

Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2025

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, the Honourable Deb Frecklington MP, Attorney General and Minister for Justice and Minister for Integrity provide this human rights certificate with respect to the *Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2025* (Amendment Regulation) made under the *Penalties and Sentences Act 1992* (PS Act).

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Amendment Regulation increases the prescribed monetary value of the penalty unit.

The penalty unit is the basic measure used to calculate the value of financial penalties imposed for criminal and regulatory offences in Queensland. The value of the penalty unit is prescribed in section 3 of the *Penalties and Sentences Regulation 2015* (the PS Regulation). The prescribed penalty unit value applies to the *State Penalties Enforcement Act 1999* (SPE Act) and infringement notices issued under that Act, most other state laws, and most local laws and infringement notices issued for offences against local laws.

A mechanism to index the value of the penalty unit is set out in section 5A of the PS Act. Under this provision, the value may be increased once each financial year by the percentage change published by the Treasurer in the Government Gazette on or before 31 March, or if no amount is published by 3.5 per cent. If the amount calculated by applying the relevant percentage change is not a multiple of 5 cents, the amount must be rounded down to the nearest multiple of 5 cents.

As no percentage change was published in the Queensland Government Gazette on or by 31 March 2025, the penalty unit value will be indexed by 3.5 per cent.

To give effect to the indexation of the penalty unit by 3.5 per cent, the Amendment Regulation prescribes \$166.90 as the monetary value of the penalty unit effective from 1 July 2025.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 HR Act)

The Amendment Regulation limits the following human rights protected by the HR Act:

- right to recognition and equality before the law (section 15 of the HR Act); and
- property rights (section 24 of the HR Act).

Consideration of reasonable limitations on human rights (section 13 HR Act)

(a) the nature of the right

Right to recognition and equality before the law (section 15 of the HR Act)

The right to recognition and equality before the law encompasses the right to recognition as a person before the law, the right to enjoy human rights without discrimination, and the right to equality before the law and equal protection of the law. The right is a stand-alone right that is also fundamental for the realisation of other human rights. The right to recognition and equality before the law is limited in circumstances where the law is applied or operates differently in relation to some individuals or sectors of society.

The Amendment Regulation will limit the right to recognition and equality before the law, because increasing the monetary value of the penalty unit from \$161.30 to \$166.90 may disproportionately impact some persons or groups in the community. For example, people who are experiencing economic disadvantage may have more difficulty in paying a fine.

Right to property (section 24 of the HR Act)

The right to property provides that all persons have the right to own property, alone or with others, and to not be arbitrarily deprived of their property. Property generally includes all real and personal property interests, including money. In the context of property rights ‘deprived’ includes a substantial restriction on the use or enjoyment of property, while ‘arbitrary’ refers to actions that are unpredictable, unjust, unreasonable or not proportionate to a legitimate aim.

The Amendment Regulation will limit the right to property as financial penalties deprive persons of property in the form of money. Therefore, increasing the monetary value of the penalty unit will increase the deprivation of property. The Amendment Regulation will also limit property rights if enforcement action is taken by the registrar of the State Penalty Enforcement Registry, including seizure of the person’s property, as a result of a failure to pay a financial penalty.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitations on the right to recognition and equality before the law and property rights is to preserve the value of the penalty unit relative to inflation to ensure financial penalties for prescribed criminal and regulatory offences are maintained at appropriate levels to discourage and penalise unlawful behaviour. The deterrence and punishment of unlawful behaviour is consistent with principles of human dignity, equality and freedom.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The limitations on the right to recognition and equality before the law and property rights will achieve the purpose by preserving the deterrent and punishment effects of financial penalties for prescribed criminal and regulatory offences.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

The alternative approaches, to either maintain the current value of the penalty unit value or to increase the value by a lesser amount, do not offer a less restrictive way to achieve the identified purpose.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

In my opinion, the Amendment Regulation strikes an appropriate balance between the importance of the purpose of the amendment and the importance of preserving human rights.

On balance, the importance of ensuring financial penalties for prescribed criminal and regulatory offences are maintained at appropriate levels to discourage and penalise unlawful behaviour outweighs any harms to the right to recognition and equality before the law and property rights.

(f) any other relevant factors

Nil.

Conclusion

I consider that the Amendment Regulation is compatible with the HR Act because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality, and freedom.

DEB FRECKLINGTON MP
Attorney-General and Minister for Justice
Minister for Integrity