practitioner agrees, and

(c) such an arrangement does not impose unduly onerous obligations on the participant.

(3) There should be a two-year cap on time-to-pay arrangements.

(4) At the end of the capped period for time-to-pay and work and development orders, the State Debt Recovery Office should automatically consider, without requiring any application, whether any debt should be written off.

(5) The write-off guidelines should prescribe the grounds on which the State Debt Recovery Office should write off debts at the end of the capped period for time to pay or work and development orders.

(6) The write-off guidelines should provide that successful completion of the capped period for a work and development order or time-to-pay arrangement should be relevant and given particular weight in considering whether it is appropriate to write off a penalty notice debt. Other relevant considerations should include:

(a) the person's likely future capacity to pay the debt

(b) any disability, mental illness or cognitive impairment

(c) homelessness, and

(d) any further penalty notices incurred.

9.10 (1) The Hardship Review Board should review and update its procedures to provide: 285

(a) information about the basis on which its decision will be made, including the guidelines that will be applied

(b) information about how to make an application, including the documentation that is needed to support an application

(c) clear and simple application forms.

(2) Information about the Hardship Review Board's procedures should be publicly available, including on its website and the State Debt Recovery Office website.

(3) The State Debt Recovery Office, in reporting periodically as required by the proposed Penalty Notice Oversight Agency, should include information about the operation of the Hardship Review Board.

(4) The proposed Penalty Notice Oversight Agency should, in monitoring and reporting on the operation of the penalty notice system, take into consideration the operation of the Hardship Review Board.

Chapter 10 - Criminal Infringement Notices page

10.1 The proposed guidelines on penalty notice offences and penalty notice amounts should govern Criminal Infringement Notice offences. 293

10.2 Review by a senior police officer of Criminal Infringement Notices issued for offensive language and offensive conduct should be mandatory and should not depend on application. 306

10.3 (1) The following questions should be the subject of further inquiry: 311

(a) Should the offence of offensive language in the *Summary Offences Act 1988* (NSW), and wherever else it occurs, be abolished?

(b) If not, what action should be taken to deal with the problems identified with this offence?

(2) In conjunction with the inquiry in (1), the offence of offensive conduct should also be reviewed and considered.

Chapter 12 - Children and young people	page

12.1 (1) Section 53 of the *Fines Act 1996* (NSW) should be amended to provide that Part 3 of the Act, except the cautions provisions contained in Division 1A, does not apply to a person younger than 14 years at the time of the offending behaviour. 333

(2) The Attorney General's Caution Guidelines should be amended in accordance with (1).

12.2 (1) The guidelines on penalty amounts should provide that offending by children and young people should attract a penalty at 25% of the adult rate, except where the offence is: 338

(a) only committed by children and young people, in which case the penalty level should take into account the special circumstances of children and young people

(b) one not likely to be committed by children and young people, in which case a special rate is not required, or

(c) a serious traffic offence.

(2) All enforcement costs imposed on children and young people should be set at half the adult rate.

Chapter 13 - People with mental health and cognitive impairments	page

13.1 All penalty notice guidelines should adopt the terms 'mental health impairment' and 'cognitive impairment', and define them as follows: 351

(a) 'Cognitive impairment' means an ongoing impairment in comprehension, reason, adaptive functioning, judgement, learning or memory that is the result of any damage to, dysfunction, developmental delay, or deterioration of the brain or mind. Such cognitive impairment may arise from, but is not limited to, the following:

(i) intellectual disability

(ii) borderline intellectual functioning

(iii) dementias

(iv) acquired brain injury

(v) drug or alcohol related brain damage

(vi) autism spectrum disorders.

(b) 'Mental health impairment' means a temporary or continuing disturbance of thought, mood, volition, perception, or memory that impairs emotional wellbeing, judgment or behaviour, so as to affect functioning in daily life to a material extent. Such mental health impairment may arise from, but is not limited to, the following:

(i) anxiety disorders

(ii) affective disorders

(iii) psychoses

(iv) severe personality disorders

(v) substance induced mental disorders.

