

Queensland



**OFFENCE NOTICES
LEGISLATION
AMENDMENT ACT 1994**

Act No. 10 of 1994

Queensland



OFFENCE NOTICES LEGISLATION AMENDMENT ACT 1994

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	4
2	Commencement	4
PART 2—AMENDMENT OF JUSTICES ACT 1886		
3	Amended Act	4
4	Replacement of long title	4
5	Replacement of Part 4A (Enforcement of infringement notices by registration)	4
PART 4A—INFRINGEMENT NOTICES		
<i>Division 1—Interpretation</i>		
98B	Definitions	5
<i>Division 2—Service of infringement notices</i>		
98C	Service of infringement notices—generally	7
98D	Service of infringement notices for infringement notice offences involving vehicles	9
98E	Liability for infringement notice offences involving vehicles	10
98F	Payment of infringement notice penalty	11
98G	Effect of illegal user declaration	11
98H	Effect of known user declaration	12
98I	Effect of sold vehicle declaration	12
98J	Effect of unknown user declaration	13
98K	Evidentiary provisions	13
98L	Withdrawal of infringement notice	14
98M	Effect of Division on prosecutions	15

Division 3—Enforcement of infringement notices by registration

98N	Reminder notices	15
98O	Enforcement procedure	17
98P	Enforcement orders	18
98Q	Notice of enforcement order	19
98R	Applications for time to pay	20
98S	Issue of warrants	20
98T	Effect of proceedings under this Division	21
98U	Fine option orders	22
98V	Election for court hearing	22
98W	Withdrawal from acting under this Division	23

Division 4—Miscellaneous

	98X Delegation by administering authority	24
6	Replacement of heading to s.268 (Savings and transitional)	24
7	Insertion of new ss.269 and 270	24
	269 Transitional provisions for SETONS	24
	270 Further transitional provisions for SETONS	24

**PART 3—AMENDMENT OF MOTOR VEHICLES SAFETY
AMENDMENT ACT 1993**

8	Amended Act	26
9	Omission of s.11 (Amendment of s.51 (Regulations))	26

PART 4—AMENDMENT OF TRAFFIC ACT 1949

10	Amended Act	26
11	Amendment of s.44V (Effect of action under Part 4A of Justices Act)	26

Queensland



Offence Notices Legislation Amendment Act 1994

Act No. 10 of 1994

An Act to amend the *Justices Act 1886*, the *Motor Vehicles Safety Amendment Act 1993* and the *Traffic Act 1949*

[Assented to 7 March 1994]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Offence Notices Legislation Amendment Act 1994*.

Commencement

2. This Act (other than Part 3) commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF JUSTICES ACT 1886

Amended Act

3. The *Justices Act 1886* is amended as set out in this Part.

Replacement of long title

4. Long title—

omit, insert—

‘An Act to consolidate law about the powers and jurisdiction of justices and Magistrates and to provide for proceedings before, and appeals from, justices and Magistrates, and other matters’.

Replacement of Part 4A (Enforcement of infringement notices by registration)

5. Part 4A—

omit, insert—

‘PART 4A—INFRINGEMENT NOTICES

‘Division 1—Interpretation

‘Definitions

‘98B. In this Part—

“administering authority” for an infringement notice or infringement notice offence means the entity prescribed by regulation as the administering authority for the notice or offence;

“alleged offence” for an infringement notice means the offence specified in the notice;

“alleged offender” for an infringement notice means the person on whom the notice is served;

“authorised person” means—

- (a) for an infringement notice—a person who, under the regulations, may serve the infringement notice; or
- (b) for a reminder notice—a person who, under the regulations, may serve the reminder notice; or
- (c) for an enforcement notice—a person who, under the regulations, may give the notice; or
- (d) for a withdrawal from acting under Division 3—a person who, under the regulations, may effect the withdrawal;

“enforcement order” means an order under section 98P (Enforcement orders);

