



Building Regulation News Updates are issued as and when necessary, to keep the Tasmanian Building Industry informed of developments occurring in the industry, Building Code of Australia (BCA) and its referenced documents and legislation.

Changes to Monetary Penalties Enforcement

Purpose

To advise councils and Permit Authorities that the *Monetary Penalties Enforcement Act 2005* will commence on 28 April 2008 and infringement notice procedures under the *Building Act 2000* will change.

Background

The *Monetary Penalties Enforcement Act 2005* (the Act) will commence on 28 April 2008. The Act will change the way infringement notices and fines are enforced in Tasmania. The Act includes provisions that standardise the processing of infringement notices, the options available for the alleged offender who has been issued with the infringement notice, the time within which the options must be exercised and the consequences of exercising each option. Where there was once a multitude of acts and regulations all dealing with processes to be followed on the issue of an infringement notice there is now one Act to ensure uniformity. Monetary Penalties Enforcement Service has been liaising with the Local Government Association of Tasmania explaining how these changes affect councils and has recently held state-wide workshops.

As a result of the new Monetary Penalties Enforcement regime the Act makes a number of amendments to the *Building Act 2000*, removing some of the procedural detail about the issue of infringement notices. The new MPE Act neither removes the right to issue infringement notices under the *Building Act 2000* (or the Building or Plumbing regulations) nor the allocation of fines.

The format of infringement notices will be standardised and there will no longer be an Approved Form under the Building Act. Council's are required to prepare their own infringement notice using standard wording to reflect section 14 of the *Monetary Penalties Enforcement Act 2005*. As a service to councils the Building Control Branch at Workplace Standards Tasmania has prepared a template (attached to this news update) to assist with revising council's infringement notice. All building and plumbing inspectors, Permit Authorities and other staff involved in the issuing or processing of infringement notices need to be aware of the changes and apply the new processes in any infringement notice that is issued.

For further information contact the Workplace Standards Tasmania Helpline:

Phone: 03 6233 7657 (Outside Tasmania)
Local rate: 1300 366 322 (Inside Tasmania)
Fax: 03 6233 8338
Email: wstinfo@justice.tas.gov.au
<http://www.wst.tas.gov.au>

L Mark Smith
Director of Building Control

Sample of an **Infringement Notice** for breaches of the *Building Act 2000* and its regulations. The Director of Building Control's *Approved Form Number 35* will not be used after 28 April 2008. Individual councils may use this sample as a template to create their own form for an infringement notice.

BARCODE *(if used by council)*

Notice No.

INFRINGEMENT NOTICE – (BUILDING ACT 2000)

Section 243

To: *Name in full*
Delete if not applicable

D.O.B
Delete if not applicable

Residential or Business Address

Suburb/postcode

Registered Company/ Partnership name
Delete if not applicable

Trading As:

ACN No.
Delete if not applicable

Details of infringement:

It is alleged that at approximately: *am/pm* on the: day of: Year

at: *Address*

Suburb/postcode

in the State of Tasmania you committed the following prescribed offences under the *(delete as appropriate)*

- **Building Act 2000**
- **Building Regulations 2004**
- **Plumbing Regulations 2004**

in respect of which the prescribed penalties are payable:

Section of Act or Regulation	Particulars of Offence	Penalty Units	\$
		Total Amount Payable	

Options for dealing with this infringement notice

You must within 28 days of the date of service of this notice do one of the following:

- pay the infringement notice in full;
- apply to the General Manager *(Council may choose to insert another officer here)* for the withdrawal of the infringement notice;
- apply to the General Manager *(Council may choose to insert another officer here)* for a variation of payment conditions; or

- lodge a notice of election for a court hearing with the General Manager (*Council may choose to insert another officer here*)

If you do not lodge a notice of election for a court hearing within 28 days of the service of the infringement notice and the infringement notice is not withdrawn, you will be taken to be convicted of the offence (s) set out in the infringement notice. If you are taken to be convicted and do not pay, either in full or as arranged under a variation of payment conditions, the monetary penalty may be enforced under the *Monetary Penalties Enforcement Act 2005*.

Elect a court hearing

If you wish to have the offences to which this infringement notice relates determined by a court, or you wish to argue that the penalty should be reduced, you must lodge a notice to elect a court hearing with the General Manager (*Council may choose to insert another officer here*)

How to Pay

(relevant details required e.g. address of council offices, times of opening, payment methods accepted)

Application for payment variation

If you need more time to pay, you can apply to the General Manager (*Council may choose to insert another officer here*)

Infringement issue enquiries

For enquiries relating to the issue of this infringement notice call (*telephone number*)

General Manager or delegate:	<i>Name (Print)</i>	<i>Signed:</i>
		<i>Date:</i>

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