13.2 The State Debt Recovery Office should establish and publicise a system whereby: 361

(a) a person, or his or her legal guardian, may apply for that person to be identified as eligible for automatic withdrawal of any penalty notice on the grounds that he or she

(i) has a mental health or cognitive impairment

(ii) the impairment is unlikely to improve in the foreseeable future, and

(iii) the impairment is a contributing factor to the commission of the offence or reduces the person's responsibility for the offending behaviour.

(b) the State Debt Recovery Office may, upon determination that a person is eligible for automatic withdrawal of any penalty notice on the grounds set out in (a), withdraw any outstanding or future penalty notices without further application.

(c) the State Debt Recovery Office may, where it is satisfied that the grounds set out in (a) no longer apply, determine that the person is no longer eligible for automatic withdrawal of any penalty notice.

	Chapter 17 - People in custody	page
17.1	The proposed write-off guidelines should provide that imprisonment and its consequences are relevant when deciding whether or not to write off all or part of a penalty notice debt.	392
17.2	The State Debt Recovery Office should establish a specialist unit to provide advice and assistance for prisoners with cognitive and mental health impairments in relation to penalty notice debt, including applications for annulment, work and development orders, and write offs.	396
17.3	Prisoners in prison employment should have a defined amount credited to the State Debt Recovery Office against their penalty notice debts. This amount should be separate from, and in addition to, the amount paid to the prisoner for work undertaken.	400
17.4	The moratorium on penalty notice enforcement action against recently-released prisoners should be extended to six months. The State Debt Recovery Office, in consultation with Corrective Services NSW and other key stakeholders, should give consideration to whether a longer period is appropriate.	401
	Chapter 18 - Maintaining the integrity and fairness of the penalty notice system	**page**
18.1	A Penalty Notice Oversight Agency should be established to oversee and monitor the penalty notice system.	412
18.2	(1) All proposed (new or revised) penalty notice offences must be referred to the Penalty Notice Oversight Agency, which will scrutinise the proposals for compliance with relevant guidelines. (2) The Penalty Notice Oversight Agency will provide information, advice and assistance in relation to proposed penalty notice offences and the relevant guidelines. (3) The responsible Minister proposing any legislative or regulatory amendments creating or amending a penalty notice must obtain a certificate of compliance or non-compliance from the Penalty Notice Oversight Agency. (4) If the certificate is one of non-compliance with the guidelines, the proposal for the penalty notice offence must go to Cabinet, even where the proposal is for a new or amended regulation.	414
18.3	The Penalty Notice Oversight Agency should conduct a review of existing penalty notices in order to (1) update them and remove obsolete offences (2) ensure consistency across the penalty notice system, particularly in penalty amounts set for like offences, and (3) ensure consistency of existing offences with the proposed guidelines for penalty notice offences and penalty notice amounts.	416
18.4	The Penalty Notice Oversight Agency should be established as a unit within the Department of Attorney General and Justice.	424
18.5	The State Debt Recovery Office should establish a Penalty Notice Advisory Committee of key stakeholders to provide advice on ways in which it can improve and develop its activities in relation to vulnerable people.	427

Appendix A: Submissions

Preliminary Submissions

PPN1 NSW Police Force
PPN2 NSW Department of Environment and Climate Change
PPN3 Illawarra Legal Centre
PPN4 NSW Attorney General's Department
PPN5 Shopfront Youth Legal Centre
PPN6 P McCabe
PPN7 Youth Justice Coalition
PPN8 Intellectual Disability Rights Service
PPN9 RailCorp
PPN10 NSW Department of Juvenile Justice
PPN11 NSW Department of Planning
PPN12 NSW Department of Water and Energy
PPN13 NSW Office of Fair Trading
PPN14 NSW Department of the Arts, Sport and Recreation
PPN15 Department of Local Government

Submissions

PN1 M Heath
PN2 NSW Maritime
PN3 A Whiddett
PN4 A Kernaghan
PN5 Judge Graeme Henson, Chief Magistrate of the Local Court
PN6 Sydney Olympic Park Authority
PN7 NSW Department of Planning
PN8 NSW Disability Discrimination Legal Centre Inc
PN9 NSW Food Authority
PN10 Holroyd City Council
PN11 Legal Aid NSW
PN12 UnitingCare Burnside
PN13 Department of Human Services NSW, Ageing, Disability and Home Care
PN14 NSW Trustee and Guardian
PN15 Department of Human Services NSW, Juvenile Justice
PN16 Local Government and Shires Associations of NSW
PN17 NSW Land and Property Management Authority
PN18 Sutherland Shire Council
PN19 NSW Department of Education and Training, Workforce Management and Systems Improvement
PN20 Corrective Services NSW, Women's Advisory Council
PN21 Council of Social Service of NSW

