

# Evaluation Report

## The effectiveness of Penalty Infringement Notices (PINs) for the Petroleum and Gas Inspectorate Queensland

February 2019

This publication has been compiled by the Petroleum and Gas Inspectorate of Resources, Safety and Health, Department of Natural Resources, Mines and Energy.

© State of Queensland, 2019

The Queensland Government supports and encourages the dissemination and exchange of its information. The copyright in this publication is licensed under a Creative Commons Attribution 4.0 International (CC BY 4.0) licence.

Under this licence you are free, without having to seek our permission, to use this publication in accordance with the licence terms.



You must keep intact the copyright notice and attribute the State of Queensland as the source of the publication.

Note: Some content in this publication may have different licence terms as indicated.

For more information on this licence, visit <https://creativecommons.org/licenses/by/4.0/>.

The information contained herein is subject to change without notice. The Queensland Government shall not be liable for technical or other errors or omissions contained herein. The reader/user accepts all risks and responsibility for losses, damages, costs and other consequences resulting directly or indirectly from using this information.

## Executive summary

On 1 July 2016, Penalty Infringement Notices (PINs) commenced as a compliance and enforcement tool for the Petroleum and Gas Inspectorate (PGI) to use in the gas work and devices ('downstream') sector of the Queensland gas industry.

The objectives for introducing PINs were to:

- provide a more cost-effective enforcement tool for minor gas work offences; and
- act as a deterrent to potential offenders.

As a risk-based, evidence-driven regulator it is important that initiatives are evaluated and, where necessary, course-corrected to achieve the best outcomes. To this end the Chief Inspector (CI) of the PGI conducted an assessment of the effectiveness of PINs since their introduction. The CI consulted with the Department of Natural Resources, Mines and Energy In-House Legal services (IHL) on the evaluation, which concluded that the objectives for introducing PINs have largely been achieved.

At 30 November 2018, some 28 months after PINs were first introduced, the PGI had issued 37 offenders with a total of 53 PINs (some offenders received multiple PINs). The most common offence was for unlicensed gas work contrary to section 726 (1)(a) of the *Petroleum and Gas (Production and Safety) Act 2004* (The Act).

Since the introduction of PINs, the resources required to finalise breaches has reduced from approximately 260 days to 40 days. Legal costs for this category of breaches have been eliminated, where previously prosecuting each unlicensed gas work offender cost approximately \$18 000 per matter. These savings can be redirected into more proactive compliance efforts by the PGI.

## Recommendations

Specific recommendations from the CI evaluation report are:

1. PINs to be retained by the PGI as a compliance and enforcement tool.
2. Enhance the general deterrence and industry awareness of PINs, particularly of unlicensed gas work. Include measure to assess effectiveness.
3. Brief the Stakeholder Engagement Committee ('downstream') and other industry engagement forums on the PIN evaluation report in 2019.
4. Improve PIN the process and procedures including streamlining report writing and review arrangements in consultation with staff.
5. DNRME In-House Legal periodically review a sample of PIN reports for compliance with Department's Prosecution Policy and Resources Safety and Health (RSH) Compliance Policy.

The PGI has commenced continuous-improvement activities to streamline the investigation report and general administrative tasks related to PINs management. In addition the PGI has committed to commissioning some targeted market research to inform a broader communication strategy that will include tactics to strengthen the awareness, and deterrence value, of PINs.

## Table of contents

<b>Executive summary</b> .....	<b>1</b>
Recommendations .....	1
<b>Purpose of the report</b> .....	<b>3</b>
<b>Objectives and benefits</b> .....	<b>3</b>
Objectives .....	3
Benefits .....	3
<b>PINs issued since introduction</b> .....	<b>4</b>
<b>Evaluation method</b> .....	<b>4</b>
Cost-benefit analysis.....	5
Qualitative analysis .....	7
Stakeholder consultation.....	7
Feedback from Inspectors .....	8
Legal review .....	9
<b>Conclusion</b> .....	<b>9</b>

## **Purpose of the report**

On 1 July 2016 PINs commenced as a compliance and enforcement tool for the Petroleum and Gas Inspectorate (PGI) for the gas work and devices (*downstream*) sector of the Queensland gas industry.

