

# Queensland



## Subordinate Legislation 2000 No. 203

### *Supreme Court of Queensland Act 1991*

# CRIMINAL PRACTICE AMENDMENT RULE (No. 1) 2000

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**Short title**

1. This rule may be cited as the *Criminal Practice Amendment Rule (No. 1) 2000*.

**Rules amended**

2. This rule amends the *Criminal Practice Rules 1999*.

**Omission of r 11 (Fees)**

3. Rule 11—

*omit.*

**Amendment of r 12 (Title of proceeding)**

4. Rule 12(a), ‘Appeal of’—

*omit, insert—*

‘Appeal, Supreme Court of’.

**Amendment of r 13 (Forms generally)**

5. Rule 13 (1), after ‘are’—

*insert—*

‘the approved forms<sup>1</sup> and the forms’.

**Amendment of r 20 (Director of public prosecutions)**

6. Rule 20(6)—

*insert—*

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<sup>1</sup> The rules committee will, under section 118A of the Act, approve the forms that are presently in schedule 5 (other than forms 402 and 403 which, under section 259 of the Code, must be prescribed). The amendment made by rule 19 of this rule omits the ‘approved forms’ from schedule 5.

‘(d) the proper officer of the court to which the accused was committed.’.

### **Amendment of r 25 (Application for bail)**

7. Rule 25(4)—

*omit, insert—*

‘(4) If a person has previously applied unsuccessfully to a court for bail for a proceeding, the person must state in any supporting affidavit for the application any change of circumstances relied on since the unsuccessful application.’.

### **Amendment of r 30 (Medical, hospital and government records)**

8. Rule 30(5)(c), ‘in schedule 1’—

*omit, insert—*

‘under a regulation’.

### **Replacement of r 44 (Definition for ch 10)**

9. Rule 44—

*omit, insert—*

#### **‘Definition for ch 10**

‘44. In this chapter—

“**proper officer**” means a judge, a judge’s associate or the person appointed by a judge as the proper officer for this chapter.’.

### **Amendment of r 46 (Procedure on arraignment—Code, s 594)**

10. Rule 46, ‘arraigner’—

*omit, insert—*

‘proper officer’.

**Amendment of r 47 (Statement to accused person of right of challenge—Jury Act, s 39)****11. Rule 47(1)—**

*omit, insert—*

**‘47.(1)** If the accused person pleads not guilty, the proper officer must address the accused person as follows—

‘AB (and CD), these representatives of the community whom you will now hear called are the jurors who are to decide between the Crown and you on your trial.

‘If you wish to challenge them, or any of them, you must do so before the bailiff begins to recite the words of the oath.’.’.

**Replacement of r 48 (Giving the accused person into the charge of the jury—Jury Act, s 51)****12. Rule 48—**

*omit, insert—*

**‘Giving the accused person into the charge of the jury—Jury Act, s 51**

**‘48.** After the jury who have been sworn are called and they have answered, the proper officer must address the jury as follows—

‘Members of the jury, AB (and CD) is/are charged that on [state date] at [state place] he/she/they [state the offence charged in the words of the indictment or by stating the heading of the schedule form for the offence].

‘To this charge he/she/they say that he/she/they is/are not guilty.

‘You are the jurors appointed according to law to say whether he/she/they is/are guilty or not guilty of the charge.

‘It is your duty to pay attention to the evidence and say whether he/she/they is/are guilty or not guilty.

‘Members of the jury, as early as is convenient, you must choose a person to speak on your behalf. You may change the speaker during the trial and any of you is free to speak.’.’.

**Amendment of r 56 (Inspection of exhibits)**

**13.** Rule 56(1), ‘in schedule 1’—

*omit, insert—*

‘under a regulation’.

**Amendment of r 57 (Access to court files)**

**14.** Rule 57(1), ‘in schedule 1’—

*omit, insert—*

‘under a regulation’.

**Amendment of r 98 (Parties’ access to documents and exhibits held by registrar)**

**15.** Rule 98(1), ‘in schedule 1’—

*omit, insert—*

‘under a regulation’.