PN22 NSW Department of Environment, Climate Change and Water
PN23 NSW Department of Local Government
PN25 NSW Ombudsman
PN26 Redfern Legal Centre
PN27 Illawarra Legal Centre
PN28 Homeless Persons' Legal Service, Public Interest Advocacy Centre Ltd
PN29 NSW Young Lawyers, Criminal Law Committee
PN30 Transport NSW
PN31 The Law Society of NSW
PN32 NSW Commission for Children and Young People
PN33 The Shopfront Youth Legal Centre
PN34 Youth Justice Coalition
PN35 Children's Court of NSW
PN36 NSW Department of Community Services
PN37 NSW Industry and Investment
PN38 Justice Action
PN39 Women in Prison Advocacy Network
PN40 M Bennett
PN41 NSW Office of State Revenue, State Debt Recovery Office
PN42 Homeless Persons' Legal Service
CPN43 Confidential Submission
PN44 NSW Police Portfolio
PN45 Legal Aid NSW

Appendix B: Consultations

NSW Parliamentary Counsel's Office — PN 1

8 December 2010

Don Colagiuri, NSW Parliamentary Counsel

Shopfront Youth Legal Centre — PN 2

13 January 2011

Jane Sanders, Principal Solicitor
Jamie Alford, Social Worker
Jacki Maxton, Solicitor

Homeless Persons' Legal Service — PN 3

13 January 2011

Katherine Boyle, Solicitor
Chris Heartley, Policy Officer
Ka-ki Ng, Administrative Assistant
Client 1
Client 2

Toongabbie Legal Centre — PN 4

19 January 2011

Christopher Jurd, Solicitor and President
Susai Benjamin, Solicitor and Honorary Coordinator

Intellectual Disability Rights Service — PN 5

25 January 2011

Pan Pemberton, Educator

People with Mental Health and Cognitive Impairment — PN 6

27 January 2011

Peter Conway, Department of Human Services NSW, Ageing, Disability and Home Care
Imelda Dodds, CEO, NSW Trustee and Guardian
John Neely, Assistant Director, NSW Trustee and Guardian

Jill Day, Acting Principal Legal Officer, NSW Trustee and Guardian
Tristan Webb, Advocate, Legal Aid NSW
Andrew Taylor, Solicitor, Legal Aid NSW
Karen Wells, Principal Solicitor, Intellectual Disability Rights Service
Fiona Given, Policy Officer, Disability Discrimination Legal Centre
Liz Priestley, CEO, Mental Health Association
Frank Flannery, Vice President, Mental Health Association
Samantha Cheung, Policy Officer, Multicultural Disability Advocacy Association
Peri O'Shea, Policy and Operations Manager, NSW Consumer Advisory Group

Aboriginal Legal Service — PN 7

2 February 2011

Raymond Brazil, Law Reform and Policy Legal Officer
Gerry Moore, Chief Executive Officer
John McKenzie, Chief Legal Officer
Shawn Stubbings, Zone Manager, Central South Eastern Zone
Julie Perkins, Zone Manager, Northern Zone
Lorraine Wright, Zone Manager, Western Zone
Hewitt Whyman, Deputy Zone Manager, Western Zone
Jeremy Styles, Acting Principal Legal Officer, Central South Eastern Zone
Rebecca McMahon, Manager, Redfern Criminal Law Office
Robert Tumeth, Principal Legal Officer, Northern Zone
Nadine Miles, Principal Legal Officer, Western Zone
Garry Johnston, Senior Solicitor, Northern Zone
Phil Naden, Manager, Prisoner and Family Support Unit
Chris Firth, Manager, Information Technology
Jennifer Ledingham, Manager, Human Resources

