

Act 1993 No. 47

STATUTE LAW (PENALTIES) BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Statute Law (Miscellaneous Provisions) Bill 1993.

Acts enacted since the commencement of the Interpretation Act 1987 (and statutory rules made under those Acts) have generally expressed a pecuniary penalty for an offence in penalty units in accordance with section 56 of that Act. That section provides that a reference in an Act or statutory rule to a number of penalty units is to be read as a reference to an amount of money equal to the amount obtained by multiplying \$100 by that number of penalty units. The use of penalty units is a means of ensuring that the relative values of penalties for offences remain constant. An amendment to section 56 of that Act to change the value of a penalty unit is sufficient to adjust the levels of all penalties for all offences for which penalty units are specified. Alternatively, if it is desired to vary only an individual penalty, the number of penalty units for the offence can be amended.

The Statute Law (Penalties) Act 1992 (“the 1992 Act”) was the first Act to systematically deal with penalty conversion as part of the regular statute law revision program. The object of this Bill is to follow that Act in further facilitating the adoption of the penalty unit system by amending certain additional references to penalties of actual amounts in various principal Acts generally enacted before the introduction of the penalty unit system.

The Bill merely converts existing penalties to the nearest equivalent level of penalty units—it does not provide for any significant penalty increases. However, to promote consistency, the range of penalty units is to be limited, as far as possible, so as to avoid unnecessary diversity. The penalties specified in Acts are the maximum that may be imposed, and the courts are able to tailor the penalty to the particular offence. The following pattern was adopted in the 1992 Act:

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Penalty units	Dollar amount \$
0.1	10
0.5	50
1	100
2	200
3	300
4	400
5	500
10	1,000
15	1,500
20	2,000
25	2,500
30	3,000
40	4,000
50	5,000
100	10,000
200	20,000
1,000	100,000

If a current maximum penalty falls between the above dollar amount range, the provision is to be amended by fixing the maximum penalty at the next higher penalty unit set out above. There are no penalties between \$10,000 and \$100,000 that are proposed to be increased.

The opportunity has also been taken to remove any minimum pecuniary penalty when expressing the maximum penalty in terms of penalty units. In recent years, only maximum penalties have been imposed for offences. The discretion of the courts as to the appropriate level of penalty has not been limited by obligations to impose a specified minimum penalty irrespective of the circumstances of the case.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on the date of assent.

Clause 3 is a formal provision which gives effect to the Schedule of amendments.

Schedule 1 amends the following Acts (which currently express pecuniary penalties for offences in dollar amounts) to express penalties in penalty units:

- Agreements Validating Act 1902
- Agricultural Scientific Collections Trust Act 1983
- Anglican Church of Australia Act 1976
- Anti-Discrimination Act 1977
- Art Gallery of New South Wales Act 1980
- Attachment of Wages Limitation Act 1957
- Balranald Irrigation Act 1902
- Biological Control Act 1985
- Children (Community Service Orders) Act 1987

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Coal Industry Act 1946
Coal Mining Industry Long Service Leave Act 1950
Constitution Further Amendment (Referendum) Act 1930
Contractors' Debts Act 1897
Contracts Review Act 1980
Copyright Act 1879 42 Vic. No. 20
Crimes Act 1900
Crimes Prevention Act 1916
Dams Safety Act 1978
Darling Harbour Authority Act 1984
Disorderly Houses Act 1943
Disposal of Uncollected Goods Act 1966
Farm Water Supplies Act 1946
Fertilizers Act 1985
Geographical Names Act 1966
Health Administration Act 1982
Historic Houses Act 1980
Homing Pigeons Protection Act 1909 (1910 No. 1)
Housing Act 1912
Housing Act 1976
Housing Act 1985
Imperial Acts Application Act 1969
Inclosed Lands Protection Act 1901
Inebriates Act 1912
Innkeepers Act 1968
Justices Act 1902
Land Agents Act 1927
Landlord and Tenant Act 1899
Landlord and Tenant (Amendment) Act 1948
Legal Aid Commission Act 1979
Lie Detectors Act 1983
Liquefied Petroleum Gas (Grants) Act 1980
Liquor Act 1982
Local Courts (Civil Claims) Act 1970
Maritime Services Act 1935
Marketing of Primary Products Act 1983
Mines Inspection Act 1901
Mock Auctions Act 1973
Motor Vehicles (Third Party Insurance) Act 1942
National Parks and Wildlife Act 1974
New South Wales—Queensland Border Rivers Act 1947
New South Wales State Cancer Council Act 1955
Non-Indigenous Animals Act 1987
Oaths Act 1900
Ombudsman Act 1974
Pathology Laboratories Accreditation Act 1981
Police Offences Act 1901
Prices Regulation Act 1948
Printing and Newspapers Act 1973
Prisons Act 1952
Privacy Committee Act 1975

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Public Hospitals Act 1929
Public Notaries Act 1985
Public Servant Housing Authority Act 1975
Public Works Act 1912
Registered Clubs Act 1976
Royal Commissions Act 1923
Sea-carriage of Goods (State) Act 1921
Sheriff Act 1900
Small Business Development Corporation Act 1984
Snowy Mountains Hydro-electric Agreements Act 1958
South-west Tablelands Water Supply Administration Act 1941
Special Commissions of Inquiry Act 1983
Stamp Duties Act 1920
Strata Titles (Leasehold) Act 1986
Sydney Cricket and Sports Ground Act 1978
Sydney Harbour Trust Act 1900 (1901 No. 1)
Sydney Turf Club Act 1943
Teacher Housing Authority Act 1975
Theatres and Public Malls Act 1908
Totalizator Act 1916
Tourism Commission Act 1984
Transport Appeal Boards Act 1980
Unclaimed Money Act 1982
Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986
Water Act 1912
Wollongong Sportsground Act 1986
Workers Compensation Act 1987
