

# **Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2018**

Explanatory notes for SL 2018 No. 53

made under the

*Penalties and Sentences Act 1992*

## **General Outline**

### **Short Title**

*Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2018*

### **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 2018* (Amendment Regulation) is to increase, from 1 July 2018, the prescribed monetary value of the penalty unit in section 3 of the *Penalties and Sentences Regulation 2015* (PSR) by 3.5% from \$126.15 to \$130.55. The prescribed penalty unit value is applicable to: most state laws; local government laws not listed in schedule 2 of the PSR; and penalty infringement notices (PINs) issued under most state laws and local government laws not listed in schedule 2 of the PSR.

Section 5A of the *Penalties and Sentences Act 1992* (PSA) provides a mechanism for the indexation of the prescribed penalty unit value. Increasing the penalty unit value ensures the deterrent and punishment effect of fines and PINs 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 \$130.55. There are no alternative ways of achieving the policy objectives.

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

The PSA provides a legislative indexation mechanism that permits an annual increase to the prescribed penalty unit value applicable to: most state laws; local government laws not listed in schedule 2 of the PSR; and a PIN issued under most state laws and local government laws 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 % from 1 July 2018 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 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 \$130.55 maintains the deterrent and punishment effect of fines and PINs.

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 Regulation is consistent with fundamental legislative principles.

## **Consultation**

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

The Department of Justice and Attorney-General (DJAG) has self-assessed the regulatory proposal to be excluded from further analysis under the Regulatory Impact Statement (RIS) system under exclusion category (h) of the *Queensland Government Guide to Better Regulation*, as the penalty unit increase is an annual fee variation which is in line with Government-endorsed indexation rates.