“enforcement notice” means a notice under section 98O (Enforcement procedure);

“enforcement order notice” means a notice under section 98Q (Notice of enforcement order);

“entity” means a person or unincorporated body;

“executive officer” of a corporation means a person, by whatever name

called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the management of the corporation;

“illegal user declaration” for an alleged offence involving a vehicle means a statutory declaration stating facts establishing the vehicle was stolen or illegally taken at the relevant time;

“infringement notice” means a notice under section 98C (Service of infringement notices—generally);

“infringement notice offence” means an offence (other than an indictable offence or offence against the person) prescribed by regulation to be an offence to which this Part applies;

“infringement notice penalty” for an infringement notice offence means the amount prescribed by regulation to be the penalty payable for the offence under an infringement notice;

“known user declaration” for an alleged offence involving a vehicle means a statutory declaration stating—

- (a) if—
 - (i) the owner is an individual—the owner was not in charge of the vehicle at the relevant time; or
 - (ii) the owner is a corporation—the vehicle was not being used for the corporation at the relevant time; and
- (b) the name and address of the person who was in charge of the vehicle at the relevant time;

“owner” of a vehicle includes the person registered as the owner of the vehicle under the relevant registration Act;

“registration Act” means—

- (a) the *Transport Infrastructure (Roads) Act 1991* or another Act prescribed by regulation; or
- (b) a corresponding law of another State or a Territory;

“relevant time” for an alleged offence involving a vehicle means the time and date specified in the infringement notice as the time and date of the offence;

“reminder notice” means a notice under section 98N (Reminder notices);

“**SETONS**” is an acronym for the self-enforcing ticketable offence notice system;

“**SETONS clerk**” means the person appointed under the *Public Service Management and Employment Act 1988* to the office of SETONS clerk;

“**sold vehicle declaration**” for an alleged offence involving a vehicle means a statutory declaration stating facts establishing the owner had sold or otherwise disposed of the vehicle before the relevant time, including—

- (a) the name and address of the person to whom the vehicle was sold or disposed of; and
- (b) the date and, if relevant, time of the sale or disposal; and
- (c) if an agent made the sale or disposal for the owner—the name and address of the agent;

“**unknown user declaration**” for an alleged offence involving a vehicle means a statutory declaration stating—

- (a) if—
 - (i) the owner is an individual—the owner was not in charge of the vehicle at the relevant time; or
 - (ii) the owner is a corporation—the vehicle was not being used for the corporation at the relevant time; and
- (b) the declarant has not been able to find out who was in charge of the vehicle at the relevant time; and
- (c) the nature of the inquiries made to find out the name and address of the person in charge of the vehicle at the relevant time;

“**vehicle**” includes a boat and anything declared by regulation to be a vehicle.

‘Division 2—Service of infringement notices

‘Service of infringement notices—generally

‘**98C.(1)** If an authorised person believes, on reasonable grounds, a person has committed an infringement notice offence, the person may serve

a notice under this section (an “**infringement notice**”) on the person (the “**alleged offender**”) for the offence (the “**alleged offence**”).

‘(2) The infringement notice must be in the form approved by the administering authority.

‘(3) The infringement notice must—

- (a) be identified by a unique number; and
- (b) unless section 98D(4) (Service of infringement notices for infringement notice offences involving vehicles) applies or a regulation otherwise provides, specify—
 - (i) the full name, or surname and initials, and full address of the alleged offender; or
 - (ii) the particulars that are, under the regulations, identifying particulars for the alleged offender; and
- (c) specify the alleged offence in a way clearly showing the nature of the offence; and
- (d) specify—
 - (i) if the offence took place over a period and did not involve a vehicle—the period when the offence was committed; or
 - (ii) in a case prescribed by regulation—the particulars that are, under the regulations, identifying particulars for the offence; or
 - (iii) in any other case—the place of the offence and the time and date of the offence; and
- (e) if the offence involves a vehicle—specify the particulars that are, under the regulations, identifying particulars for the vehicle; and
- (f) if the offence involves an animal—specify the particulars that are, under the regulations, identifying particulars for the animal; and
- (g) specify the infringement notice penalty for the offence; and
- (h) inform the alleged offender that, if the person does not wish the alleged offence to be dealt with by a court, the person may pay the infringement notice penalty within—
 - (i) 28 days after the infringement notice is served on the alleged