This report summarises the evaluation of PINs that was undertaken approximately 28 months after their introduction. The evaluation was conducted to identify:

- if the objectives and benefits of using PINs had been realised
- the effectiveness of PINs implementation
- lessons learnt and recommend ongoing improvements
- other relevant issues.

## **Objectives and benefits**

In briefings to the Director-General of the Department of Natural Resources and Mines (DNRM) in June 2015, and the Minister for Natural Resources and Mines in March 2016, the following objectives and benefits were forecast:

### **Objectives**

- To reduce resources spent on enforcement actions (lengthy investigations, prosecutions, legal costs) for this category of breaches.
- To reduce the administrative and cost burden of prosecuting minor offences.
- To encourage behaviour that supports safety outcomes.

### **Benefits**

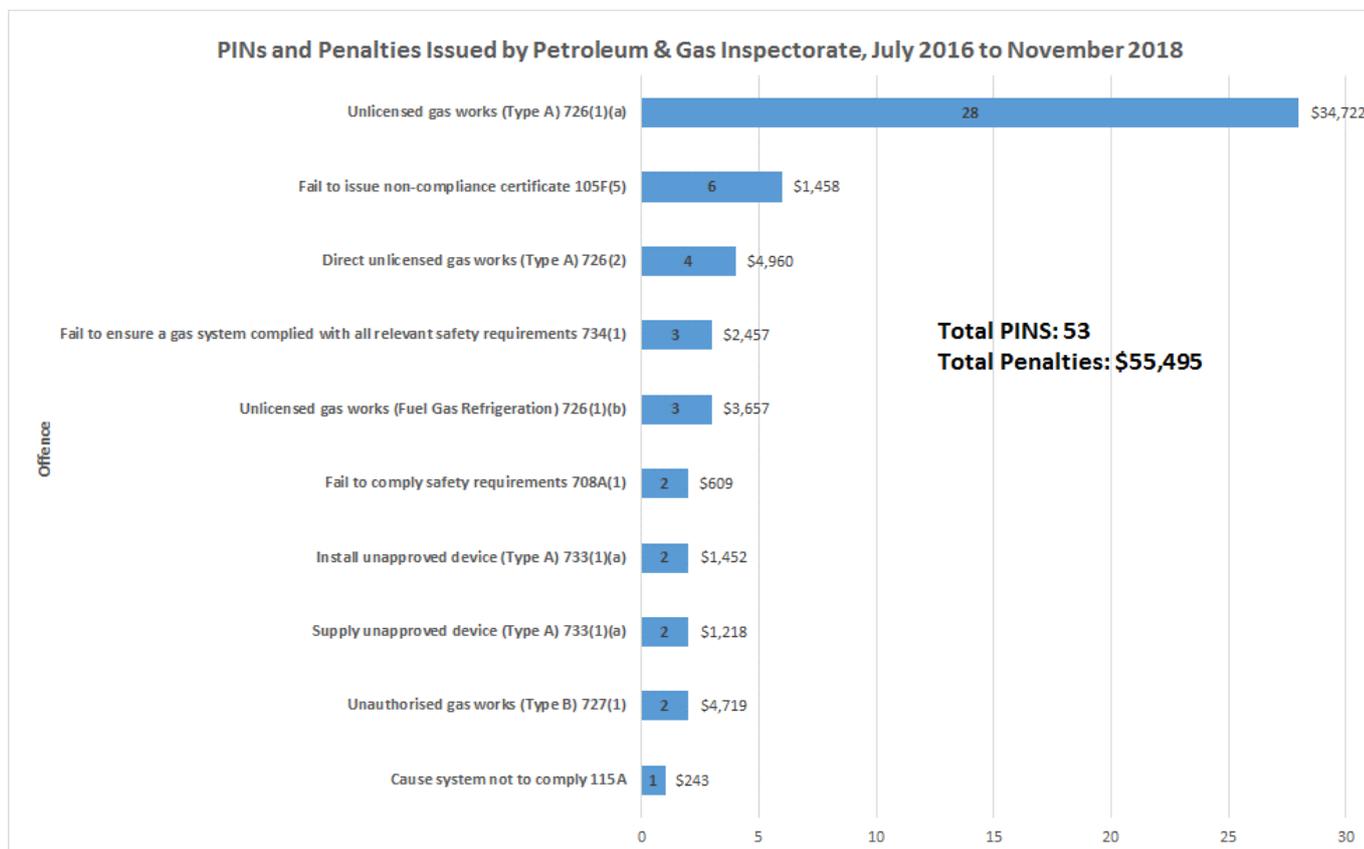
- More timely and cost-effective outcomes for minor breaches rather than using prosecution or other enforcement tools.
- More effective enforcement tool for minor gas work offences.
- Reduce the number of offences once industry realises PINs were being used.
- Provide an effective deterrent for potential offenders.

