

LAW & JUSTICE INSTITUTE (QLD) Inc
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Patron: The Honourable James Thomas AM QC

10 January 2014

**Penalties & Sentences
(Indexation) Amendment Bill 2013
Submission 003**

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

By post and Email to: lacsc@parliament.qld.gov.au

Dear Research Director

PENALTIES AND SENTENCES (INDEXATION) AMENDMENT BILL 2013

Thank you for providing the Law and Justice Institute (the institute) with the opportunity to comment on the *Penalties and Sentences (Indexation) Amendment Bill 2013*.

The Law and Justice Institute is an association committed to raising the level of public debate on law and justice issues in Queensland.

We have serious concerns about the potential effect of this Bill.

The article in the Courier Mail on 3 January 2014 entitled 'Scorecard Cops', which stated that Queensland Police will have 'scorecards' on which amount of traffic fines issued per officer would be measured, provides a relevant background for our concerns.

Presently in Queensland the penalty unit amount is fixed. This provides welcome certainty. There does exist a process under legislation for this amount to be increased. The existing process is not as simplistic as the proposal in the Bill. But it does mean that the only changes that are made are those which are truly necessary.

The Penalties and Sentences (Indexation) Amendment Bill 2013 purports to have the aim of providing a means of annually increasing the penalty unit amount and providing a degree of certainty about potential changes.

In practice, however, the new s5A will not achieve that aim. It does not specify the means by which the penalty unit increase is to be calculated. It requires only that the Treasurer publish this change before 31 March of the relevant year. Further, if no amount is published then penalty units may be increased by 3.5%. This is an arbitrary figure; no reference is made to prevailing market conditions.

Queensland already carries a massive fine debt (<https://www.sper.qld.gov.au/about-us/statistics/statistics-1310.php>). In the month of October 2013 \$30,000 more fines were incurred than were paid. It is unsurprising, in prevailing economic conditions, that many people are simply unable to pay. An increase in the quantum of the penalty unit amount can only increase this debt, and have a negative impact on those in society who are least able to afford it.

In these circumstances, the proposal for change is unjustified.


If, however, it was determined to proceed with such a change irrespective of its impact on the disadvantaged, then fundamental common sense suggests that some regard should be had to prevailing economic conditions.

For example, in Tasmania the *Penalty Units and Other Penalties Act 1987* was amended in 2007 to provide for the periodic indexation of the dollar value of a penalty unit. Section 4A of that Act provides that the value of a penalty unit is adjusted in \$10 increments, based on consumer price index (CPI) movements in the previous year. It does not increase every year, but only when the CPI pushes it over each \$10 barrier. This means that any increase in penalty units is guided by the prevailing market and does not increase annually as a matter of course.

It is the position of the Law and Justice Institute that the current model of altering the penalty unit amount is adequate and there is no need for change. The new section as drafted is ambiguous as to the actual methods the Attorney-General will use to make increases. The proposal will create uncertainty and cause expensive administrative inconvenience. The existing fine debt is already very high; increasing the penalty unit amount in the manner suggested can only cause this amount to increase. Neither evidence nor economics supports this provision of the Bill.

Yours faithfully,



 Peter Callaghan S.C.

President
Law & Justice Institute (Qld) Inc.