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Local Government and Service Delivery Group

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Local Government Bulletin

**Penalty Unit Increase for Local Laws and Local Law
Infringement Notices Commences 1 July 2009
Amendments to the *Penalties and Sentences Regulation 2005* and
the *State Penalties Enforcement Regulation 2000***

Purpose

The purpose of this bulletin is to inform local governments that the proposed increase to the value of the local law penalty unit from \$75 to \$100 will commence on 1 July 2009 for those local governments that chose to “opt-in” for the increase.

Background

The Queensland Government recently amended the *Penalties and Sentences Act 1992* to increase the value of the penalty unit under State legislation. For State legislation, the value of the penalty unit increased from \$75 to \$100 on 1 January 2009.

In November 2008, the former Minister for Main Roads and Local Government wrote to all councils seeking advice on whether or not individual councils would like to adopt the increase in penalty unit value for penalties issued under local laws. Fifty-six (56) local governments and the Weipa Town Authority chose to “opt-in” for the increase in the value of the local law penalty unit to \$100. Seventeen (17) local governments chose to “opt-out”, keeping the value of the local law penalty unit at \$75.

Overview

The *Penalties and Sentences Regulation 2005* was amended on 4 June 2009 to increase the value of the penalty unit, applicable to local laws and local law infringement notices, from \$75 to \$100 effective from 1 July 2009 for those local governments that chose to “opt-in” for the increase.

For the 17 local governments that chose to “opt-out” of the increase, the value of the local law penalty unit remains at \$75.

For local governments that have “opted-in” for the penalty unit increase, an issue has been identified in relation to infringement notice fines derived from maximum penalties expressed as a dollar amount when calculating the fine payable for an infringement notice under the provisions of section 12 of the *State Penalties Enforcement Regulation 2000* (SPER). To address this issue SPER was also amended (a new section 34 was inserted) to provide temporary transitional arrangements that will also take effect on 1 July 2009. The issue has no relevance to those local governments that decided to “opt-out” of the increase.

The temporary transitional arrangements will expire at 31 December 2010. The transitional arrangements will provide local governments an opportunity to appropriately increase dollar amount maximum penalties or, preferably, convert these penalties so that they are expressed in penalty units.

The attached fact sheet provides advice on the calculation of the value of infringement notice fines and the transitional arrangements.

Further information

Any further enquiries on this matter should be directed to Bill Hastie, Principal Policy Advisor, Local Government Policy, Local Government and Service Delivery Group, Department of Infrastructure and Planning, telephone (07) 3225 8640 or email bill.hastie@dip.qld.gov.au. The Department’s postal address is PO Box 15009, Brisbane City East, Queensland, 4002.

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Local government penalty unit increase and calculation of infringement notice amounts

From 1 July 2009, the value of the penalty unit will increase from \$75 to \$100 for local governments that have opted into the increase. This fact sheet only applies to local governments that have opted into the increase.

Local governments that have not opted in are listed in Attachment A. This notification does not apply to local governments in Attachment A.

How to calculate the value of an infringement notice after the penalty unit increase

Section 12 of the *State Penalties Enforcement Regulation 2000* sets out the method for calculating the value of the infringement notice amount for an offence under a local law. The following tables are ready-reckoners for calculating the value of an infringement notice, as set out in section 12, after the penalty unit increases to \$100.

Table 1: If the maximum penalty for an offence is expressed in penalty units

Maximum penalty	Infringement notice amount
not more than 0.5 penalty units	the maximum penalty for the offence
more than 0.5 penalty units, but not more than 5 penalty units	\$50
more than 5, but not more than 10 penalty units	\$100
more than 10, but not more than 20 penalty units	\$200
more than 20, but not more than 30 penalty units	\$300
more than 30, but not more than 40 penalty units	\$400
more than 40, but not more than 50 penalty units	\$500

Table 2: If the maximum penalty is expressed as a monetary value prior to 1 July 2009 and is not changed after 1 July 2009 (table expires 31 December 2010)

Maximum penalty	Infringement notice amount
not more than \$37.50	the maximum penalty for the offence
more than \$37.50, but not more than \$375	\$50
more than \$375, but not more than \$750	\$100
more than \$750, but not more than \$1,500	\$200
more than \$1,500, but not more than \$2,250	\$300
more than \$2,250, but not more than \$3,000	\$400
more than \$3,000 but not more than \$3,750	\$500

Table 3: If the maximum penalty is expressed as a monetary value that has been set after 1 July 2009 (and for all offences with maximum penalties expressed as a monetary amount after 31 December 2010)

Maximum penalty	Infringement notice amount
not more than \$50	the maximum penalty for the offence
more than \$50, but not more than \$500	\$50
more than \$500, but not more than \$1,000	\$100
more than \$1,000, but not more than \$2,000	\$200
more than \$2,000, but not more than \$3,000	\$300
more than \$3,000, but not more than \$4,000	\$400
more than \$4,000 but not more than \$5,000	\$500

Important notice about maximum penalties expressed as a monetary value

Table 2 above is only valid until 31 December 2010 (as prescribed in transitional provisions in the *State Penalties Enforcement Regulation 2000*). After 31 December 2010, the infringement notice amounts applicable for all offences where the maximum penalty is expressed as a monetary value will need to be calculated as per Table 3. This will mean that the infringement notice amounts for some maximum penalties will increase and some will decrease compared to their current infringement notice amounts (more will decrease). For example, the infringement notice amount for an offence with a \$500 maximum penalty is currently 1 penalty unit (\$75). After 31 December 2010, the infringement notice amount for an offence with a \$500 maximum penalty will be 0.5 penalty units (\$50).

To avoid this effect on your infringement notices, it is advisable that you change your maximum penalties expressed as a monetary amount to a number of penalty units. This will also ensure that the maximum penalty for that offence will increase proportionately if the penalty unit is increased again in future.

Rounding of fine and infringement notice amounts

If, when the penalty unit increases to \$100, the penalty for an offence results in a fine or infringement notice amount that is administratively difficult (e.g. \$133.333333), it is acceptable to round the amount down to the nearest coinable amount (e.g. \$133.30) or the nearest whole dollar (e.g. \$133). Please note that the amount cannot be rounded up because this would result in a penalty higher than the amount prescribed under the *State Penalties Enforcement Regulation 2000*.

Offences for which an infringement notice may be issued

Section 12 of the *State Penalties Enforcement Regulation 2000* provides that infringement notices may only be issued for offences where the maximum penalty does not exceed 50 penalty units. When the penalty unit increases to \$100 on 1 July 2009, infringement notices may only be issued for offences for which the maximum penalty does not exceed \$5000.

Local governments for whom the penalty unit will *not* increase

The following local governments opted not to increase the value of the penalty unit for their local laws. Therefore, the value of infringement notices for these local governments will not be affected by the penalty unit increase on 1 July 2009.

- Aurukun Shire Council
- Burke Shire Council
- Dalby Regional Council
- Doomadgee Aboriginal Shire Council
- Etheridge Shire Council
- Gold Coast City Council
- Hope Vale Aboriginal Shire Council
- Longreach Regional Council
- Murweh Shire Council
- Napranum Aboriginal Shire Council
- Pormpuraaw Aboriginal Shire Council
- Quilpie Shire Council
- Torres Shire Council
- Torres Strait Island Regional Council
- Woorabinda Aboriginal Shire Council
- Wujal Wujal Aboriginal Shire Council
- Yarrabah Aboriginal Shire Council