

# State Penalties Enforcement Amendment Regulation (No. 2) 2016

Explanatory notes for SL 2016 No. 55

made under the

*State Penalties Enforcement Act 1999*

## General Outline

### Short title

*State Penalties Enforcement Amendment Regulation (No. 2) 2016*

### Authorising law

Sections 158(1)(c), 165(1) and 165(10) of the *State Penalties Enforcement Act 1999*.

### Policy objectives and the reasons for them

The objective is to amend the *State Penalties Enforcement Regulation 2014* (SPER) to provide an alternative method of serving a penalty infringement notice (PIN) for section 158(1)(c) of the *State Penalties Enforcement Act 1999* (SPEA). A new section 19A of the SPER will allow a person, who is an authorised person for the purposes of the SPEA, to serve a PIN from an electronic device, such as an iPad, to an electronic address such as an email address or mobile telephone number.

Issuing and serving PINs electronically has the capacity to provide efficiency gains of up to 10 minutes per PIN. This may result in significant time savings for those departments authorised to issue PINs under schedule 1 of the SPER and who have the capability to issue PINs electronically. For example, the Queensland Police Service (QPS) issued 680,000 PINs in 2013-14. A 10 minute saving per PIN can provide the QPS with an additional 113,000 policing hours per annum.

Electronic service will provide practical benefits to recipients by allowing the penalty for a PIN served electronically to be paid as soon as the PIN is received at the electronic address. However, immediate payment will not be mandatory. The existing payment period will continue to apply.

A PIN will only be served electronically with the consent of the person receiving it. A person who consents to receiving a PIN electronically will be asked by the issuing officer to provide an electronic address, for example an email address or mobile telephone number. The PIN will then be sent via an electronic device, such as an iPad, to the address provided.

The PIN will be considered served as soon as the electronic transmission has commenced. The recipient will be advised by the issuing officer of the process to acquire a hard copy in circumstances where the PIN is not received at the electronic address.

Electronic service will not be mandatory. The recipient may choose to have the PIN sent as a hard copy to a nominated address, consistent with the current practice.

To mitigate the risk of fraudulent PINs, action will be taken to ensure that emails, MMS messages and enclosed files, including PINs, do not contain hyperlinks. While some personal information is required to be included on a PIN, the driver licence number will only display sufficient information to confirm that the licence number belongs to the recipient of the PIN.

## **Achievement of policy objectives**

The *State Penalties Enforcement Amendment Regulation (No. 2) 2016* (the Amendment Regulation) achieves the policy objective by amending the SPER to allow PINs to be served electronically.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the policy objectives of the SPEA.

## **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 Amendment Regulation presents an opportunity for significant cost and time savings across government. It has been estimated that the electronic issue and service of PINs has the capacity to save the QPS alone up to 113,000 policing hours per annum.

Using existing budget allocations, the Public Safety Business Agency has developed the software required to electronically issue and serve PINs. In instances where the recipient does not elect to have the PIN served electronically, the PIN will be generated electronically and posted to an address nominated by the recipient.

## **Consistency with fundamental legislative principles**

The Amendment Regulation has been drafted with due regard to section 4 of the *Legislative Standards Act 1992*.

The Amendment Regulation builds on the current service provisions under section 158 of the SPEA by providing an additional method of serving PINs. This new method of service will not replace the existing methods.

### **Legislation should have sufficient regard to the rights and liberties of individuals -**

#### ***Legislative Standards Act 1992, section 4(2)(a)***

#### Clause 3 (Insertion of new section 19A to allow for electronic service of PINs)

##### *Electronic service of PINs*

Consenting to the electronic service of a PIN places an obligation on the recipient to ensure the PIN is received at the nominated electronic address and that the penalty is paid within the required timeframe. This obligation reduces the opportunity to circumvent a penalty by providing a false or incorrect electronic address.

To safeguard against potential anomalies which may impede the sending and receiving process (for example, an error in the electronic address or a loss in transit), the following process will be undertaken by the issuing officer:

- establish the legitimacy of the email address;
- advise the recipient of the process for acquiring a hard copy of the PIN. The hard copy will be provided upon request without cost to the recipient; and
- make two further attempts at service in cases where an email service has failed due to an 'out of office' or 'email box full' message.

Where a recipient defaults on a PIN, he or she will be given the opportunity to pay the penalty, either in full or by instalments, once the PIN has been referred to the State Penalties Enforcement Registry.

##### *Information sharing*

An electronic address provided to an issuing officer may be given to another government department to allow the PIN to be processed, to assist in court processes, and/or to allow enforcement action to be commenced under the SPEA in circumstances where the penalty has not been paid. This is consistent with the current information sharing processes relating to PINs.

To ensure that the consent given to receive the PIN electronically is informed, the recipient will, where practicable, be verbally advised at the time of issue that their electronic address may be provided to other specific government departments. Where it is not practicable to provide this advice verbally (for example, articulating this information presents a risk to the safety of the issuing officer, the recipient or another person), a privacy statement on the PIN will state the government departments that will have access to the recipient's electronic information in accordance with the *Information Privacy Act 2009*.

## **Consultation**

The Queensland Productivity Commission has been consulted and has advised that no further assessment is required under the Regulatory Impact Statement System Guidelines.