Prisoners Roundtable Meeting — PN 8

3 February 2011

Luke Grant, Assistant Commissioner, Offender Services and Programs, Corrective Services NSW
Phillip Stulman, Corrective Services NSW
Nita Dowel, Aboriginal Support and Planning Unit, Corrective Services NSW
Kath McFarlane, Women's Advisory Council, Corrective Services NSW
Will Hutchins, Prisoners Legal Service, Legal Aid NSW
Kat Armstrong, Women in Prison Advocacy Network
Shann Hulme, Intern, Women in Prison Advocacy Network
Brett Collins, Coordinator, Justice Action
Sunaina Sharma, Intern, Justice Action
Wayne Watson, Community Restorative Centre

NSW Fair Trading — PN 9

4 February 2011

Don Jones, Assistant Commissioner, Compliance and Enforcement, NSW Fair Trading

State Debt Recovery Office — PN 10

8 February 2011

Mick Roelandts, Senior Manager, Business Relationships and Development, State Debt Recovery Office

Vulnerable People Roundtable Meeting — PN 11

10 February 2011

Karen Bevan, Director, Social Justice Unit, UnitingCare
Eamon Waterford, Social Justice Unit, UnitingCare
Natalie Ross, Redfern Legal Centre
David Porter, Solicitor, Redfern Legal Centre
Louise Dean, Caseworker, CatholicCare (Newcastle)

Infringements System Oversight Unit — PN 12

11 February 2011

Nita Soemardjo, Principal Policy Officer
Andrea Daglish, Policy Officer

Young People Roundtable — PN 13

14 February 2011

Megan Mitchell, Commissioner, NSW Commission for Children and Young People
Rouel Dayoan, Policy Officer, NSW Commission for Children and Young People
Christine Hall, Solicitor, Children's Legal Service, Legal Aid NSW
Mark Patrick, Solicitor, Youth Justice Coalition
Clare Blakemore, Y Foundation
Jenny Bargen, Youth Justice Coalition
Dean Williamson, Youth Action and Policy Association
Loretta Allen-Weinstein, Project Officer, Juvenile Justice
Cathy Bracken, Manager, Operations Unit, Juvenile Justice

Kempsey Roundtable Meeting — PN 14

16 February 2011

Wayne Evans, Magistrate, Kempsey Local Court
Kevin Henshaw, Aboriginal Legal Service
Talia Donovan, Aboriginal Client Service Specialist
Felicity Forsyth, Deputy Registrar, Kempsey Local Court
Victor Darcy, Circle Sentencing Project Officer, Kempsey Local Court
Ray Cameron, Solicitor, Police Prosecutor
Rod Hetherington, Apprentice, Aboriginal Legal Service
Joe Hull, Aboriginal Legal Service
Roger Williamson, Solicitor
Geoffrey Clarke, Solicitor, Many Rivers Family Violence Legal Service

Kempsey Aboriginal Community Justice Roundtable Meeting — PN 15

16 February 2011

Mavis Davis, Elder, Dunghutti Community Justice Group
Fred Kelly, Dunghutti Community Justice Group, Mission Australia
Louise Pearson, Communities for Children
Madeline Donovan, Goorie Galbans
Pauline McGuinness, Dunghutti Community Justice Group
Eileen Button, Elder, Dunghutti Community Justice Group
Malcolm Webster, Chairperson, Macleay Valley Local Aboriginal Education Consultative Group
Ruth Campbell-Maruca, Chairperson, Dunghutti Community Justice Group
Debra Morris, Coordinator, Dunghutti Community Justice Group
Deal Roberts, CEO, Thungutti Local Aboriginal Land Council
Gary Morris, CEO, Booroongen Djugun Aboriginal Corporation

Aboriginal Legal Service Providers (Greater Sydney) Roundtable Meeting — PN 16

23 February 2011

Jeremy Styles, Aboriginal Legal Service
Kristy Kendrigan, Mount Druitt Aboriginal Community Justice Group
David Porter, Redfern Legal Centre

