



Queensland

Penalties and Sentences Act 1992

Penalties and Sentences Regulation 1992

Reprinted as in force on 1 July 2005

Reprint No. 1B

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See 2005 SL No. 213 s 9

Information about this reprint

This regulation is reprinted as at 1 July 2005. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



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Penalties and Sentences Regulation 1992

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Penalties and Sentences Regulation 1992

[as amended by all amendments that commenced on or before 1 July 2005]

1 Short title

This regulation may be cited as the *Penalties and Sentences Regulation 1992*.

2 Reports under s.9(2)(n) of the Act

A report given to a court under section 9(2)(n) of the Act may be given to the court orally or in writing.

3 Principle prescribed for purposes of s.9(2)(o) of the Act

In sentencing an offender, a court must also have regard to the principle that it should not refuse to make a fine option order or a community based order for the offender merely because of—

- (a) any physical, intellectual or psychiatric disability of the offender; or
- (b) the offender's sex, educational level or religious beliefs.

3A Drug diversion courts—Act, s 15B

The following are prescribed for section 15B of the Act—

- (a) each Childrens Court constituted by a magistrate;
- (b) each Magistrates Court.¹

3B Prescribed dangerous drugs and prescribed quantities—Act, s 15D

The schedule sets out—

¹ Section 15B (Definitions for div 1) of the Act

- (a) the dangerous drugs prescribed for the definition *prescribed dangerous drug* for section 15D² of the Act; and
- (b) for each prescribed dangerous drug, the quantity prescribed for the definition *prescribed quantity* for section 15D of the Act.

4 Reports etc. for purposes of ss.15 and 58(2) of the Act

An authorised Commission officer must not, in any information, notification or report made for the purposes of section 15 or 58(2) of the Act, recommend that a fine option order or community based order should not be made for an offender merely because of—

- (a) any physical, intellectual or psychiatric disability of the offender; or
- (b) the offender's sex, educational level or religious beliefs.

5 Economic hardship for the purposes of s.58(1)(a) of the Act

The fact that an offender's only source of income is a social security or veteran's pension, benefit or allowance from the Commonwealth is a ground on which a court may be satisfied under section 58(1) of the Act that the offender or the offender's family would suffer economic hardship.

6 Principle prescribed for purposes of s.58(1)(b) of the Act

- (1) In considering an application for a fine option order, a court or clerk of the court must have regard to the principle that an offender should not be considered to be unsuitable to perform community service merely because of—
 - (a) any physical, intellectual or psychiatric disability of the offender; or
 - (b) the offender's sex, educational level or religious beliefs.

2 Section 15D (Meaning of *eligible drug offence*) of the Act

- (2) Subsection (1) does not limit the matters to which the court or clerk of the court may have regard.

7 Failure to perform community service in a satisfactory way

- (1) For the purposes of sections 66(b), 103(1)(d) and 114(1)(e) of the Act, an offender is taken not to perform community service in a satisfactory way if the offender—
- (a) reports to perform community service under the influence of intoxicating liquor or a dangerous drug; or
 - (b) is under the influence of intoxicating liquor or a dangerous drug while performing community service; or
 - (c) unlawfully damages—
 - (i) anything supplied to the offender for the purpose of performing community service; or
 - (ii) property in relation to which the offender is required to perform community service.
- (2) Subsection (1) does not limit the circumstances in which an offender does not perform community service in a satisfactory way.
- (3) In this section—

dangerous drug means a dangerous drug within the meaning of the *Drugs Misuse Act 1986*.

8 Extension of orders—Commission and offender to be notified

If the 1 year mentioned in section 66(b) of the Act is extended under section 68 or 125(2)(c) of the Act or is extended or further extended under section 74(4)(a) of the Act, the court or clerk of the court that makes the extension or further extension must notify the Commission and the offender in the approved form.

9 Application for permit to leave or stay out of Queensland

Application for permission mentioned in section 66(f), 93(1)(f), 103(1)(f) or 114(1)(h) of the Act must be made to an authorised Commission officer by or on behalf of the offender.

10 Normal requirements for intensive correction orders

Unless the court or an authorised Commission officer otherwise directs, the 12 hours mentioned in section 114(2) is to consist of 8 hours of community service and 4 hours attendance at programs.

11 Complaints under s.128 or 129 to be forwarded to court

If a summons or warrant is issued under section 128 or 129 of the Act, the authorised Commission officer must immediately forward the complaint made under that section to the court before which the offender is required or directed to appear or be brought by the summons or warrant.

12 Forms other than approved forms

Forms for the purposes of the Act (other than approved forms) are to be in a form determined by the chief executive of the department.

13 Direction under community based order or fine option order

A direction given under a community based order or fine option order may be given orally or in writing.

