

Queensland



ANNO TRICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 73 of 1985

An Act to provide for the expression of monetary penalties in terms of penalty units, to prescribe the value of a penalty unit, to amend the Justices Act 1886-1985 and the Acts Interpretation Act 1954-1977 each in certain particulars and for related purposes

[ASSENTED TO 23RD OCTOBER, 1985]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title. This Act may be cited as the *Penalty Units Act 1985*.

2. Commencement. (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), the provisions of this Act shall commence on a date to be appointed by Proclamation.

The date so appointed is in this Act referred to as the commencement of this Act.

3. Interpretation. (1) In this Act, except where a contrary intention appears—

“court” means the Supreme Court, a District Court, a Magistrates Court constituted under the *Justices Act 1886-1985*, a Coroners Court constituted by a coroner for the purposes of the *Coroners Act 1958-1982* and any other tribunal constituted with the title “Court” under an Act whose jurisdiction includes the imposition of a penalty;

“monetary penalty” does not include any sum prescribed by or under any Act, or required or permitted by or under any Act to be ordered by any court, as compensation or restitution in respect of an offence;

“offence” means any contravention of or failure to comply with a provision of any Act or any regulation, Order in Council or other instrument made under the authority of an Act and includes a breach of a statutory duty;

“penalty” means a penalty in respect of an offence where at least one moiety of the penalty is payable, in all circumstances or in some circumstances, to the Consolidated Revenue Fund of Queensland.

(2) No provision of this Act shall be construed to require or permit a reference in terms other than an amount of money to be made in any notice issued under the authority of any Act or regulations by which notice a person is informed that, in connexion with an offence, he may pay a prescribed sum by way of penalty in lieu of the matter being dealt with by a court.

In every such notice every such prescribed sum referred to therein shall be expressed by reference to an amount of money.

(3) No provision of this Act shall be construed to prohibit the making of provision in or under any Act for a monetary penalty payable in respect of an offence to be calculated by reference to any specified criterion and, where a monetary penalty is to be so provided for—

(a) it shall not be mandatory to make reference to penalty units:
and

(b) the provisions of this Act shall not apply to that provision except in respect of any reference made in that provision to penalty units.

4. Future prescription of penalties. Where after the commencement of this Act provision is to be made in any Act, regulation or Order in Council for a monetary penalty that may be recovered by proceedings before a court payable in respect of any offence provided for therein the penalty shall be prescribed by reference to one penalty unit or two or more penalty units, being a whole number of such units, except where the maximum such penalty is less than the value of one penalty unit.

5. Conversion of monetary references to penalty units. (1) Where in any Act, regulation or Order in Council there is provision, whether made before or after the commencement of this Act, for a monetary penalty that may be recovered by proceedings before a court in respect of an offence by reference to an amount of money then, subject to subsection (2), the provision shall be construed as prescribing a penalty of a number of penalty units equal to the quotient obtained by dividing the amount of money referred to by the value of a penalty unit as prescribed by this Act.

(2) Where the quotient obtained in accordance with subsection (1) is or includes a fraction, the provision in question shall be construed as prescribing a penalty of the next higher whole number of penalty units.

6. Conversion of penalty units to monetary value. Where—

(a) after the commencement of this Act a provision is made in any Act, regulation, Order in Council, rule, ordinance or by-law or other instrument of a regulatory nature for a monetary penalty that may be recovered by proceedings before a court in respect of an offence by reference to a number of penalty units; or

(b) a provision of any Act, regulation or Order in Council is to be construed, pursuant to section 5, as prescribing a penalty of a number of penalty units,

then, for the purposes of a court's imposing a penalty under or for the purposes of that provision, the provision shall be construed as prescribing a penalty of a number of dollars equal to the product obtained by multiplying the number of penalty units referred to or construed as being prescribed by the value of a penalty unit as prescribed by this Act at the time the offence was committed.

7. Penalties not increased retrospectively. The application of sections 5 and 6 shall not in any case render an offender liable to a penalty greater than that to which he would have been liable if this Act had not been passed.

8. Construction of penalty provisions in special cases. (1) Where a provision of any Act, regulation or Order in Council prescribes a minimum and a maximum monetary penalty that may be recovered by proceedings before a court in respect of an offence (whether a first offence or a second or subsequent offence) by reference to an amount of money and

upon the application of section 5 to that provision both penalties are construed as equal to one penalty unit then the provision shall be construed as if it did not provide for the minimum monetary penalty but provided only for the maximum monetary penalty.

(2) Subject to subsection (1), where a provision of any Act, regulation or Order in Council—

- (a) prescribes a minimum and a maximum monetary penalty that may be recovered by proceedings before a court in respect of an offence; or
- (b) prescribes or is, pursuant to subsection (1), to be construed as if it prescribed a single monetary penalty in respect of a first offence and a greater single monetary penalty in respect of a second or subsequent offence, each being a penalty that may be recovered by proceedings before a court,

in either case by reference to an amount of money, and upon the application of section 5 to that provision those penalties are construed as equal to the same number of penalty units, the greater of those penalties shall be construed as equal to the next higher whole number of penalty units.