Lismore Roundtable Meeting — PN 17

28 February 2011

Amanda Dodds, Aboriginal Community Justice Group.
Ruth Hodson, Transport NSW
Greg Moore, NSW Police Force
Noel King, Lismore Police
Lester Moran, Aboriginal Community Liaison Officer
Ros Sten, Aboriginal Student Support Officer
Struan Presgrave, Youth Liaison, Richmond Police LAC
Trish Wilson, Housing NSW
Heather Jacky, Aboriginal Legal Service
Mel, Circle Sentencing, Lismore Local Court
Mallory, Trainee, Circle Sentencing, Lismore Local Court
Jan Levy, Adult Community Education North Coast
Noelene Lavender, Probation/Parole, Corrective Services NSW
Lurline Dillon-Smith, Legal Aid NSW
Bridget Barker, Northern Rivers Community Legal Centre
Genevieve Beggs, Nurse, North Coast Area Health Service
Greg Telford, Rekindle the Spirit
Genelle Purcell, Aboriginal Justice Group in Macleay/Yamba
Linda McGregor, Legal Aid NSW

Wollongong/Illawarra Roundtable Meeting — PN 18

1 March 2011

Kirsty Lewis, TAFE NSW
Donna Brotherson, TAFE NSW
Kac Mederis, TAFE NSW
Rosemary Elassal, Southern Youth and Family Services
Amy Hans, Southern Youth and Family Services
Eileen Gibson, Southern Youth and Family Services
Scott Wood, Southern Youth and Family Services
Marg Purcell, Denning Foundation
Jennifer Newton, Barnardos
Darren Bell, Access Community Group
Maxine Graham, Warrawong Community Centre
Sharlene Naismith, Legal Aid NSW
Sharon Callaghan, Illawarra Legal Centre

Intellectual Disability Rights Service Clients' Roundtable — PN 19

3 March 2011

Pan Pemberton, Intellectual Disability Rights Service
Parent 1
Client 1
Client 2
Client 3
Client 4
Client 5
Client 6

NSW Ombudsman — PN 20

10 March 2011

Bruce Barbour, NSW Ombudsman
Justine Simpkins, Senior Project Officer

NSW Local Courts — PN 21

15 March 2011

Judge Graeme Henson, Chief Magistrate

NSW Police Force/Law Enforcement Roundtable Meeting — PN 22

15 March 2011

Superintendent Robert Redfern, Local Area Command for Parramatta, NSW Police Force
Sam Toohey, Policy Manager, Law Enforcement Policy, NSW Department of Premier and Cabinet
Christabel Sheehan, Senior Policy Officer, Law Enforcement Branch, NSW Department of Premier and Cabinet

Transport Roundtable Meeting — PN 23

18 March 2011

Greg Riley, Solicitor, Transport Administration, Transport NSW
Peter Robinson, Legal Branch, Roads and Traffic Authority
Kate Tiedt, Legal Branch, Roads and Traffic Authority
Peter Wells, Acting Director, Regulatory Services, Roads and Traffic Authority
Ed Ramsay, Regulatory Services, Roads and Traffic Authority
Jim Morton, Employment, General Counsel and Governance, RailCorp
Matthew Dakin, Manager, Law Enforcement, RailCorp

Children's Court NSW — PN 24

22 March 2011

Judge Mark Marien SC, President
Rosemary Davidson, Executive Officer
Joseph Karam, Acting Registrar

Issuing Agencies Roundtable Meeting – PN 25

24 March 2011

Sean O'Dwyer, Compliance and Litigation, NSW Maritime
Kelly McFadyen, Governance and Risk, NSW Maritime
Lisa White, State Debt Recovery Area, NSW Maritime
Steve Hartley, Crown Forestry Policy and Regulation, NSW Department of Environment, Climate Change and Water
Lynne Neville, Compliance and Assurance, NSW Department of Environment, Climate Change and Water
Chris Kelly, Compliance Services, NSW Department of Environment, Climate Change and Water
Mark Kelly, Principal Legal Officer, NSW Department of Environment, Climate Change and Water
Lindsey Paget-Cook, Legislation Co-ordination, NSW Industry and Investment
Samantha McCallum, Legislation and Policy, NSW Industry and Investment
Tony Andrews, Compliance Operations, Fisheries, NSW Industry and Investment
Andrew Sanger, Agriculture, NSW Industry and Investment
Lisa Lake, NSW Food Authority
Ian Beer, NSW Food Authority