**Omission of sch 1 (Fees)**

**16.** Schedule 1—

*omit.*

**Amendment of sch 2 (Forms for indictments and informations—formal parts)**

**17.** Schedule 2, form 2, ‘director or public prosecutions’—

*omit, insert—*

‘director of public prosecutions’.

**Amendment of sch 3 (Forms for indictments, informations and complaints—statement of offences under the Code)**

**18.(1)** Schedule 3, form 84, ‘[(or’—

*omit, insert—*

‘(or’.

(2) Schedule 3, form 124—

*omit, insert—*

**‘Form 124—Incest**

**(Section 222. Incest)**

Had (*or* attempted to have) carnal knowledge with (*or* of) EF, his (*or* her) offspring (*or* lineal descendant, sibling, parent, *or etc*), knowing that EF bore that relationship (*or* a relationship of that type) to him (*or* her).’.

(3) Schedule 3, form 142, ‘director or public prosecutions’—

*omit, insert—*

‘director of public prosecutions’.

(4) Schedule 3, form 205—

*omit, insert—*

**‘Form 205—Unlawful stalking (with violence, with possession of a weapon, contravening a court order)**

**(Section 359E. Unlawful stalking)**

Unlawfully stalked EF.

And for 1 (*or* [*state number*]) of the acts constituting the unlawful stalking AB used (*or* intentionally threatened to use) violence against EF (*or* GH) (*or* against the property of EF (*or* GH)).

And for 1 (*or* [*state number*]) of the acts constituting the unlawful stalking AB possessed a weapon within the meaning of the *Weapons Act 1990*.

And for 1 (*or* [*state number*]) of the acts constituting the unlawful stalking AB contravened (*or* intentionally threatened to contravene) an injunction (*or* order) imposed (*or* made) by (*court*) at [*place*] on [*date*].’.

(5) Schedule 3, form 251—

*omit, insert—*

**‘Form 251—Burglary (by breaking, in the night, with violence, while armed, in company, with property damage)**

**(Section 419. Burglary)**

Entered (*or* Was in) the dwelling of EF with intent to commit an indictable offence in the dwelling.

And the entry was by means of a break.

And the offence was committed in the night.

And AB used (*or* threatened to use) actual violence.

And AB was (*or* pretended to be) armed with a dangerous (*or* offensive) weapon (*or* instrument) (*or* noxious substance).

And AB was in company with another person (*or* other persons).

And AB damaged (*or* threatened *or* attempted to damage) property.’.

(6) Schedule 3, form 254—

*omit, insert—*

**‘Form 254—(Breaking and) Entering (*or* being in) premises and [*state offence e.g. by using the schedule form heading*]**

**(Section 421. Entering or being in premises and committing indictable offences)**

Entered (*or* was in) the premises of EF and [*describe indictable offence committed e.g. by using the schedule form*] in the premises.

And AB gained entry to the premises by a break.’.

(7) Schedule 3, form 257—

*omit, insert—*

**‘Form 257—Unlawfully entering a vehicle with intent to commit an indictable offence (in the night, with violence, while armed, in company, with property damage)**

**(Section 427. Unlawful entry of a vehicle for committing indictable offence)**

Unlawfully entered a vehicle, the property of EF, with intent to commit an indictable offence.



And the offence was committed in the night.

And AB used (*or* threatened to use) actual violence.

And AB was (*or* pretended to be) armed with a dangerous (*or* offensive) weapon (*or* instrument) (*or* noxious substance).

And AB was in company with another person (*or* other persons).

And AB damaged (*or* threatened *or* attempted to damage) property.’.

### **Amendment of sch 5 (Forms for other proceedings)**

**19.** Schedule 5, forms 363 to 401 and 404—

*omit.*

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#### ENDNOTES

1. Made by the Governor in Council on 3 August 2000.
2. Notified in the gazette on 4 August 2000.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Justice and Attorney-General.