offender; or

- (ii) any further time the administering authority allows (whether before or after the end of the period); and
- (i) specify where and how the penalty may be paid; and
- (j) inform the alleged offender the notice may be withdrawn before or after the penalty is paid; and
- (k) if the offence involves a vehicle—inform the alleged offender, in general terms, about section 98E (Liability for infringement notice offences involving vehicles).

‘Service of infringement notices for infringement notice offences involving vehicles

‘98D.(1) This section applies to an infringement notice offence involving a vehicle.

‘(2) An infringement notice for the offence may be served—

- (a) on the owner of the vehicle; or
- (b) on the person specified in a known user declaration as the person who was in charge of the vehicle at the relevant time; or
- (c) on the person specified in a sold vehicle declaration as the person to whom the vehicle had been sold or otherwise disposed of before the relevant time.

‘(3) If the infringement notice is to be served by post, the notice may be addressed to the person—

- (a) if the person is the owner of the vehicle involved in the offence—at the latest address of the owner in the register of vehicles kept under a registration Act; or
- (b) if the person is specified in a known user declaration as the person in charge of the vehicle at the relevant time—at the person’s address specified in the declaration; or
- (c) if the person is specified in a sold vehicle declaration as the person to whom the vehicle had been sold or otherwise disposed of before the relevant time—at the person’s address specified in the declaration.

‘(4) The infringement notice may be served by securely placing or attaching the notice, addressed to the owner (without further description), on or to the vehicle in a conspicuous position.

‘(5) If the infringement notice is served in the way mentioned in subsection (4), it is taken to have been served on the owner on the day it is placed on or attached to the vehicle.

‘(6) A person must not remove, deface or interfere with an infringement notice placed on or attached to a vehicle unless the person is the owner, or person in charge, of the vehicle at the relevant time.

Maximum penalty—35 penalty units.

‘(7) To remove any doubt, this section does not prevent an infringement notice being served on a person under section 98C (Service of infringement notices—generally).

‘Liability for infringement notice offences involving vehicles

‘98E.(1) If—

- (a) an infringement notice offence involving a vehicle happens; and
- (b) an infringement notice for the offence is served on the person who owns the vehicle at the time of the offence;

the owner is taken to have committed the offence even though the actual offender may have been someone else.

‘(2) If the actual offender is someone else, subsection (1) does not affect the liability of the actual offender, but—

- (a) the owner and the actual offender cannot both be punished for the alleged offence; and
- (b) if an infringement notice penalty is paid or a penalty is imposed on 1 of them for the offence—a further penalty must not be imposed on or recovered from the other person for the offence.

‘(3) However, the owner must not be taken to have committed the alleged offence if, within 28 days after service on the owner of an infringement notice or summons for the offence, the owner makes and gives to the administering authority an illegal user declaration, a known or unknown user declaration or a sold vehicle declaration for the vehicle for the

offence.

‘(4) The declaration must be made by—

- (a) if the owner is an individual—the owner; or
- (b) if the owner is a corporation—an executive officer of the corporation.

‘Payment of infringement notice penalty

‘98F.(1) The alleged offender must not be prosecuted in a court for the alleged offence if the alleged offender pays the infringement notice penalty as required by the infringement notice.

‘(2) Subsection (1) applies even though more than 1 infringement notice has been served on the alleged offender for the alleged offence.

‘(3) If payment of the infringement notice penalty is made by cheque and the cheque is dishonoured on presentation, payment is taken not to have been made until—

- (a) the cheque is honoured on presentation; or
- (b) payment in cash is made in place of the cheque.