## PINs issued since introduction

Since 1 July 2016, 53 PINs have been issued for offences detailed in Figure 1 overleaf.

Approximately 52 per cent of all PINs issued (i.e. 28 notices) have been related to offences under section 726 (1)(a) Unlicensed Gas Work of the *Petroleum and Gas (Production and Safety) Act 2004* (the Act).

Figure 1 - PINs by offence (1 July 2016 - 30 November 2018)



## Evaluation method

There were no specified measures developed in 2015-2016 to assess the performance of PINs.

Therefore, in evaluating the introduction of PINs, the following methods were used:

- cost-benefit analysis
- qualitative analysis
- stakeholder consultation
- feedback from Inspectors.

## Cost-benefit analysis

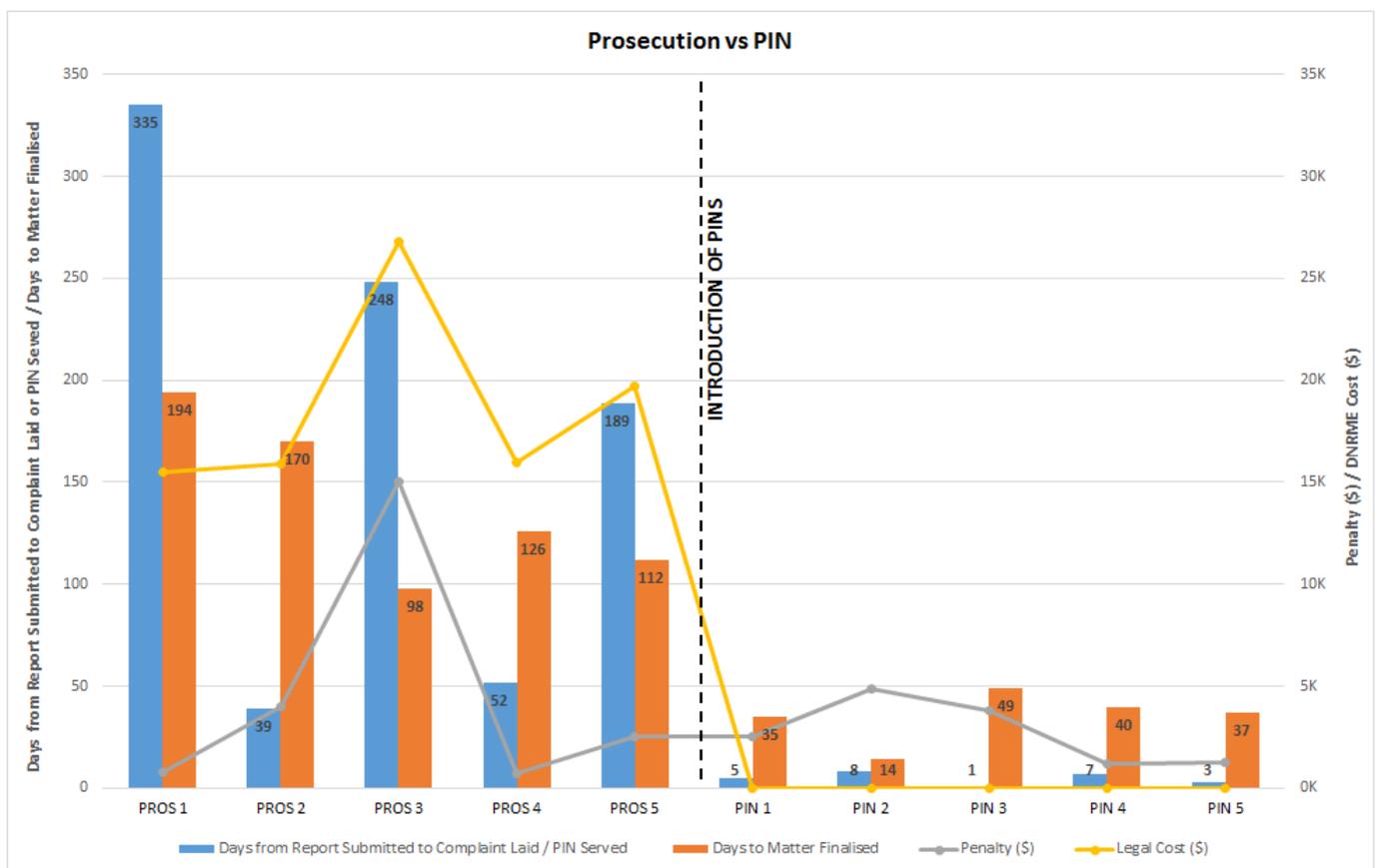
Figures 2 and 3 illustrate the cost-benefit analysis of a sample of 10 unlicensed gas work offences before<sup>1</sup> and after<sup>2</sup> PINs were introduced, and show a reduction in legal costs and time taken to finalise similar breaches of the Act.

