

Civil penalties

The Planning Amendment (Better Decisions Made Faster Act) 2026 (the Reform Act)

The Reform Act amended Part 6 of the Planning and Environment Act 1987 (the PE Act) to enforce the PE Act more effectively.

New offences and enforcement orders have been introduced, along with substantial increases to penalties for breaches of the PE Act, the *Planning and Environment Interim Regulations 2026* (the PE Regulations), or planning schemes.

What is a 'civil penalty provision'?

The PE Act specifies that the following offence is a civil penalty provision:

"Any person who uses or develops land in contravention of or fails to comply with a planning scheme, or a permit, or an agreement under section 173 is guilty of an offence."

Under new sections 132J, 132K and 132L of the PE Act, the responsible authority has the option to seek to apply civil penalties to persons that contravene planning schemes, permit conditions or agreements.

Who can make contravention orders?

Contravention orders can be made by a court:

- on application by a responsible authority, and
- in respect of a person.

The definition of 'a person' includes both *a natural person* and *a body corporate*.

Who can be subject to contravention orders?

A broad range of persons can be the subject of a contravention order if a court is satisfied that, on the balance of probabilities, that person has contravened a civil penalty provision of the PE Act.

For example, on application, the court may apply civil penalties to persons who attempt to:

- contravene,

- induce or attempt to induce a person to contravene,
- aid, abet, counsel or procure a person to contravene, or
- conspire with others to contravene civil penalty provisions.

It should be noted that the civil penalty provision defined in the PE Act does not include contravention of the PE Regulations. This means that a person found guilty of contravening the PE Regulations cannot be subject to a contravention order. Such a person can, however, be subject to other enforcement orders set out in Part 6.

Civil penalty orders

What are civil penalty orders?

If a contravention order has been made in respect to a person, a civil penalty order can also be made against that person. A person subject to a civil penalty order must pay a fine, known as a 'civil penalty'.

Civil penalties

The penalties that can be issued for a person who is the subject of a civil penalty order are:

- for a natural person, a maximum of 2,000 penalty units, and
- for a body corporate, a maximum of 10,000 penalty units.

In determining the appropriate amount to order a person to pay, the court may consider:

- the nature and extent of the contravention and any loss or damaged suffered, and
- the circumstances in which the contravention took place, and
- whether the person has previously contravened a civil penalty provision, and
- any other matter the court considers relevant.



The court may also order the person to pay a civil penalty for each separate contravention of a civil penalty provision.

Fines for multiple contraventions

The court may order a person to pay a single civil penalty to cover multiple contraventions of a civil penalty provision, but only if:

- the multiple contraventions are based on the same facts, or
- the multiple contraventions are connected or similar, and
- the total cost of those multiple contraventions does not exceed what the court could have ordered to be paid if a separate civil penalty was ordered for each contravention.

Payment of fines arising from a civil penalty

Any fine that is required to be paid under a civil penalty order is to be treated as a debt.

Any such debt is due to the responsible authority that applied for the order and is recoverable by it in any court that has the authority to make that order (that is, a court of competent jurisdiction).

The person ordered to pay a civil penalty must pay it to the responsible authority for payment into the Consolidated Fund.

Who can make civil penalty orders?

Civil penalty orders can be made by a court:

- if a contravention order has been made under section 132J, and
- if a responsible authority has requested a civil penalty order be made, and
- in respect of a person.

Civil penalty orders and contravention orders

In making a contravention order against a person, a court may also make a civil penalty order that requires that person to pay a fine.

Who can be the subject of civil penalty orders?

A person who uses or develops land in contravention of, or fails to comply with, a planning scheme, planning permit, or an agreement under section 173 of the PE Act can be the subject of a civil penalty order.

The owner or occupier of land cannot be the subject of a civil penalty order if they were not responsible for contravening a civil penalty provision. The intent is to provide deterrence to those who knowingly and wilfully breach the planning system. Owners and occupiers of land are not always aware of what is occurring on land they own or occupy.

When can a court not make a civil penalty order?

If a person has already been convicted of a criminal offence, the court cannot make a civil penalty order for that person for conduct that is the same or substantially the same as that for which the criminal conviction was already made.

This ensures a person cannot be issued a civil penalty order for the same conduct that they have been criminally convicted of.