

Commercial benefits orders

Section 132D of the Planning and Environment Act 1987



Department
of Transport
and Planning

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 powers, 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 are commercial benefits orders?

Commercial benefits orders are court orders that issue financial penalties to persons found guilty of an offence against the PE Act or the PE Regulations.

Penalties

A commercial benefits order will require an offender to pay a fine. The size of the fine will be up to triple the amount estimated to be the gross commercial benefit that is or could have been obtained due to the actions that resulted in the person being found guilty. The fine can be issued irrespective of whether the actions constituting the breach were interrupted, thwarted, or completed.

Payment of fines

Fines issued under a commercial benefits order are payable to the prosecuting authority.

How will a court estimate the financial benefit of the breach of the PE Act or PE Regulations?

The court can take into account any benefits (monetary or otherwise), monetary savings or a

reduction in operating costs, and any other matter the court considers relevant.

In making its estimation, the court must not take into account any costs, expenses or liabilities incurred.

Who can make commercial benefits orders?

Commercial benefits orders can be made by a court on application of a responsible authority.

Commercial benefits orders may be applied to any offender against planning laws

Anyone found guilty of an offence against the PE Act or the PE Regulations can be the subject of a commercial benefits order.

The fine can be issued to the person or persons found guilty of the offence, or to their associate, where the commercial benefit is or could be obtained by the convicted person or their associate.

Commercial benefits orders and “associates” of offenders

For the purposes of a commercial benefits order, a person is an “associate” if they fall into one of eight defined categories, or if a chain of relationships can be traced between them under any of those eight categories. The categories comprise familial connections and business relationships.

Associates of offenders cannot be issued with a commercial benefits order. But, if a person convicted of an offence did not stand to gain from that offence, they can still be fined on the basis that an associate of theirs did stand to gain from the offence.