

Building newsflash

Amendments to the State Penalties Enforcement Regulation 2000

Purpose

To advise amendments to the State Penalties Enforcement Regulation 2000 (SPER) commence on 1 January 2009, including new infringement notice fines for sections 108A and 114A and chapter 7 offences within the *Building Act 1975* (BA).

Background

The State Penalties Enforcement and Another Regulation Amendment Regulation (No.1) 2008 will amend the SPER from 1 January 2009 to:

- clarify which agencies have authority to issue infringement notices for particular offences under a number of Acts including the BA and the *Integrated Planning Act 1997* (IPA) and
- introduce infringement notice fines for new BA offences and BA offences which previously did not have infringement notice fines.

Issues

Amendments to the SPER in relation to administering authorities



A new section 5B of the SPER clarifies that employees of a local government or the Queensland Building Services Authority (QBSA) and officers of the Queensland Fire and Rescue Service (QFRS) can serve infringement notices for particular infringement notice offences under the BA, in accordance with the notes in schedule 5. The notes in schedule 5 of the SPER have been updated to specify which agencies can serve infringement notices for particular offences and the authorisation under the respective Acts and Regulations—the *Queensland Building Services Authority Act 1991*, *Local Government Act 1993*, *Fire and Rescue Service Act 1990* and *Building Fire Safety Regulation 2008*.

A new section 7AB of the SPER clarifies that employees of a local government or the QBSA can serve infringement notices for particular IPA offences.

Infringement notice fines for additional offences

Infringement notice fines from 1 January 2009 can be issued for the following additional BA offences in sections 108A (2) and (4) and 114A (2), and the following chapter 7 BA offences in sections: 220, 221(5), 222(5), 226(2) and (4), 227 and 231(1).

The new offence sections 108A and 114A, and the amendment of section 256 of the *Building Act 1975* commenced on 23 April 2008. Section 108A relates to an owner's obligation about access to a certificate of classification on display in the building and section 114A relates to an owner's obligation to comply with the building's certificate of classification. The amendment of section 256 in the BA enabled both local governments and QFRS to directly enforce the new



sections 108A and 114A. The SPER amendments enable both local governments and the QFRS to issue infringement notice fines for these new offences.

The amendments to schedule 5 of SPER introduce infringement notice fines of eight penalty units for the sections 108A and 114A offences.

The chapter 7 BA offences relate to fire safety in budget accommodation buildings and previously were not included in SPER as infringement notice offences. This was because QFRS can issue infringement notices for similar offences under the *Fire and Rescue Service Act 1990*. The SPER amendments will enable local governments to issue infringement notices for the chapter 7 BA offences, with a maximum of eight penalty units for breaches of sections 220, 221(5) and 222(5).

Increase of the penalty infringement unit value

The *Penalties and Sentences and Other Acts Amendment Act 2008* will from 1 January 2009, increase the value of a penalty infringement unit (which is currently \$75) to \$100 for infringement notices for offences other than against a local law. The value of a penalty unit for offences against a local law will be the amount, not more than \$100, prescribed under a regulation.

Legislation

- *Building Act 1975*
- Building Fire Safety Regulation 2008
- *Building and Other Legislation Amendment Act 2008*
- *Fire and Rescue Service Act 1990*
- *Integrated Planning Act 1997*
- *Local Government Act 1993*
- *Penalties and Sentences and Other Acts Amendment Act 2008*
- *Queensland Building Services Authority Act 1991*
- State Penalties Enforcement and Another Regulation Amendment Regulation (No.1) 2008
- State Penalties Enforcement Regulation 2000

A copy of the State Penalties Enforcement and Another Regulation Amendment Regulation (No.1) 2008 is available on the Office of the Queensland Parliamentary Counsel website at www.legislation.qld.gov.au/LEGISLTN/SLS/2008/08SL449.pdf

Contact details

Building Codes Queensland
tel +61 7 3239 6369
buildingcodes@dip.qld.gov.au

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