Local Government Roundtable Meeting – PN 26

30 March 2011

David Rolls, Principal Legal Officer, Division of Local Government, NSW Department of Premier and Cabinet
Frank Loveridge, Legal Officer, Local Government and Shires Association of NSW

Office of State Revenue/State Debt Recovery Office– PN 27

4 April 2011

Mick Mioduszewski, Director, State Debt Recovery Office
John Ovenstone, Assistant Director, Client Services, State Debt Recovery Office
Matt McGregor, Manager, Fines Reconciliation, State Debt Recovery Office
Mary Rebehy, Manager, Ministerial and Executive Services Unit, Executive Division, Office of State Revenue

Office of State Revenue/State Debt Recovery Office– PN 28

27 April 2011

Tony Newbury, Executive Director and Chief Commissioner of State Revenue, Office of State Revenue

Mary Rebehy, Manager, Ministerial and Executive Services Unit, Executive Division, Office of State Revenue

Greg Frearson, Assistant Director for Operations, State Debt Recovery Office

Parramatta City Council – PN 29

28 April 2011

Laurie Whitehead, Manager, Regulatory Services Unit, Parramatta City Council

Rodney Suttcliffe, Manager, Community Safety Program, Parramatta City Council

Disability Advisory Council of NSW – PN 30

8 June 2011

Laurie Glanfield, Director General, Department of Attorney General and Justice

Julie Haraksin, Manager, Diversity Services, Department of Attorney General and Justice

Richard Branding

Geoffrey Beatson, representing people with intellectual disabilities,

Elizabeth Buchanan, representing people with acquired brain injuries

Philip French, cross disability representation

Stepan Kerkyasharian, President of the Anti-Discrimination Board

Helen Laverty, Policy Officer, Disability Council of NSW

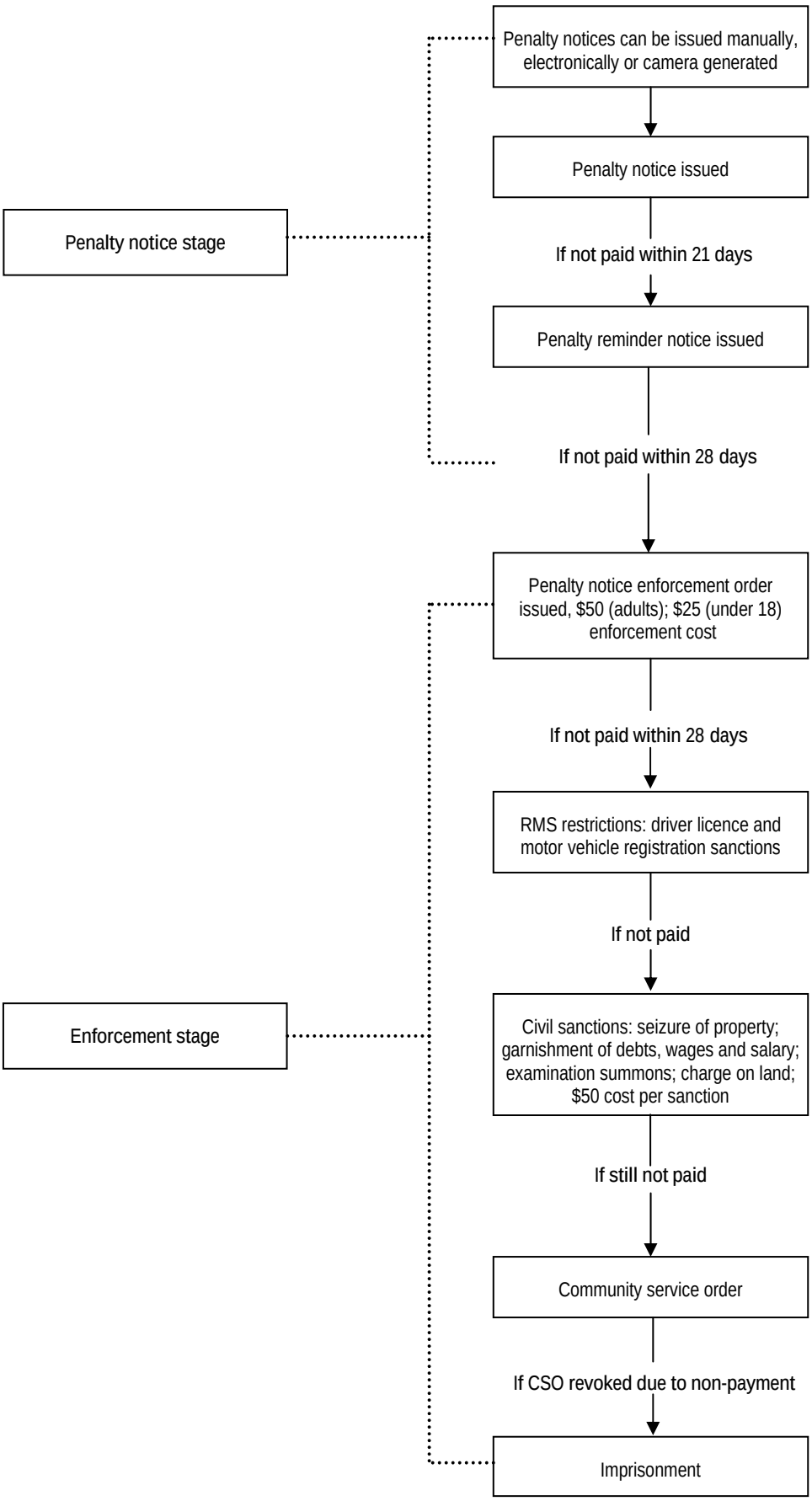
Appendix C: Statutory provisions under which penalty notices may be issued

