

Penalties and Sentences Amendment Regulation (No. 1) 2016

Explanatory notes for SL 2016 No. 39

made under the *Penalties and Sentences Act 1992*

General Outline

Short Title

Penalties and Sentences Amendment Regulation (No. 1) 2016

Authorising law

Sections 5, 5A and 196 of the *Penalties and Sentences Act 1992* (PSA)

Policy objectives and the reasons for them

The objective of the *Penalties and Sentences Amendment Regulation (No. 1) 2016* (Amendment Regulation) is to increase, from 1 July 2016, the prescribed penalty unit value in section 3 of the *Penalties and Sentences Regulation 2015* (PSR) by 3.5% from \$117.80 to \$121.90 (the amount after rounding down to the nearest 5 cents). The prescribed penalty unit value is applicable to: most state laws; the laws of local governments not listed in schedule 2 of the PSR; and a penalty infringement notice (PIN) issued under most state laws and the laws of local governments not listed in schedule 2 of the PSR.

Section 5A of the PSA provides a mechanism for the indexation of the prescribed penalty unit value. By increasing the penalty unit value by 3.5% to \$121.90 the deterrent and punishment effect of fines and penalty 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. The objectives can only be achieved by amendment to the regulation.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the PSA for ensuring there is a legislative indexation mechanism that permits an annual increase to the prescribed penalty unit value applicable to: most state laws; laws of local governments not listed in

schedule 2 of the PSR; and a PIN issued under most state laws and the laws of local governments not listed in schedule 2 of the PSR.

The legislative mechanism is in section 5A of the PSA and specifically 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 is provided 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%.

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.

Increasing the prescribed penalty unit value by 3.5 % on 1 July 2016 is consistent with the policy objectives as it is an annual increase made in accordance with section 5A.

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 3.5% to \$121.90 continues the deterrent and punishment effect of fines and PIN amounts.

The costs of implementing any increase in the prescribed penalty unit value will be absorbed by relevant departments, statutory bodies and local government.

Consistency with fundamental legislative principles

The Amendment Regulation does not breach fundamental legislative principles.

Consultation

The Office of Best Practice Regulation has been consulted and advised that a Regulatory Impact Statement is not required.