

Queensland



Subordinate Legislation 2001 No. 29

Supreme Court of Queensland Act 1991

CRIMINAL PRACTICE AMENDMENT RULE (NO. 1) 2001

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1 Short title

This rule may be cited as the *Criminal Practice Amendment Rule (No. 1) 2001*.

2 Rules amended

This rule amends the *Criminal Practice Rules 1999*.

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

Rule 46—

insert—

‘(2) The proper officer is taken to have complied with subrule (1) if the proper officer uses other words complying with the requirements of the Code, section 594.’.

4 Amendment of r 47 (Statement to accused person of right of challenge—Jury Act, s 39)

(1) Rule 47(1)—

omit, insert—

‘(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 may become 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, or your representative, must do so before the bailiff begins to recite the words of the oath or affirmation.’.’.

(2) Rule 47—

insert—

‘(4) The proper officer is taken to have complied with subrule (1) if the proper officer uses other words complying with the requirements of the *Jury Act 1995*, section 39.’.

5 Amendment of r 48 (Giving the accused person into the charge of the jury—Jury Act, s 51)

Rule 48—

insert—

‘(2) The proper officer is taken to have complied with subrule (1) if the proper officer uses other words complying with the requirements of the *Jury Act 1995*, section 51.’.

6 Amendment of r 50 (Addressing an accused person at the end of the prosecution evidence—Code, s 618)

Rule 50—

insert—

‘(2) The proper officer is taken to have complied with subrule (1) if the proper officer uses other words complying with the requirements of the Code, section 618.’.

7 Amendment of r 51 (Addressing a convicted person before sentencing—Code, s 648)

Rule 51—

insert—

‘(2) The proper officer is taken to have complied with subrule (1) if the proper officer uses other words complying with the requirements of the Code, section 648.’.

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

(1) Schedule 3, form 117—

omit, insert—

‘Form 117—(Attempted) carnal knowledge with or of a child under 16 (under 12, as a guardian *or* under care)

(Section 215. Carnal knowledge with or of children under 16)

Had (*or* attempted to have) unlawful carnal knowledge with or of EF, a child under 16 years.

And EF was under 12 years.

And AB was the guardian of EF.

And AB had EF under his *or* her care.’.

(2) Schedule 3, form 129—

omit, insert—

‘Form 129—Selling (or exposing) an obscene publication (with a circumstance of aggravation)

(Section 228. Obscene publications and exhibitions)

1. Knowingly, and without lawful justification or excuse, publicly sold (*or* distributed *or* exposed for sale) an obscene book (*or* an obscene [*describe the printed or written matter*], *or* an obscene computer generated image *or* picture *or* photograph *or* drawing *or* model) (*or* [*describe the object*] tending to corrupt morals).

And the book (*or* matter *or* thing *or* image) depicted a person who was (*or* was represented to be) a child under 16 (*or* 12) years.

2. Knowingly, and without lawful justification or excuse, exposed to view in a place to which the public were permitted to have access an obscene picture (*or* photograph *or* drawing *or* model) (*or* [*describe the object*] tending to corrupt morals).

And the picture (*or* thing) depicted a person who was (*or* was represented to be) a child under 16 (*or* 12) years.’.

(3) Schedule 3, after form 172—

insert—

‘Form 172A—Female genital mutilation

(Section 323A. Female genital mutilation)

Performed female genital mutilation on EF.

‘Form 172B—Removal of child from State for female genital mutilation**(Section 323B. Removal of child from State for female genital mutilation)**

Took EF, a child, (*or* arranged for EF, a child, to be taken) from Queensland with the intention of having female genital mutilation performed on EF.’

(4) Schedule 3, form 188, ‘**Section 336**’—

omit, insert—

‘**Section 351**’.

(5) Schedule 3, form 189—

omit, insert—

‘Form 189—Sexual assault (while armed, in company, with a circumstance of aggravation)**(Section 352. Sexual assaults)**

1. Unlawfully and indecently assaulted EF.

And immediately before (*or* during *or* immediately after) the offence, AB was (*or* pretended to be) armed with a dangerous (*or* offensive) weapon.

And immediately before (*or* during *or* immediately after) the offence, AB was in company with another person.

And the indecent assault included—

- (a) EF penetrating the vagina (*or* vulva *or* anus) of AB with a thing (*or* a part of EF’s body that is not a penis); *or*
- (b) bringing into contact part of the genitalia (*or* the anus) of EF (*or* AB *or* MN) with the mouth of AB (*or* EF *or* MN).

2. Procured EF, without his (*or* her) consent, to commit an act of gross indecency (*or* to witness an act of gross indecency by AB (*or* MN)).

And immediately before (*or* during *or* immediately after) the offence, AB was (*or* pretended to be) armed with a dangerous (*or* offensive) weapon.

And immediately before (*or* during *or* immediately after) the offence, AB was in company with another person.

And the act of gross indecency included—

- (a) EF penetrating his (*or* her) vagina (*or* vulva *or* anus) *or* the vagina (*or* vulva *or* anus) of AB (*or* MN) with a thing (*or* a part of EF's body that is not a penis); *or*
- (b) bringing into contact part of the genitalia (*or* the anus) of EF (*or* AB *or* MN) with the mouth of AB (*or* EF *or* MN).'

(6) Schedule 3, chapter 32—

omit, insert—

‘CHAPTER 32—RAPE AND SEXUAL ASSAULTS

‘Form 195—Rape

(Section 349. Rape)

Raped EF.

‘Form 196—Attempted rape

(Section 350. Attempt to commit rape)

Attempted to rape EF.’.

(7) Schedule 3, form 198—

omit, insert—

‘Form 198—Kidnapping

(Section 354. Kidnapping)

Kidnapped EF.’.

(8) Schedule 3, form 261—

omit.

ENDNOTES

1. Made by the Governor in Council on 5 April 2001.
2. Notified in the gazette on 6 April 2001.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Justice and Attorney-General.

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