

State Penalties Enforcement Amendment Regulation (No. 3) 2016

Explanatory notes for SL 2016 No. 58

made under the

State Penalties Enforcement Act 1999

General Outline

Short title

State Penalties Enforcement Amendment Regulation (No. 3) 2016

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The objectives of the *State Penalties Enforcement Amendment Regulation (No. 3) 2016* are to:

1. introduce penalty infringement notices as an enforcement option for certain low-level offences under Queensland's *Petroleum and Gas (Production and Safety) Act 2004* and *Petroleum and Gas (Production and Safety) Regulation 2004*; and
2. ensure that authorised officers and inspectors appointed under the *Petroleum and Gas (Production and Safety) Act 2004* are authorised for the service of the new penalty infringement notices.

The Department of Natural Resources and Mines' Petroleum and Gas Inspectorate is Queensland's petroleum and gas safety and technical regulator. The Petroleum and Gas Inspectorate has a range of options available for enforcing compliance with Queensland's *Petroleum and Gas (Production and Safety) Act 2004* and *Petroleum and Gas (Production and Safety) Regulation 2004* including constructive guidance, statutory notices and prosecution. However, the only enforcement option currently available from which a financial penalty may result is prosecution through the courts.

Penalty infringement notices are a transparent, immediate and cost-efficient option for responding to certain low-level legislative breaches. Penalty infringement notices

can be a viable alternative to prosecution action and can serve as an effective deterrent for non-compliant behaviour. A penalty infringement notice may prescribe a penalty amount of up to 20 penalty units.

A penalty infringement notice invites an alleged offender to discharge their potential liability by the payment of a prescribed penalty, as an alternative to having the matter dealt with by the court.

The current cost of a penalty unit is prescribed as \$117.80; however, this usually increases annually on 1 July in line with inflation. The State Penalties Enforcement Registry administers the collection of all unpaid penalty infringement notice fine payments which contribute to the State's consolidated revenue.

The Department of Natural Resources and Mines already has penalty infringement notices in place for certain offences under fossicking, water, land, and vegetation management laws. The Petroleum and Gas Inspectorate is seeking the introduction of penalty infringement notices for suitable low-level offences under the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum and Gas (Production and Safety) Regulation 2004* to support existing compliance and enforcement options.

Achievement of policy objectives

To achieve its objectives, the *State Penalties Enforcement Amendment Regulation (No. 3) 2016* will:

1. prescribe penalty infringement notice offences under schedule 1 of the *State Penalties Enforcement Regulation 2014* for certain low-level offences under the *Petroleum and Gas (Production and Safety) Act 2004* and *Petroleum and Gas (Production and Safety) Regulation 2004*; and
2. prescribe authorised officers and inspectors appointed under section 735 of the *Petroleum and Gas (Production and Safety) Act 2004* as authorised persons for the service of a penalty infringement notice for the petroleum and gas safety offences listed in schedule 1 of the *State Penalties Enforcement Regulation 2014*.

Consistency with policy objectives of authorising law

The *State Penalties Enforcement Amendment Regulation (No. 3) 2016* is consistent with the policy objectives of the *State Penalties Enforcement Act 1999* which provides for the prescription of suitable offences as penalty infringement notice offences.

Inconsistency with policy objectives of other legislation

The *State Penalties Enforcement Amendment Regulation (No. 3) 2016* is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

While the Petroleum and Gas Inspectorate already has a range of options to ensure compliance with Queensland's petroleum and gas safety laws, the introduction of penalty infringement notices will provide a significantly more cost-effective option for dealing with low-level offences as opposed to responding to such matters through the courts.

Penalty infringement notices are considered a viable alternative to prosecution action and have time and cost saving benefits for both the issuing agency (e.g. the Petroleum and Gas Inspectorate) and the alleged offender by enabling low-level breaches to be dealt with outside of the court system.

As the Petroleum and Gas Inspectorate proposes to utilise and work within the existing Department of Natural Resources and Mines penalty infringement notices administrative processes, implementation costs are expected to be minimal.

Consistency with fundamental legislative principles

The *State Penalties Enforcement Amendment Regulation (No. 3) 2016* is consistent with the fundamental legislative principles set out in section 4 of the *Legislative Standards Act 1992*.

Consultation

Consultation has occurred with key stakeholders, the Department of Justice and Attorney-General, Queensland Treasury, the Office of Best Practice Regulation within the Queensland Productivity Commission and the Office of the Queensland Parliamentary Counsel.

Industry has indicated general support for the use of penalty infringement notices in appropriate circumstances as this aligns with enforcement approaches in other related trade sectors (e.g. plumbing and draining) and provides an alternative to lengthy legal proceedings for minor non-compliances. In addition, the proposed introduction of penalty infringement notice supports expectations [for the existence of a 'fine' for low-level offences] from some parties when found to be non-compliant.

The Office of Best Practice Regulation within the Queensland Productivity Commission was consulted regarding the Regulatory Impact Statement system. The Office of Best Practice Regulation determined that the proposal appears unlikely to result in significant adverse impacts and that no further assessment was required under the Regulatory Impact Statement guidelines. As such a Regulatory Impact Statement is not required.

The Department of Justice and Attorney-General was consulted in relation to the proposed amendments of Schedule 1 of the *State Penalties Enforcement Regulation 2014* to prescribe penalty infringement notices for petroleum and gas safety laws.

This was to ensure that the new penalty infringement notices comply with the Department of Justice and Attorney-General's 'Guidelines for the prescription of penalty infringement notice offences under the *State Penalties Enforcement Regulation 2014*'. The Department of Justice and Attorney-General advised that the amendments to the *State Penalties Enforcement Regulation 2014* are consistent with the 'Guidelines for the prescription of penalty infringement notice offences under the *State Penalties Enforcement Regulation 2014*'.

Other Government departments consulted were supportive of the *State Penalties Enforcement Amendment Regulation (No. 3) 2016*.

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