Figure 2 illustrates the time taken and legal costs incurred for unlicensed gas work offences prosecuted before PINs were introduced, compared to time taken and cost incurred after the introduction of PINs.

Figure 2: Prosecution versus PINs

Key observations from Figure 2 are:

- Figure 2 shows there has been a reduction in the time taken to finalise breaches for unlicensed gas work.
- Reduction of average time taken from 118 days (complaint signed until court decision) to 35 days (PIN report signed to PIN issued).

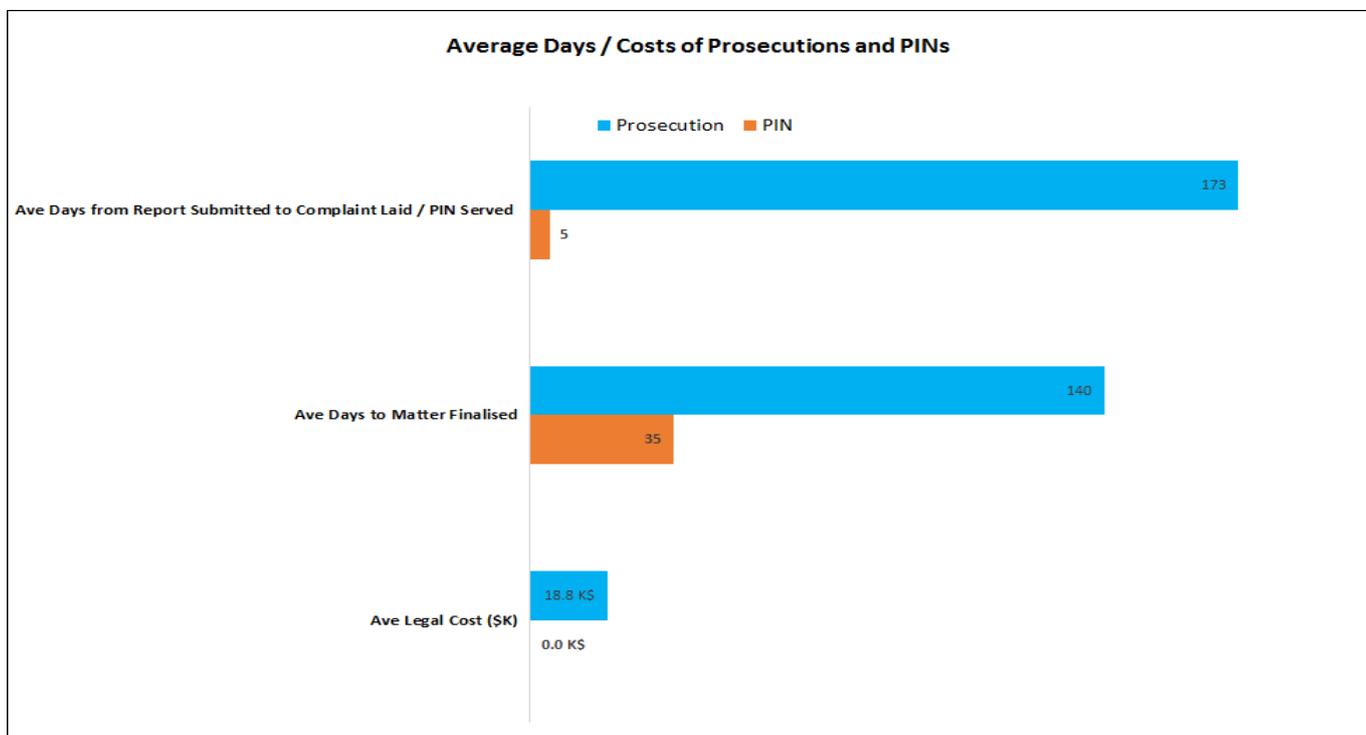


<sup>1</sup> The period 01 January 2014 – 30 June 2016

<sup>2</sup> The period after 01 July 2016

Figure 3 illustrates the average number of days from when an investigation report has been submitted to when a complaint is laid for prosecution or PIN issued, and the average number of days to the matter being finalised with the average costs associated with the compliance action.

Figure 3: Prosecution versus PIN – Average Time and Legal Cost



Key observations from Figure 3 are:

Time reduction

- Average days taken to finalise breaches of unlicensed gas work have reduced from approximately 260 days to approximately 40 days using PINs.
- Average days taken from report submitted to PIN issued was approximately five days whereas average days taken from report submitted to prosecution complaint being laid was approximately 128 days.

Cost savings

- No legal cost with PINs.
- Average cost for PIN investigation and action is 'staff time' (salary paid) whereas average cost for prosecution of unlicensed gas work was \$18 000 in legal costs.

Recommendation 1

PINs be retained in the PGI Inspectorate as a compliance and enforcement tool.

## Qualitative analysis

In 2015-2016 it was believed that as awareness of PINs developed across the gas industry, there would be some deterrent value. The PGI undertook some communication activities to achieve this that included articles in the PGI Newsletter, presentations at trade information nights in Brisbane and regional centres, and social media. However these activities were not measured so it has been difficult to fully assess the deterrent value of PINs.