Animal Diseases (Emergency Outbreaks) Act 1991 (NSW) s 71A
Apiaries Act 1985 (NSW) s 42A
Assisted Reproductive Technology Act 2007 (NSW) s 64
Associations Incorporations Act 2009 (NSW) s 93
Barangaroo Delivery Authority Act 2009 (NSW) s 45
Biofuels Act 2007 (NSW) s 29
Building Professionals Act 2005 (NSW) s 92
Business Names Act 2002 (NSW) s 32
Casino Control Act 1992 (NSW) s 168A
Casino, Liquor and Gaming Control Authority Act 2007 (NSW) s 46
Centennial Park and Moore Park Trust Act 1983 (NSW) s 24
Classification (Publications, Films and Computer Games) Enforcement Act 1995 (NSW) s 61A
Commercial Agents and Private Inquiry Agents Act 2004 (NSW) s 28
Companion Animals Act 1998 (NSW) s 92
Contaminated Land Management Act 1997 (NSW) s 92A
Conveyancers Licensing Act 2003 (NSW) s 158
Court Security Act 2005 (NSW) s 29
Criminal Procedure Act 1986 (NSW) s 333
Crown Lands Act 1989 (NSW) s 162
Dangerous Goods (Road and Rail Transport) Act 2008 (NSW) s 48
Deer Act 2006 (NSW) s 33
Electricity (Consumer Safety) Act 2004 (NSW) s 47
Electricity Supply Act 1995 (NSW) s 187
Energy and Utilities Administration Act 1987 (NSW) s 46A
Environmental Planning and Assessment Act 1979 (NSW) s 127A
Exhibited Animals Protection Act 1986 (NSW) s 46A
Explosives Act 2003 (NSW) s 34
Fair Trading Act 1987 (NSW) s 67
Firearms Act 1996 (NSW) s 85A
Fisheries Management Act 1994 (NSW) s 276
Fitness Services (Pre-paid Fees) Act 2000 (NSW) s 16
Food Act 2003 (NSW) s 120
Forestry Act 1916 (NSW) s 46A
Game and Feral Animal Control Act 2002 (NSW) s 57
Gaming Machines Act 2001 (NSW) s 203
Gene Technology (GM Crop Moratorium) Act 2003 (NSW) s 35
Graffiti Control Act 2008 (NSW) s 16
Hemp Industry Act 2008 (NSW) s 45
Home Building Act 1989 (NSW) s 138A

