

Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 60

made under the

Penalties and Sentences Act 1992

General Outline

Short Title

Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2019

Authorising law

Sections 5, 5A and 196 of the *Penalties and Sentences Act 1992*.

Policy objectives and the reasons for them

The objective of the *Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2019* (Amendment Regulation) is to increase, from 1 July 2019, the prescribed monetary value of the penalty unit in section 3 of the *Penalties and Sentences Regulation 2015* (PSR) by 2.25% from \$130.55 to \$133.45. The PSR prescribes the penalty unit value under the *Penalties and Sentences Act 1992* (PSA) which is applicable to: most local government laws, and an infringement notice for an offence against a local government law (section 5(1)(c)(i) of the PSA); the *State Penalties Enforcement Act 1999* and infringement notices issued under that Act (section 5(1)(a)(i) of the PSA); and most other state laws (section 5(1)(e)(i) of the PSA).

Section 5A of the *Penalties and Sentences Act 1992* (PSA) provides a mechanism for the indexation of the monetary value of a penalty unit in certain circumstances. Increasing the penalty unit value ensures the deterrent and punishment effect of fines and infringement notices is maintained.

Achievement of policy objectives

The policy objectives are achieved by amending section 3 of the PSR to insert a new prescribed penalty unit value of \$133.45. There are no alternative ways of achieving the policy objectives.

Consistency with policy objectives of authorising law

Section 5A(1) of the PSA provides that a regulation may prescribe the same monetary value of a penalty unit for section 5(1)(a)(i), (c)(i) and (e)(i) of the PSA. The prescribed amount for the purpose of section 5A(1) of the PSA is contained in section 3 of the PSR.

Section 5A(2) of the PSA provides the amount that may be prescribed must not be more than the amount last prescribed under section 5A, increased by a percentage change published by the Treasurer in the gazette on or before 31 March in the year in which the regulation is made, or otherwise increased by 3.5%. On 29 March 2019, a percentage change of 2.25% was published in the gazette by the Honourable Jackie Trad MP, Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships, pursuant to section 5A of the PSA.

Section 5A(3) provides that if the amount worked out under section 5A(2) is not a multiple of 5 cents then the amount must be rounded down to the nearest multiple of 5 cents. Section 5A(5) provides that a regulation may only prescribe one increase for an amount of the penalty unit for the financial year.

Increasing the prescribed penalty unit value in section 3 of the PSR by 2.25% from 1 July 2019 is consistent with section 5A of the PSA.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The increase of the prescribed penalty unit value by 2.25% to \$133.45 maintains the deterrent and punishment effect of fines and infringement notices.

Any costs of implementing the increase in the prescribed penalty unit value arising from operational and system changes will be absorbed by relevant departments, statutory bodies and local governments.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The Amendment Regulation is in accordance with the legislative indexation mechanism in section 5A of the PSA and therefore consultation was not required.

A self-assessment by the Department of Justice and Attorney-General determined that no Regulatory Impact Analysis is required as the regulatory proposal is excluded under category (h) of the *Queensland Government Guide to Better Regulation* – regulatory proposals that put forward standard annual fee variations in line with or below a government endorsed indexation factor.