### Recommendation 2

Enhance the general deterrence and industry awareness of PINs, particularly section 726(1)(a) of the Act, unlicensed gas work. Include measures to assess effectiveness.

## Stakeholder consultation

Currently, there are 6 410 gas work licence holders in Queensland. The main representative bodies for gasfitters and installers are:

- Master Plumbers' Association of Queensland (MPAQ) – approximately 550 licence holders
- Queensland Gas Association (QGA) – approximately 180 licence holders.

There are approximately 730 gas work licence holders (11 per cent) who are members of QGA and/or MPAQ. Feedback from the QGA and MPAQ provides a representative sample of the downstream industry views on PINs.

Feedback has been provided by members of the PGI Stakeholder Engagement Committee Gas Work and Devices ('downstream') in relation to PINs. These members include Caravanning Queensland, gas work contractors, consultants and service companies that employ licence holders.

The key feedback from downstream industry stakeholders is as follows:

- Queensland Gas Association said, "...*executive committee support the current PINS process and noted the responsible way in which the inspectorate have applied PINS*".
- Caravanning Queensland stated, "...*very supportive of the retention of PINS as a compliance tool and very satisfied in the approach used by PGI with safety enforcement*"
- Master Plumbers Association of Queensland commented, "...*PINs are being used in an even-handed way and not being used excessively*".
- Master Plumbers Association of Queensland indicated that the general understanding and knowledge of PINs is reaching approximately 50 per cent of the downstream industry
- General Manager of MTC Gas (gas contractor) stated, "...*PINs are a useful compliance tool for the Inspectorate to use to ensure licenced gasfitters comply with Standards and Codes of Practice*"

### Recommendation 3

Brief the Stakeholder Engagement Committee Gas Work and Devices and other industry engagement forums on the PIN evaluation report in 2019.

