



Penalties & Sentences
(Indexation) Amendment Bill 2013
Submission 005

10 January 2014

Mr Brook Hastie
Research Director
Legal Affairs and Community Safety Committee
Cnr George and Alice Street
BRISBANE QLD 4000

Email: lacsc@parliament.qld.gov.au

Dear Mr Hastie

Thank you for the opportunity to provide a submission on the *Penalties and Sentences (Indexation) Amendment Bill 2013* (the Bill).

As already indicated to Government, the Local Government Association of Queensland (LGAQ) supports the policy intent behind the use of a penalty unit system as a simple way to adjust penalties without needing to constantly amend all manner of legislation. It seems a logical next step that the Government implement an indexation system to further streamline the process of setting penalty units and as such LGAQ supports the policy positions articulated within the Bill.

LGAQ would like to take this opportunity to commend the Government for its consultation processes in relation to this Bill. The consultation was undertaken over an extended period of time, was in the spirit of the Partners in Government Agreement and allowed issues to be ventilated and resolved in a timely fashion.

By way of general information, I have taken the liberty of attaching two submissions previously provided by the LGAQ to the Queensland Government in relation to this issue (**Attachments 1 & 2**). The major issue raised by the LGAQ, namely a sufficient lead time to implement an increase in the quantum of a penalty unit, is comprehensively dealt with by the Bill.

Yours sincerely

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Greg Hoffman PSM
GENERAL MANAGER – ADVOCACY



12 March 2013

The Honourable David Crisafulli MP
Minister for Local Government,
Community Recovery and Resilience
PO Box 15031
CITY EAST QLD 4002

Dear Minister Crisafulli

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Thank you for your letter dated 7 January 2013 regarding the indexation of penalty units and the opportunity to comment on the proposal.

In principle, the Local Government Association of Queensland (LGAQ) supports the policy intent behind the use of a penalty unit system as a simple way to adjust penalties without needing to constantly amend all manner of legislation. It seems a logical next step that the State Government considers an indexation system to further streamline the process of setting penalty units.

However, this policy needs to be balanced with the need to ensure councils have the tools available to tailor make solutions for the local community. It is worthwhile pointing out that should a council not wish to use the penalty unit system, it is at liberty to amend its local laws and prescribe specific monetary penalties. For example, please refer to the penalties contained in Brisbane City Council's *Chapter 13 Foreshore and retaining walls* local law.

Specifically, the LGAQ supports the application of penalty unit indexation to offences contained in State devolved legislation and council local laws. However, to ensure community expectations continue to be met, this indexation system should not apply to local laws made by councils mentioned in Schedule 2 of the Penalty and Sentences Regulation with a penalty unit of \$75.

To assist with the significant administrative functions involved in administering compliance responsibilities, the LGAQ requests that, at a minimum, the final indexed penalty unit figure be finalised three months in advance of the change. For example, if it is proposed to apply the increase at the beginning of the financial year then the new penalty unit should be finalised by 1 April of that year. From a practical perspective the increase should be rounded to the nearest whole dollar.

Additionally, to provide flexibility to local governments and in line with the *Empowering Queensland Local Government* policy, it is also respectfully requested that consideration be given to modifying section 12 - *Infringement notice offences and fines for local laws* of the State Penalties Enforcement Regulation. This section heavily prescribes the on-the-spot fines a local government may issue for a breach of its local laws.

No such prescription applies to the Queensland Government and LGAQ cannot see any reasonable justification to maintain the current provision. Such a change would allow councils the flexibility, for example, to issue lower on-the-spot fines without reducing maximum penalties. Therefore it is requested that the Government amend section 12(2) with words to the effect of:

"The fine payable for a local law infringement notice offence under an infringement notice must be no more than 5 penalty units."



It is acknowledged that a maximum on-the-spot fine is desirable, currently set at five penalty units, and that its continued inclusion ensures consistency with section 28(2) of the *Local Government Act 2009* which limits the maximum penalty a local government may impose under local law. I understand Brisbane City Council have been consulted independently in relation to this matter.

Should you or your officers require further assistance in relation to this matter please do not hesitate to call Logan Timms, Team Leader – Strategic Policy and Intergovernmental Relations on 30002238 or via email at logan_timms@lgaq.asn.au.

Yours sincerely

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GREG HALLAM PSM
CHIEF EXECUTIVE OFFICER



3 October 2013

Mr Steve Johnston
Acting Director-General
Department of Local Government, Community Recovery and Resilience
PO Box 15009
CITY EAST QLD 4002

Dear ^{Steve} Mr Johnston,

As previously advised via a letter dated 3 June 2013, the Local Government Association of Queensland (LGAQ) supports the policy intent behind the indexation of penalty units. Thank you for the opportunity to comment on draft legislation giving effect to penalty unit indexation.

To assist with the administrative functions involved in administering compliance responsibilities, LGAQ requested that at a minimum, the final indexed penalty unit figure be finalised three months in advance of the change. This policy has been implemented, however, LGAQ is of the view that should the situation arise where the Treasurer fails to publish a percentage change in the gazette, the time period may not apply. For example, it is LGAQ's understanding that in this situation, councils may have either none, or very little, notice of the automatic penalty unit value increase of 3.5%. It is important that regardless of the mechanism used for the increase, a three month lead time applies.

LGAQ is also of the view that the proposed section 5(1)(a) is ambiguous to the extent that, whilst it refers to infringement notices for offences, it does not specifically refer to an infringement notice for an offence against a local law made by a local government either as prescribed under a regulation or otherwise. For the sake of clarity, it would be preferable for section 5(1)(a) to include a specific reference to a local law, or an infringement notice for an offence against a local law, made by a local government prescribed under a regulation and, in turn, for the relevant regulation to refer to every local government other than a local prescribed under a regulation for the purposes of section 5(1)(b).

Finally, LGAQ still seeks an amendment to section 12 Infringement notice offences and fines for local laws of the State Penalties Enforcement Regulation to reduce prescription with words to the effect of:

'The fine payable for a local law infringement notice offence under an infringement notice must be no more than 5 penalty units.'

Should you or your officers require further assistance in relation to this matter, please do not hesitate to contact Logan Timms, Team Leader – Strategic Policy and Intergovernmental Relations on (07) 3000 2238 or via email at logan_timms@lgaq.asn.au.

Yours sincerely

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Greg Hoffman PSM
GENERAL MANAGER – ADVOCACY