‘(4) This section is subject to section 98L (Withdrawal of infringement notice).

‘Effect of illegal user declaration

‘98G.(1) This section applies if—

- (a) an offence involving a vehicle happens; and
- (b) an infringement notice for the offence is served on the person who owns the vehicle at the relevant time; and
- (c) the person makes and gives the administering authority an illegal user declaration for the vehicle.

‘(2) In a proceeding for the offence against the owner, the court must not find the owner liable for the offence if it is satisfied (whether on the statements contained in the declaration or otherwise) the vehicle was stolen or illegally taken at the relevant time.

‘Effect of known user declaration

‘98H.(1) This section applies if—

- (a) an offence involving a vehicle happens; and
- (b) an infringement notice for the offence is served on the person who owns the vehicle at the relevant time; and
- (c) the person makes and gives the administering authority a known user declaration for the vehicle.

‘(2) This section and section 98E (Liability for infringement notice offences involving vehicles) apply as if the person named in the declaration as the person in charge of the vehicle at the relevant time (the **“user”**) were the owner of the vehicle at that time.

‘(3) A proceeding for the offence may be started against the user only if a copy of the declaration has been served on the user.

‘(4) In a proceeding for the offence against the user, the declaration is evidence that the person was in charge of the vehicle at the relevant time.

‘(5) In a proceeding for the offence against the owner of the vehicle, the court must not find the owner liable for the offence if it is satisfied (whether on the statements contained in the declaration or otherwise) the user or someone else was in charge of the vehicle at the relevant time.

‘Effect of sold vehicle declaration

‘98I.(1) This section applies if—

- (a) an offence involving a vehicle happens; and
- (b) an infringement notice for the offence is served on the person who owns the vehicle at the relevant time; and
- (c) the person makes and gives the administering authority a sold vehicle declaration for the vehicle.

‘(2) This section and section 98E (Liability for infringement notice offences involving vehicles) apply as if the person named in the declaration as the person to whom the vehicle was sold or otherwise disposed of (the **“buyer”**) were the owner of the vehicle from the time of the sale or disposal.

‘(3) A proceeding for the offence may be started against the buyer only if

a copy of the declaration has been served on the buyer.

‘(4) In a proceeding for the offence against the buyer, the declaration is evidence that the person was the owner of the vehicle at the relevant time.

‘(5) In a proceeding for the offence against the owner of the vehicle, the court must not find the owner liable for the offence if it is satisfied (whether on the statements contained in the declaration or otherwise) the owner had sold or disposed of the vehicle before the relevant time.

‘Effect of unknown user declaration

‘98J.(1) This section applies if—

- (a) an offence involving a vehicle happens; and
- (b) an infringement notice for the offence is served on the person who owns the vehicle at the relevant time; and
- (c) the person makes and gives the administering authority an unknown user declaration for the vehicle.

‘(2) In a proceeding for the offence against the owner, the court must not find the owner liable for the offence if it is satisfied (whether on the statements contained in the declaration or otherwise)—

- (a) that—
 - (i) if the owner is an individual—the owner was not in charge of the vehicle at the relevant time; or
 - (ii) if the owner is a corporation—the vehicle was not being used for the purposes of the corporation at the relevant time; and
- (b) that the inquiries made to find out the name and address of the person who was in charge of the vehicle at the relevant time—
 - (i) were reasonable in the circumstances; and
 - (ii) were carried out with appropriate diligence.

‘Evidentiary provisions

‘98K.(1) This section applies to a proceeding for an infringement notice

offence.

