



QUEENSLAND COUNCIL FOR CIVIL LIBERTIES

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**Penalties & Sentences
(Indexation) Amendment Bill 2013
Submission 001**

Mr Ian Berry MP
Chair
Legal Affairs and Community Safety Committee

By Email: iacsc@parliament.qld.gov.au

Dear Sir

PENALTIES AND SENTENCES (INDEXATION) AMENDMENT BILL 2013

I write to you on behalf of the Queensland Council for Civil Liberties ("the QCCL") to make a submission to the Committee in relation to the above Bill.

ABOUT THE QCCL

The QCCL is a voluntary organisation established in 1967 which has as its principle purpose the implementation of the Universal Declaration of Human Rights in Queensland and Australia.

APPROPRIATENESS OF THE LEGISLATION

The Council questions the need for the automatic indexation of penalty units (PU) at all.

Nothing in the Explanatory notes attempts to demonstrate that the current system of periodic review and amendment of the *Penalties and Sentences Act 1992* has led to any lack of effective deterrence.

Not a single judicial authority is mentioned where the judicial officer has found the value of the PU and the maximum for the offence has caused there to be insufficient 'headroom' in the sentencing options.

The Council is concerned that in combination with recent huge increases in court filing fees, the court system is being seen as revenue raising device or one that should pay for itself.

This may result in disproportionate penalties and it will produce a conflict of interest if the Courts feel pressure to raise revenue or if penalties rise faster than is needed to properly punish and deter.

All it required in the past is a simple amendment of one Act. Given recent amendments that have managed to get passed overnight, this wouldn't seem to be too hard to accomplish every few years.

In times where interest rates are 2.5%, why is there a need to review penalties annually?

Watching them while they are watching you!

In times where inflation is so low and interest rates are at 2.5%, why is there a need to have default increase of 3.5%?

In times where crime rates are decreasing, why do we need to increase penalties annually?

The real civil liberties issue is again one the Executive seems to be having trouble grappling with. The Treasurer effectively determines the increase to whatever they like and there are no criteria listed in the Act for making that decision. Why not 20% per annum?

There is also not the consultation process the goes with changes to Acts, or did until the Government recently decided to so often abandon consultation.

Governments benefit from listening to those they represent. They should take every opportunity to do so, not seek to minimise them.

In our submission a better approach would be that say every 3 years this committee conducts a review of the PU, including the appropriate number of penalty units for particular offences with a view to reducing those that are disproportionately high or if need be increasing those that are thought too low. This would make the process open and accountable with the Parliament in control and not the Executive. This function would have previously fallen to the recently disbanded Sentencing Council.

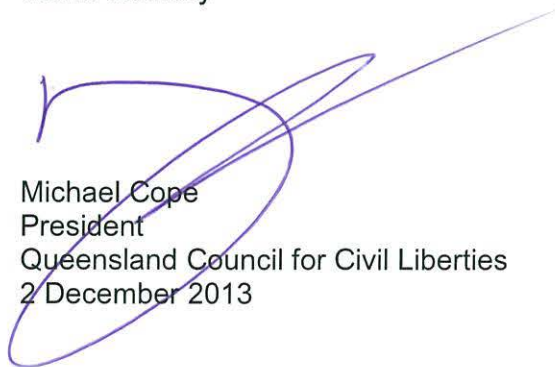
PRACTICAL GROUNDS

While these are not civil liberties issues, any criminal practitioner is likely to be concerned about some practical issues for instance:

- having frequent changes in PU where a range of offences might span several changes
- amounts which make calculation cumbersome and error prone
- confusion from there being different PU under several Acts.

We trust this submission is of assistance in your deliberations.

Yours faithfully



Michael Cope
President
Queensland Council for Civil Liberties
2 December 2013