

State Penalties Enforcement Amendment Regulation 2021

Explanatory notes for SL 2021 No. 79

made under the

State Penalties Enforcement Act 1999

General Outline

Short title

State Penalties Enforcement Amendment Regulation 2021

Authorising law

Sections 134K, 151 and 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The policy objectives of the *State Penalties Enforcement Amendment Regulation 2021* are to enable enhanced information sharing to improve collection of penalty debt in Queensland and support increased proactive debt collection and enforcement activities by the State Penalties Enforcement Registry (SPER). This will be achieved by amending the *State Penalties Enforcement Regulation 2014* to prescribe entities that the Registrar of the SPER may enter into an information-sharing arrangement with and decisions of the Registrar of SPER that cannot be generated by an information system.

The *State Penalties Enforcement Act 1999* establishes SPER as a whole-of-government fine enforcement and collection system. SPER is responsible for the collection and civil enforcement of most penalty amounts due and owing to the State. It plays a critical role in upholding the integrity of the justice system by ensuring fines and other penalties are paid.

These amendments support a range of measures being undertaken by SPER to deliver increased proactive debt management and collection for unpaid fines and penalties as part of the Office of State Revenue's Debt Recovery and Compliance Program. These measures include increased debtor engagement and enforcement operations, and greater data cleansing and enrichment to improve the quality of data about debtors held by SPER.

Achievement of policy objectives

The *State Penalties Enforcement Act 1999* authorises regulations to be made with respect to particular matters, including:

- Entities that the Registrar of SPER may enter into information-sharing arrangements with. Under an information-sharing arrangement, the Registrar of SPER may request and receive information from a prescribed entity for specific purposes, such as the administration or enforcement of the *State Penalties Enforcement Act 1999*. Information-sharing arrangements also allow the Registrar of SPER to share information with prescribed entities, subject to the information that is to be disclosed being prescribed by regulation.
- Decisions of the Registrar of SPER that cannot be generated by an information system. An information system may be approved to generate a decision of the Registrar of SPER, unless it is a decision prescribed by regulation.

Currently, no entities or decisions of this nature, or permitted information disclosures by the Registrar of SPER under an information-sharing arrangement, are prescribed under the *State Penalties Enforcement Regulation 2014*.

The *State Penalties Enforcement Amendment Regulation 2021* provides for matters authorised under the regulation making heads of power identified above. The policy objectives will be achieved by amending the *State Penalties Enforcement Regulation 2014* to prescribe:

- the department administering the *Transport Operations (Road Use Management) Act 1995* (that is, the Department of Transport and Main Roads (DTMR)) and the Residential Tenancies Authority (RTA) as entities that the Registrar of SPER may enter into information-sharing arrangements with. As further amendments to the *State Penalties Enforcement Regulation 2014* would be required to prescribe the information that the Registrar of SPER is permitted to share, the information-sharing arrangements will only practically apply to information held by DTMR and RTA initially. This information will be used to enrich and cleanse data about debtors held by SPER, supporting proactive debt management activities through the availability of more complete, accurate and up-to-date data.
- decisions of the Registrar of SPER that cannot be generated by an information system. As these decisions are complex in nature and may have significant implications for a debtor, due consideration of the specific circumstances of the case is required before engagement or enforcement activities are undertaken, which cannot be done by an information system. Prescribing these decisions guarantees they will be made by a SPER officer, ensuring appropriate safeguards and protections are built into collection and enforcement of fines and penalties by SPER.

Consistency with policy objectives of authorising law

The *State Penalties Enforcement Amendment Regulation 2021* is consistent with the objects of the *State Penalties Enforcement Act 1999*. Additionally, the *State Penalties Enforcement Act 1999* authorises the making of regulations with respect to the matters included in the *State Penalties Enforcement Amendment Regulation 2021*.

Inconsistency with policy objectives of other legislation

The *State Penalties Enforcement Amendment Regulation 2021* is not inconsistent with the policy objectives of other legislation. In particular, the amendment to prescribe entities that the Registrar of SPER may enter into information-sharing arrangement with is not inconsistent with the *Information Privacy Act 2009* as the *State Penalties Enforcement Act 1999* authorises the Registrar of SPER to enter into information-sharing arrangements and for information to be shared under such an arrangement for specific purposes set out in section 134K of the *State Penalties Enforcement Act 1999*. Under the *Information Privacy Act 2009*, SPER must comply with the Information Privacy Principles which include specific limits on use and disclosure of personal information, including requirements to not disclose personal information unless disclosure is authorised or required under law, and to take reasonable steps to protect personal information held from misuse, loss and unauthorised access, use, modification or disclosure.

Alternative ways of achieving policy objectives

An alternative way of achieving the policy objectives is to enact the provisions in the *State Penalties Enforcement Act 1999*. This was not adopted as the provisions are of an administrative nature which are more appropriately contained in a regulation.

Benefits and costs of implementation

The *State Penalties Enforcement Amendment Regulation 2021* does not impose any appreciable costs on government, non-government organisations or the public.

The amendments to the *State Penalties Enforcement Regulation 2014* made by the *State Penalties Enforcement Amendment Regulation 2021* support the proper operation of the *State Penalties Enforcement Act 1999*. In particular, the amendments enable enhanced information sharing to improve the collection of penalty debt in Queensland and support increased proactive debt collection and enforcement activities by SPER. They are consistent with the objectives of the *State Penalties Enforcement Act 1999* to maintain the integrity of fines as a viable sentencing option, enhance the way fines and other money penalties are enforced, and reduce the cost to the State of enforcing fines and other money penalties.

The *State Penalties Enforcement Amendment Regulation 2021* also delivers benefits for people subject to enforcement activities. Use of more accurate data from enhanced information sharing between SPER and other entities may enable opportunities for earlier notification and interaction with debtors about their debt and options for payment or dispute. In addition, it ensures appropriate safeguards and protections are built into collection and enforcement of fines and penalties by SPER by guaranteeing decisions that require due consideration of specific circumstances of the case will continue to be made by a SPER officer and cannot be delegated to an information system.

Accordingly, implementation costs for Government are not expected to be significant and can be met within existing allocations.

Consistency with fundamental legislative principles

The *State Penalties Enforcement Amendment Regulation 2021* is consistent with fundamental legislative principles. Its provisions are consistent with the objectives of, and are within the scope of the regulation making power in, the *State Penalties Enforcement Act 1999*.

Consultation

Community consultation was not undertaken in relation to these amendments as the amendments are administrative in nature and relate to the internal administration of the *State Penalties Enforcement Act 1999*.

In accordance with *The Queensland Government Guide to Better Regulation*, the former Office of Best Practice Regulation, Queensland Productivity Commission was not consulted in relation to the *State Penalties Enforcement Amendment Regulation 2021* as it was assessed that the amendments fall within agency-assessed exclusion categories.

It was assessed that the amendment to prescribe entities that the Registrar of SPER may enter into information-sharing arrangements with falls within category (c) – regulatory proposals for the internal management of the public sector or statutory authority, on the basis that the amendment is machinery in nature and for internal management of the public sector, and thus is unlikely to have significant impacts for businesses or the community. It was assessed that the amendment to prescribe decisions of the Registrar of SPER that cannot be generated by an information system falls within category (g) – regulatory proposals that are of a machinery nature, on the basis that the amendment is of a machinery nature in that no policy change has been made and it merely prescribes that certain decisions will continue to be made by a SPER officer.