14 Community service hours

- (1) An offender must not be directed to perform more than 8 hours community service on any day under a community based order or fine option order.
- (2) However, if the offender consents and an authorised Commission officer approves, the offender may perform more than 8 hours community service in a day.

- (3) In performing community service, the offender must be allowed reasonable rest and meal breaks.
- (4) Time spent in rest and meals breaks mentioned in subsection (3) are to be included in the time spent in performing community service.

15 Recording of hours of community service performed

- (1) The project supervisor must record on an attendance return provided by the Commission—
 - (a) the time of each day at which the offender reports for community service; and
 - (b) the time of each day at which the offender stops performing community service.
- (2) The offender must countersign each entry made by the project supervisor in the attendance return.
- (3) In this section—

project supervisor means the person under whose supervision an offender performs community service.

16 Commission to be advised if fine paid

If a fine or a part of the fine is paid, the proper officer of the court in which the original order was made must notify the Commission of the payment.

17 Transitional—failure to comply with requirements of previous orders

If an offender fails to comply with a requirement of a sentence mentioned in section 204(2) of the Act that is not amended under section 204(3) of the Act, the failure may be dealt with under the Act as if the sentence were a sentence imposed after the commencement of section 204 of the Act.

Schedule Prescribed dangerous drugs and prescribed quantities

section 3B

Dangerous drug	Quantity
Amphetamine.	1.0
Barbituric Acid	5.0g
4-Bromo-2,5-dimethoxyamphetamine	0.02g
4-Bromo-2,5-dimethoxyphenethylamine.	0.02g
Cannabis sativa.	50.0g
Cocaine	1.0g
Codeine, except where it is compounded with 1 or more other medicaments in such a way that it cannot be readily extracted and where it is contained—	
(a) in divided preparations containing 30mg or less of codeine per dosage unit; or	
(b) in undivided preparations containing 1% or less of codeine.	5.0g
N,N-Diethyltryptamine	1.0g
2,5-Dimethoxy-4-Ethylamphetamine (DOET)	1.0g
2,5-Dimethoxy-4-Methylamphetamine	1.0g
N,N-Dimethyltryptamine.	1.0g
Fenethylamine	1.0g
Fentanyl	0.0025g
Gamma hydroxybutyric acid	1.0g
Heroin	1.0g
Hydromorphone.	1.0g
Ketamine	0.2g
Lysergic Acid.	3 tickets or tabs
Lysergide	3 tickets or tabs
Methadone	1.0g
Methcathinone	1.0g
5-Methoxy-3,4-Methylenedioxyamphetamine (MMDA) . .	1.0g

Schedule (continued)

Dangerous drug	Quantity
2-Methylamino-1-(3,4-methylenedioxyphenyl) butane (MBDB)	1.0g
4-Methylaminorex	1.0g
Methylamphetamine	1.0g
3,4-Methylenedioxyethylamphetamine (MDEA)	1.0g
3,4-Methylenedioxymethamphetamine (MDMA)	1.0g
4-Methylthioamphetamine (4-MTA)	1.0g
Moramide	1.0g
Morphine	1.0g
Opium	5.0g
Paramethoxyamphetamine (PMA)	1.0g
Pethidine	1.0g
Phencyclidine	0.2g
Psilocin	0.04g
Psilocybin	0.04g
Tetrahydrocannabinol	1.0g
3,4,5-Trimethoxyamphetamine (TMA)	1.0g

In this schedule—

ticket or tab means the amount of the dangerous drug, not greater than 0.000040g, that is prepared or apparently prepared for the purpose of being administered as a single dose.

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2005. Future amendments of the Penalties and Sentences Regulation 1992 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	4 December 1992	31 March 1993

Reprint No.	Amendments included	Effective	Notes
1A	2003 SL No. 56	28 March 2003	
1B	2005 SL No. 128	1 July 2005	

5 List of legislation

Penalties and Sentences Regulation 1992 SL No. 394

made by the Governor in Council on 3 December 1992

notfd gaz 4 December 1992 pp 1723–6

commenced on date of notification

exp 31 August 2005 (see SIA s 56A(2) and SIR s 5 sch 3)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

Penalties and Sentences Amendment Regulation (No. 1) 2003 SL No. 56

notfd gaz 28 March 2003 pp 1125–9

commenced on date of notification

Penalties and Sentences Amendment Regulation (No. 1) 2005 SL No. 128

notfd gaz 24 June 2005 pp 639–45

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2005 (see s 2)

6 List of annotations

Drug diversion courts—Act, s 15B

s 3A ins 2003 SL No. 56 s 3

sub 2005 SL No. 128 s 4

Prescribed dangerous drugs and prescribed quantities—Act, s 15D

s 3B ins 2003 SL No. 56 s 3

SCHEDULE—PRESCRIBED DANGEROUS DRUGS AND PRESCRIBED QUANTITIES

ins 2003 SL No. 56 s 4