9. Value of penalty unit. The value of a penalty unit is \$50.

10. Scale of imprisonment for non-payment of money. (1) Subject to subsection (2), where in respect of an offence a court has by its order—

- (a) imposed a monetary penalty on any person; or
- (b) required any person to pay any compensation, sum of money or costs,

and it is lawful for the court to order imprisonment upon default in payment of the penalty, compensation, sum or costs, then upon non-payment of such penalty, compensation, sum or costs or, where execution to recover the amount of such penalty, compensation, sum or costs is to be against the goods and chattels of the person against whom the order is made, upon default of sufficient goods and chattels on which to levy execution, the term of imprisonment to be ordered by the court shall be of such period as in its opinion will satisfy the justice of the case but not exceeding in any case a period calculated at the rate of 14 days' imprisonment for each unit or part thereof of the number of penalty units to which the monetary penalty imposed or the compensation, sum or costs required to be paid is equivalent.

(2) Where a term of imprisonment is prescribed by an Act (other than this Act)—

- (a) by way of default in payment of any monetary penalty, compensation, sum of money or costs that a court is

authorized by law to order to be paid in respect of an offence:

or

- (b) by way of penalty for an offence in respect of which a court has ordered to be paid any monetary penalty, compensation, sum of money or costs.

the limitation on a period of imprisonment prescribed by subsection (1) does not apply, but the term of imprisonment to be ordered by a court pursuant to subsection (1) shall not exceed the maximum period of imprisonment prescribed by that Act—

by way of default, in a case to which paragraph (a) is relevant;
or

by way of penalty, in a case to which paragraph (b) is relevant and paragraph (a) is not relevant.

11. Reduction of imprisonment. (1) Where it appears to the proper officer that the amount originally payable under a court order by a person ordered to be imprisoned pursuant to section 10 (1) has been reduced by payment or realisation of any sum in part satisfaction of the court order, then the period of imprisonment for which that person may be committed shall be reduced by a number of days bearing, as nearly as is practicable, the same proportion to the number of days for which he might have been committed if the amount originally payable had not been reduced as the sum so paid or realised bears to the amount originally payable.

(2) Where a person is committed to prison for failure to satisfy a court order made against him pursuant to section 10 (1), then upon payment to the person in charge of the prison of a sum in satisfaction or part satisfaction of the court order, the term of imprisonment to which he is subject shall be reduced by a number of days bearing as nearly as is practicable the same proportion to the number of days for which the prisoner was committed as the sum so paid bears to the amount which he was originally liable to pay.

The person in charge of the prison—

- (a) shall accept payment of all such sums tendered to him and shall pay every such sum to the proper officer; and
(b) where the court order has been satisfied, shall thereupon discharge the prisoner from custody if he is not in custody for any other matter.

(3) In subsections (1) and (2) the expression “proper officer” means—

- (a) in relation to an order made in the Supreme Court, the sheriff;
(b) in relation to an order made in a District Court, the registrar;
(c) in relation to an order made in a Magistrates Court, the clerk of the court,

and the expression “prison” includes any place where a person may be lawfully detained.

12. Amendment of Justices Act. (1) *The Justices Act 1886-1985* is amended as provided in the following Table:—

TABLE

	Section	Amendment
s. 161	Mode of enforcement where no express provision made	omit the words "stated in this Act or in the Act by virtue of which such decision is made" and substitute the words "prescribed by the <i>Penalty Units Act 1985</i> ";
s. 163	Commitment in default of execution	omit the words "according to the scale hereinafter prescribed" and substitute the words "as prescribed by the <i>Penalty Units Act 1985</i> ";
s. 163A	Where Court may order imprisonment in default of execution	omit the words "according to the scale hereinafter prescribed" and substitute the words "as prescribed by the <i>Penalty Units Act 1985</i> ";
s. 165	Commitment for non-payment of a penalty or a sum ordered to be paid	omit the words "according to the scale hereinafter prescribed" and substitute the words "as prescribed by the <i>Penalty Units Act 1985</i> ";
s. 167	Commitment where execution would be ruinous	omit the words "according to the scale hereinafter prescribed and substitute the words "as prescribed by the <i>Penalty Units Act 1985</i> ";
s. 168	Discharge on payment	The section is repealed; Omit the heading immediately preceding the section;
s. 173	Mitigation of punishment by justices	Omit the words "under the provisions of this Act" and substitute the words "under the <i>Penalty Units Act 1985</i> ";
s. 174	Scale of imprisonment for non-payment of money	The section is repealed.

(2) *The Justices Act 1886-1985* as amended by subsection (1) may be cited as the *Justices Act 1886-1985*.

13. Amendment of Acts Interpretation Act. (1) The *Acts Interpretation Act 1954-1977* is amended as provided in the following Table:—

TABLE

	Section	Amendment
s. 44 (1)	Summary proceedings	Add at the end of the subsection the words "or by that Act and any other Act that provides therefor";
s. 44 (2)	Summary proceedings	Add at the end of the subsection the words "or under that Act and any other Act that provides therefor".

(2) The *Acts Interpretation Act 1954-1977* as amended by subsection (1) may be cited as the *Acts Interpretation Act 1954-1985*.