



COMMISSIONER FOR
BETTER REGULATION

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21 September 2017

Mr Ryan Phillips
Deputy Secretary, Criminal Law Policy and Operations
Department of Justice and Regulation
121 Exhibition Street
Melbourne VIC 3000

Dear Mr Phillips *Ryan*

REGULATORY IMPACT STATEMENT FOR FINES REFORM REGULATIONS 2017 AND INFRINGEMENTS AMENDMENT REGULATIONS 2017

I would like to thank your staff for working with the Office of the Commissioner for Better Regulation on the preparation of the Regulatory Impact Statement (RIS) for the regulations required to support the *Fines Reform Act 2014* (FRA): the proposed Fines Reform Regulations 2017 and the Infringements Amendment Regulations 2017.

Under section 10 of the *Subordinate Legislation Act 1994*, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of all RISs prepared in Victoria. The Commissioner's role is to advise on the adequacy or otherwise of the analysis presented in the RIS, rather than the merits or otherwise of policy or regulatory proposals. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 21 September 2017 meets the adequacy requirements.

The FRA was passed in 2014 and is expected to commence on 31 December 2017. The proposed regulations will be made under the FRA, and will also commence on 31 December 2017. The FRA and the proposed regulations outlined in this RIS establish a new framework for the collection, enforcement and administration of infringement and court fines in Victoria. A new administrative body known as 'Fines Victoria' will provide a single point of contact for the public to pay or deal with their unpaid fines.

The proposed regulations prescribe:

- details that must be included in a range of documents relating to the enforcement of infringement fines and court fines under the *Infringements Act 2006* and the FRA
- fees payable under those Acts
- forms of enforcement warrants, statements of financial circumstances and other forms required to be prescribed under those Acts, and
- procedural and other matters required or permitted to be prescribed under those Acts.

The fines system under the FRA will manage the collection of fines imposed by the Courts, and infringement penalties imposed by a range of enforcement agencies. The majority of infringements

relate to traffic offences (including tolling, speeding and parking) (94%), public transport offences (3%) and offences in other regulatory contexts (3%).

Under the FRA and amended *Infringements Act 2006*, a person who receives an infringement notice and does not pay it immediately will enter the fines system and progress through each of four stages unless the fine is paid:

- Stage 1: An infringement notice is issued (which in some cases may include an additional administration fee not set by these regulations)
- Stage 2: A Penalty Reminder Notice (PRN) is issued with a fee added (\$24.70)
- Stage 3: A notice of final demand is issued and the fine is registered with Fines Victoria, with an additional Collection fee (for registration, administrative enforcement and warrant enforcement activities) (\$128.20), and
- Stage 4: If the infringement is still unpaid it reaches the final warrant stage with an added Enforcement Warrant (issue) fee (\$56.00).

The proposal follows the Victorian Government's *Cost Recovery Guidelines* in aiming to recover Fines Victoria's cost from offenders. Notwithstanding this, the proposed fees are expected to raise less than the total cost of Fines Victoria's activities because the new system will continue the current practice of covering the cost of unpaid infringement debts from consolidated revenue.

An infringement debt that has not been paid may be acquitted for several reasons, including when a debt is paid in kind by undertaking community service, the notice-holder dies or goes to jail in relation to the relevant infringement. In the first year of operation the proposed system is expected to raise around \$320 million in total revenue, with total costs of around \$334 million (and the shortfall covered by consolidated revenue).

The Department notes in the RIS that there is cross-subsidisation at Stage 4 by those who pay their fines at Stage 3. This cross-subsidy is estimated to be around \$6.6 million each year raised from the warrant enforcement activities component (which will be \$46.27 per matter) of the proposed Collection fee that is paid by the 8 per cent of offenders who pay their debt upon entering Stage 3.

The Department also notes in its evaluation strategy that a mid-term review (two to three years after implementation) would analyse the cross-subsidy and evaluate the benefits and costs of the proposed system.

Should you wish to discuss any issue raised in this letter, or subsequent changes to the proposal arising through the public consultation process, please do not hesitate to contact me on (03) 9092 5800.

Yours sincerely



Anna Cronin
Commissioner for Better Regulation