‘(2) A certificate purporting to be signed by the administering authority and stating any of the following matters is evidence of the matter—

- (a) a specified infringement notice was served in a specified way on a specified person for a specified infringement notice offence;
- (b) the person did not pay the infringement notice penalty as required by the notice;
- (c) the notice has not been withdrawn or was withdrawn on a specified date;
- (d) the offence involved a specified vehicle or animal;
- (e) a specified person owned the vehicle or animal at a specified time;
- (f) a specified address is the latest address of the owner of the vehicle in the record of registration of vehicles under a registration Act;
- (g) a specified person has not given the administering authority an illegal user declaration, known or unknown user declaration or sold vehicle declaration for the offence;
- (h) a specified person has given the administering authority a specified illegal user declaration, known or unknown user declaration or sold vehicle declaration for the offence;
- (i) an infringement notice penalty has not been paid by, and a penalty has not been imposed on, a specified or any person for the offence.

‘Withdrawal of infringement notice

‘98L.(1) The administering authority may withdraw an infringement notice by serving a notice on the alleged offender within 28 days after the infringement notice is served on the alleged offender (whether or not the infringement penalty has been paid).

‘(2) The notice must inform the alleged offender, in general terms, about subsection (3).

‘(3) If an infringement notice is withdrawn, the following provisions have effect—

- (a) this Division ceases to apply to the infringement notice offence;
- (b) if the infringement notice penalty or part of the penalty has been paid by the alleged offender—the amount paid is repayable to the alleged offender;
- (c) a proceeding for the offence may be taken against any person (including the alleged offender) as if the notice had not been served on the alleged offender.

‘Effect of Division on prosecutions

‘98M.(1) The fact that an infringement notice has been, or could be, served on a person for an offence, does not affect the starting or continuation of a proceeding against the person or anyone else in a court for the offence.

‘(2) This Division does not—

- (a) require the serving of an infringement notice on a person; or
- (b) limit or otherwise affect the penalty that may be imposed by a court for an offence.

‘Division 3—Enforcement of infringement notices by registration

‘Reminder notices

‘98N.(1) If—

- (a) an infringement notice has been served on a person; and
- (b) the infringement notice has not been withdrawn; and
- (c) the time specified in the infringement notice for payment of the infringement notice penalty has elapsed; and
- (d) the infringement notice penalty has not been paid as required by the notice; and
- (e) if the infringement notice offence involved a vehicle—the person has not given the administering authority an illegal user declaration, known or unknown user declaration or sold vehicle declaration for the offence;

an authorised person may serve a notice (the “**reminder notice**”) on the alleged offender.

‘(2) The reminder notice must—

- (a) be in the approved form; and
- (b) specify the infringement notice and the alleged offence; and
- (c) inform the alleged offender—
 - (i) if the person wishes to have the alleged offence dealt with by a court—the person may, by notice given to the administering authority within the time specified in the reminder notice, require the offence to be dealt with by a court; and
 - (ii) if the person does not wish to have the alleged offence dealt with by a court—the person may within the time specified in the reminder notice, pay the amount specified in the reminder notice to be the amount owing for the alleged offence to the administering authority; and
 - (iii) if action is not taken under subparagraph (i) or (ii)—payment of the amount specified in the reminder notice and further costs may be enforced under this Division; and
- (d) specify where and how the notice under paragraph (c)(i) may be given, or payment may be made, to the administering authority; and
- (e) include the information that may be prescribed by regulation.

‘(3) The time specified in the reminder notice for taking the action mentioned in subsection (2)(b)(i) or (ii) must be at least 28 days after the notice is served on the alleged offender.

‘(4) The amount specified in the reminder notice to be the amount owing for the alleged offence must be the total of the unpaid infringement notice penalty and the amount prescribed by regulation for the cost of serving the notice.

‘**Enforcement procedure**

‘980.(1) If—

- (a) a reminder notice has been served on an alleged offender; and
- (b) the amount specified in the notice to be the amount owing for the alleged offence has not been paid to the administering authority within the time specified in the notice; and
- (c) written notice requiring the alleged offence to be dealt with by a court has not been given to the administering authority within that time;

an authorised person may notify the SETONS clerk.

