
From: John Mildwater
Sent: Sunday, 26 August 2018 4:54 PM
To: Policy
Subject: Easy and Transparent Trading Consultation paper

In respect of the above I wish to make a very brief comment about 1 aspect of the proposals, being section 2.6 Publish data on online portal. My comment is below:

“2.6 Publish Data on Traders and Licensees (online portal of registers)

Options for reform

“3. Establish an on-line portal for centralised access to information and ensure consistency of information across all licensing regimes

This is the preferred option”

The information contained on the portal would be consistent and freely available and would include:

- date of issue and current expiry date of the licence (if any)
- details of any surrender, cancellation or suspension of the licence
- details of any licence conditions (if any)
- **details of successful enforcement and administrative action including disciplinary action, and the issue of Penalty Infringement Notices, rectification orders, and NCAT orders issued in connection with the licence (if any)**
- results of any successful prosecutions against the licence holder under the WHS Act, the Fair Trading Act or the ACL (if any)
- any other particulars as the regulator thinks appropriate for inclusion in the register

Q36. What information should consumers be able to publicly access about a trader online?

Q37. What information should be kept confidential?”

CONCERN: My concern relates to the proposal to include the issue of Penalty Infringement Notices (PINs) in a public register. In the Property Stock and Business Agents Regulation 2014, Clause 50 prescribes a number of matters to be included in the public register, all of which are already included in the list set out above, with the exception of NCAT orders, and PINs.

My main concern is that PINs are not in the public domain. They are short version fines issued at the discretion of individual officers for amounts usually equating to about 10% of the maximum that could be imposed by a magistrate in Court.

From my experience (having issued many hundreds myself), they can relate to very minor offences such as not having the words “trust account” in a trust receipt, and the more serious offences such as failure to bank trust funds on time.

A person issued with a PIN can either pay the fine, or defend it in Court, or he/she may apply by way of written submission to the Debt Recovery Office to have the fine waived.

These fines are not in the public domain until they get to a Court and are then ratified. Until then they are merely an exercise of discretion for sometimes menial offences sometimes issued by quite junior officers.

In such cases a member of the public might infer characteristics in a trader which could be grossly unfair and unwarranted, especially if a trader is issued with one or more PINs by an overzealous bureaucrat.

John Mildwater