## Feedback from Inspectors

PGI Inspectors were consulted as part of the PIN evaluation process. Of the 16 Senior Inspectors (SI) in the PGI, 12 have issued at least one PIN since 1 July 2016 with some SI issuing numerous PINs over the past 28 months. Approximately 75 per cent of PGI SI have embraced the use of PINs, indicating this new compliance tool has been embraced by staff. Based on feedback from inspectors the following key observations are made:

- Inspectors consider PINs are a valuable and important compliance and enforcement tool.
- Inspectors consider PINs have saved resources, time and cost for enforcement action compared to prosecuting breaches before PINs were introduced.
- Most Inspectors commented that before PINs were introduced, prosecutions for gas work non-compliances were lengthy and took too much time to finalise matters.
- Inspectors felt confident in using PINs and proving the key elements of an offence.
- Some Inspectors suggested that the internal review processes prior to the PIN being issued could be streamlined.
- PIN implementation issues including training, reporting templates and other administrative tasks received mixed feedback:
  - most inspectors commented that implementation training was helpful
  - two inspectors indicated that the training was of limited value and somewhat convoluted.
- Inspectors commented that PIN refresher training would be beneficial to staff.
- There was some feedback that deterrent and warning value of PINs needed further communications effort.

### Recommendation 4

Improve PIN process and procedures including streamlining report writing and review arrangements in consultation with staff.

## Legal review

The Department of Natural Resources, Mines and Energy (DNRME) In-House Legal services reviewed a sample of eight PINs from the period 2016-18 to assess the legal compliance of the reports. In-House Legal services concluded the following:

PIN reports reflect part 3 of DNRME's Prosecution Policy; and

The reports were completed to a high standard.

Inspectors and stakeholders can be assured that breaches of the Act are being investigated thoroughly and the application of PINs, where appropriate, are actioned in legally compliant manner.

### Recommendation 5

Continue to have DNRME in-house legal services periodically review a sample of PIN reports for consistency with DNRME's Prosecution Policy and Resources Safety and Health Compliance Policy

## Conclusion

The majority of benefits and objectives identified prior to the implementation of PINs (in 2015 and 2016) have been largely realised. One benefit and two objectives have been partially achieved with further work needed in 2019-20.

Over the page, Table 1 provides a rating against the objectives and benefits.

There is strong support to retain PINs as a compliance and enforcement tool for the gas work and devices sector of the industry. However, stakeholder feedback indicates that only 50 per cent of the industry are sufficiently aware of PINs for them to be a truly effective deterrent. Therefore communications and engagement activities in regards to PINs will be expanded to boost their general deterrence value.

The PIN processes and procedures in the PGI are sound but will continue to be improved and streamlined with input from Inspectors.

The DNRME In-House Legal services reviewed a sample of PINs from the period 2016-18 to assess the compliance of the reports. In-house Legal services concluded the PIN reports comply with part 3 of DNMRE's Prosecution Policy and the reports were completed to a high standard.

Table 1 - Rating of objectives and benefits for PIN implementation

Objective or Benefit (as briefed to Minister)		Outcome	
Objective 1	Reduce resources spent on enforcement actions (lengthy investigations, prosecutions, legal costs) for minor breaches of the Act	Achieved	✓
Objective 2	Reduce the administrative and cost burden of prosecuting minor offences	Achieved	✓
Objective 3	Encourage behaviour that supports safety outcomes	Partially achieved Nested with other PGI Inspectorate education / awareness activities	●
Benefit 1	Providing more timely and cost-effective outcomes for minor breaches than prosecution or other enforcement tool	Achieved	✓
Benefit 2	More effective enforcement tool for minor gas work offences	Achieved	✓
Benefit 3	It was not envisaged that PINs would be used to displace current compliance approach (e.g. compliance directions, dangerous situation notices or prosecutions)	Achieved	✓
Benefit 4	Reducing the number of minor offences once industry realises PINs were being used	Unable to satisfactorily demonstrate due to data limitations, and linked to deterrence (Benefit 5)	✗
Benefit 5	Providing an effective deterrent for potential offenders	Partially achieved More communications effort needed	●