‘(2) The notice (the “enforcement notice”) must—

- (a) be in the approved form; and
- (b) be accompanied by the enforcement notice filing fee prescribed by regulation; and
- (c) specify the alleged offender and the alleged offence; and
- (d) state that—
 - (i) an infringement notice was, on a specified day, served on the alleged offender for the alleged offence; and
 - (ii) a reminder notice was, on a specified day, served on the alleged offender for the alleged offence; and
 - (iii) at the time of the giving of the enforcement notice—
 - (A) the time specified in the reminder notice as the time within which the amount owing for the alleged offence should be paid had elapsed; and
 - (B) the amount specified in the reminder notice to be the amount owing for the alleged offence has not been paid; and
 - (C) written notice that the alleged offender required the alleged offence to be dealt with by a court has not been given to the administering authority; and
 - (D) a proceeding has not been started (other than under this Division) against the alleged offender for the alleged offence; and
 - (E) a proceeding under this Division against the alleged

offender for the alleged offence has not been withdrawn under section 98W (Withdrawal from acting under this Division).

‘(3) If a limit is imposed by law on the time within which a prosecution for the alleged offence may be started, an enforcement notice must not be given for the alleged offence after the time.

‘(4) On the giving of an enforcement notice—

- (a) the amount owing for the alleged offence is the total of—
 - (i) the amount specified in the reminder notice that is unpaid; and
 - (ii) the amount of the enforcement notice filing fee; and
 - (iii) the amount prescribed by regulation for the giving of the enforcement notice; and
- (b) the amount mentioned in paragraph (a) may be paid only to the SETONS clerk or the clerk’s agent.

‘(5) The SETONS clerk must enter the enforcement notice in a register kept by the SETONS clerk.

‘(6) After the giving of the enforcement notice, a proceeding may not be started in a court except under this Division against the alleged offender for the alleged offence.

‘Enforcement orders

‘98P.(1) On registering an enforcement notice, the SETONS clerk must order (the “**enforcement order**”) that—

- (a) the alleged offender pay to the SETONS clerk the amount owing for the alleged offence within a specified time; and
- (b) in default of payment—
 - (i) if the alleged offender is an individual—the person be imprisoned for—
 - (A) the period prescribed by regulation; or
 - (B) if there is not a prescribed period—the number of days worked out using the following formula (rounded

upwards to the nearest number)—

number of days = $\frac{\text{amount then remaining unpaid}}{\text{amount of 1 penalty unit}}$; or

- (ii) if the alleged offender is not an individual—the amount be levied under a warrant to seize property of the person.

‘(2) The enforcement order is taken—

- (a) to be an order of the court prescribed by regulation; and
 (b) for the purposes only of the *Penalties and Sentences Act 1992*, to have been made after a conviction has been recorded.

‘(3) The time specified in the order under subsection (1)(a) must be at least 7 days after the alleged offender is served with notice of the order.

‘(4) The prescribed period under subsection (1)(b)(i)(A) must not be more than the maximum period of imprisonment a court could impose on a person on conviction for the alleged offence in default of payment of a penalty equal to the amount owing for the alleged offence.

‘(5) For the purposes of subsection (2), the prescribed court is taken to have jurisdiction to have made the enforcement order.

‘Notice of enforcement order

‘98Q.(1) On the making of an enforcement order, the SETONS clerk must notify the alleged offender of the enforcement order by certified mail.

‘(2) The notice (the “**enforcement order notice**”) must—

- (a) be in the approved form; and
 (b) specify the alleged offence and the infringement notice; and
 (c) inform the alleged offender—
 (i) an enforcement order has been made for the payment by the alleged offender of an amount for the alleged offence; and
 (ii) within the time specified in the notice—
 (A) the amount must be paid as specified in the notice; or
 (B) if the alleged offender wishes to have the alleged offence dealt with by a court—an election to have the

alleged offence dealt with by a court must be made under section 98V (Election for court hearing); and

- (iii) if payment is not made, an election is not made and an application for a fine option order is not made—a warrant may be issued for the alleged offence.