Hunter Water Act 1991 (NSW) s 31A
Impounding Act 1993 (NSW) s 36
Inclosed Lands Protection Act 1901 (NSW) s 10
Industrial Relations Act 1996 (NSW) s 396 (including as applied to and for the purposes of Part 2 of the Industrial Relations (Child Employment) Act 2006 (NSW) by s 16 of that Act)
Jury Act 1977 (NSW) s 64, 66
Law Enforcement (Powers and Responsibilities) Act 2002 (NSW) s 235
Liquor Act 2007 (NSW) s 150
Local Government Act 1993 (NSW) s 314, 679
Lord Howe Island Act 1953 (NSW) s 37B
Marine Parks Act 1997 (NSW) s 38
Marine Safety Act 1998 (NSW) s 126
Maritime Services Act 1935 (NSW) s 30D
Meat Industry Act 1978 (NSW) s 76A
Mining Act 1992 (NSW) s 375A
Motor Dealers Act 1974 (NSW) s 53E
Motor Vehicle Repairs Act 1980 (NSW) s 87A
National Parks and Wildlife Act 1974 (NSW) s 160
Native Vegetation Act 2003 (NSW) s 43
Non-Indigenous Animals Act 1987 (NSW) s 27A
Noxious Weeds Act 1993 (NSW) s 63
Parliamentary Electorates and Elections Act 1912 (NSW) s 120C
Parramatta Park Trust Act 2001 (NSW) s 30
Passenger Transport Act 1990 (NSW) s 59
Pawnbrokers and Second-hand Dealers Act 1996 (NSW) s 26
Pesticides Act 1999 (NSW) s 76
Petroleum (Onshore) Act 1991 (NSW) s 137A
Photo Card Act 2005 (NSW) s 34
Plant Diseases Act 1924 (NSW) s 19
Plantations and Reafforestation Act 1999 (NSW) s 62
Ports and Maritime Administration Act 1995 (NSW) s 100
Prevention of Cruelty to Animals Act 1979 (NSW) s 33E
Property, Stock and Business Agents Act 2002 (NSW) s 216
Protection of the Environment Operations Act 1997 (NSW) s 224
Public Health (Tobacco) Act 2008 (NSW) s 50
Radiation Control Act 1990 (NSW) s 25A
Rail Safety Act 2008 (NSW) s 139
Registered Clubs Act 1976 (NSW) s 66
Registration of Interests in Goods Act 1986 (NSW) s 19A
Residential Parks Act 1998 (NSW) s 149
Retail Leases Act 1994 (NSW) s 16P
Retirement Villages Act 1999 (NSW) s 184
Road Transport (General) Act 2005 (NSW) Pt 5.3
Roads Act 1993 (NSW) s 243
Royal Botanic Gardens and Domain Trust Act 1980 (NSW) s 22B

Rural Fires Act 1997 (NSW) s 131
Rural Lands Protection Act 1998 (NSW) s 206
Security Industry Act 1997 (NSW) s 45A
Smoke-free Environment Act 2000 (NSW) s 20A
Sporting Venues Authorities Act 2008 (NSW) s 38
Sporting Venues (Invasions) Act 2003 (NSW) s 12
Stock (Chemical Residues) Act 1975 (NSW) s 15A
Stock Diseases Act 1923 (NSW) s 20O
Stock Foods Act 1940 (NSW) s 32A
Stock Medicines Act 1989 (NSW) s 60A
Summary Offences Act 1988 (NSW) s 29, 29A or 29B
Swimming Pools Act 1992 (NSW) s 35
Sydney Cricket and Sports Ground Act 1978 (NSW) s 30A
Sydney Harbour Foreshore Authority Act 1998 (NSW) s 43A
Sydney Olympic Park Authority Act 2001 (NSW) s 79
Sydney Water Act 1994 (NSW) s 50
Sydney Water Catchment Management Act 1998 (NSW) s 65
Tow Truck Industry Act 1998 (NSW) s 89
Transport Administration Act 1988 (NSW) s 117
Unlawful Gambling Act 1998 (NSW) s 52
Valuers Act 2003 (NSW) s 42
Veterinary Practice Act 2003 (NSW) s 101
Water Industry Competition Act 2006 (NSW) s 82
Water Management Act 2000 (NSW) s 365
Weapons Prohibition Act 1998 (NSW) s 42
Western Sydney Parklands Act 2006 (NSW) s 48
Workplace Injury Management and Workers Compensation Act 1998 (NSW) s 246

Appendix D
Penalty notice lifecycle



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