

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*, or planning schemes.

When must criminal proceedings be commenced?

Criminal proceedings for an alleged offence under the PE Act must be commenced within 24 months after the date on which the offence is alleged to have been committed. This is to be done by filing a charge sheet within that timeframe.

The 24-month timeframe overrides section 7 of the *Criminal Procedure Act 2009*, which sets a minimum 12-month timeframe unless otherwise provided for by another Act.

Who may commence criminal proceedings?

A proceeding for an offence against the PE Act may be commenced by any of the following:

- the relevant responsible authority,
- the Secretary to the Department of Transport and Planning,
- an authorised officer of the relevant responsible authority,
- an authorised officer of the Department of Transport and Planning,
- a person authorised by the relevant responsible authority,
- a person authorised by the Secretary to the Department of Transport and Planning.

Restrictions relating to criminal proceedings

The PE Act sets out restrictions with respect to criminal proceedings. These are summarised below.

When can a court not make a civil penalty order?

A court cannot make a civil penalty order against a person who has been found guilty of an offence that is the same, or substantially the same, as the conduct that is now alleged to constitute a contravention of a civil penalty provision.

Criminal proceedings and civil penalty order proceedings

If a criminal proceeding has begun, a proceeding for a civil penalty order is paused if the alleged criminal offence is the same or substantially the same as that which is the subject of the civil penalty provision.

If the person is found guilty of the offence against the civil penalty provision, then the civil penalty proceeding against the person is dismissed. If the person being prosecuted is found not guilty, the civil penalty proceeding against the person may resume.

Use of evidence during civil penalty order proceedings

The PE Act provides that evidence given or documents produced by a natural person are not admissible in a criminal proceeding against that person if either of the following two circumstances apply

- if the evidence or documents were previously given or produced during a civil penalty proceeding against that person,
- if the conduct alleged to constitute the criminal offence is substantially the same as



that which was claimed to constitute the contravention of the civil penalty proceeding.

The test in the latter circumstance only applies where the conduct is substantially the same – it does not have to be the same.

Neither of the above circumstances apply if the criminal proceeding relates to false evidence having been given in the civil penalty proceeding.

Both the above provisions apply to natural persons only. They do not apply to a body corporate.

Multiple civil penalty proceedings

The court may decide to direct that multiple proceedings for civil penalty orders are heard together.

Jurisdictional limits of Magistrates' Court

Section 100(1) of the *Magistrates Court Act 1989* sets out a jurisdictional limit regarding what matters the magistrates' court can hear with respect to civil proceedings. That jurisdictional limit does not apply to a proceeding for a civil penalty under the PE Act.