‘Applications for time to pay

‘98R.(1) A person against whom an enforcement order is made may apply to the SETONS clerk in the approved form for—

- (a) an extension of the time to pay the amount payable under the order; or
- (b) permission for payment to be made by instalments.

‘(2) An application may not be made after the issue of a warrant under section 98S (Issue of warrants) for the enforcement order.

‘(3) The SETONS clerk may order that the enforcement order be amended by—

- (a) extending the time to pay the amount payable under the order; or
- (b) permitting payment to be made by specified instalments.

‘(4) The SETONS clerk must notify the alleged offender of the amendment.

‘Issue of warrants

‘98S.(1) If—

- (a) the amount specified in an enforcement order has not been paid as required by the order; and
- (b) an election has not been made under section 98V (Election for court hearing); and
- (c) section 56 (Notice to offender of right to apply for fine option order) of the *Penalties and Sentences Act 1992* (if it applies) has been complied with;

the SETONS clerk may—

- (d) if the alleged offender is an individual—issue a warrant of commitment against the person; or
- (e) if the alleged offender is not an individual—issue a warrant of execution against the property of the person.

‘(2) The warrant—

- (a) must be in the approved form; and
- (b) be directed to all police officers; and
- (c) has effect as a warrant issued by a justice.

‘(3) On the issue of the warrant, the amount owing for the alleged offence is—

- (a) the amount that was outstanding before the warrant was issued; and
- (b) the amount of the execution fee prescribed by regulation.

‘Effect of proceedings under this Division

‘98T.(1) If—

- (a) the amount owing for the alleged offence is paid in full under this Division; or
- (b) a warrant is executed under this Division for the alleged offence;

the proceedings that may be brought against, and the penalties that may be imposed on, the alleged offender for the alleged offence are limited to proceedings and penalties that could be brought or imposed if the alleged offender had already been convicted of, and punished for, the alleged offence.

‘(2) Subject to section 98P(2)(b) (Enforcement orders), the making of the enforcement order is not a conviction for the alleged offence.

‘(3) Payment of an amount under this Division for the alleged offence is not an admission for the purposes of any proceeding, whether civil or criminal, arising out of the event for which the infringement notice was issued.

‘(4) Subsection (3) may be displaced, wholly or partly, by an express provision of another Act.

‘(5) Section 177 (Remission of penalty) applies to an enforcement order in the same way as it applies to a conviction.

‘Fine option orders

‘98U. Division 2 (Fine option orders) of Part 4 (Fines) of the *Penalties and Sentences Act 1992* applies (with any necessary changes and any changes prescribed by regulation) to an enforcement order as if—

- (a) the following amounts were a fine—
 - (i) the infringement notice penalty for the infringement notice offence specified in the order;
 - (ii) the amounts prescribed under sections 98N(4) (Reminder notices) and 98O(2)(b) and (4)(a)(iii) (Enforcement procedure) specified in the order; and
- (b) if a warrant is issued under section 98S (Issue of warrants)—the amount prescribed under section 98S(3)(b) were also a fine that the alleged offender has been ordered to pay under the order; and
- (c) the order were an original order made by the court prescribed for the purpose of section 98P(2)(a) (Enforcement orders); and
- (d) the SETONS clerk were the clerk of that court.

‘Election for court hearing

‘98V.(1) After an enforcement order is made for an alleged offence, but before—

- (a) the amount outstanding under this Division is paid; or
- (b) a warrant under this Division is issued;

the alleged offender may elect, by written notice given to the SETONS clerk, to have a complaint of the alleged offence dealt with by a court.

‘(2) On the making of the election—

- (a) any order issued under this Division for the alleged offence ceases to have effect; and
- (b) the SETONS clerk must notify—

- (i) the alleged offender; and
 - (ii) the authorised person who gave the enforcement notice;
- that this Division no longer applies to the alleged offence.

‘(3) On the giving of the notices under subsection (2)(b), the provisions of this Act (other than this Division) apply to the alleged offence.

‘Withdrawal from acting under this Division

‘98W.(1) If—

- (a) a reminder notice has been served for an infringement notice; and
- (b) a warrant under this Division has not been issued for the alleged offence; and
- (c) the alleged offence has not been dealt with by a court;

an authorised person may (whether or not payment has been made of the amount owing for the alleged offence) withdraw from acting under this Division in relation to the alleged offence.

‘(2) The withdrawal must be effected by—

- (a) serving on the alleged offender a notice in the approved form; and
- (b) refunding any amount paid by the alleged offender for the alleged offence; and
- (c) if an enforcement notice has been given for the offence—giving to the SETONS clerk a copy of the notice.

‘(3) After the action required by subsection (2) has been taken—

- (a) any notice or enforcement order under this Division for the alleged offence ceases to have effect; and
- (b) if a prosecution has started for the alleged offence—the proceeding is, by the operation of this section, discontinued.

‘Division 4—Miscellaneous**‘Delegation by administering authority**

‘98X.(1) An administering authority may delegate its powers under this Part to a person.

‘(2) If the person to whom the powers are delegated is the chief executive of a department of government or another person prescribed by regulation, the chief executive or other person may subdelegate the powers to another person.’.

Replacement of heading to s.268 (Savings and transitional)

6. Section 268 (heading)—

omit, insert—

‘References to certain former offices etc.’.

Insertion of new ss.269 and 270

7. After section 268—

insert—

‘Transitional provisions for SETONS

‘269.(1) Part 4A (Enforcement of infringement notices by registration) as in force immediately before the commencement of this section continues to apply to an infringement notice for which a reminder notice was served under the Part before the commencement.

‘(2) This section expires 1 year after it commences.

‘Further transitional provisions for SETONS

‘270.(1) In Division 3 (Enforcement of infringement notices by registration) of Part 4A (Infringement Notices)—

“illegal user declaration” for an alleged offence involving a vehicle includes a notice, statutory declaration or other document, under a relevant law, that is prescribed by regulation under this Act to be an

illegal user declaration;

“infringement notice” includes a notice that—

- (a) is issued, given or served under a relevant law; and
- (b) is prescribed by regulation under this Act to be an infringement notice;

“infringement notice offence” includes an offence under a relevant law for which an infringement notice was issued, given or served;

“infringement notice penalty” for an infringement notice offence under a relevant law includes the amount specified in the infringement notice to be the penalty payable for the offence;

“known user declaration” for an alleged offence involving a vehicle includes a notice, statutory declaration or other document, under a relevant law, that is prescribed by regulation under this Act to be a known user declaration;

“relevant law” means a law in force immediately before the commencement of this section prescribed by regulation to be a relevant law;

“sold vehicle declaration” for an alleged offence involving a vehicle includes a notice, statutory declaration or other document, under a relevant law, that is prescribed by regulation under this Act to be a sold vehicle declaration;

“unknown user declaration” for an alleged offence involving a vehicle includes a notice, statutory declaration or other document, under a relevant law, that is prescribed by regulation under this Act to be an unknown user declaration.

‘(2) This section expires 1 year after it commences.’

PART 3—AMENDMENT OF MOTOR VEHICLES SAFETY AMENDMENT ACT 1993

Amended Act

8. The *Motor Vehicles Safety Amendment Act 1993* is amended as set out in this Part.

Omission of s.11 (Amendment of s.51 (Regulations))

9. Section 11—

omit.

PART 4—AMENDMENT OF TRAFFIC ACT 1949

Amended Act

10. The *Traffic Act 1949* is amended as set out in this Part.

Amendment of s.44V (Effect of action under Part 4A of Justices Act)

11. Section 44V—

omit '98D', insert '98N'.