



Queensland

# Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation (No. 1) 2011

## Explanatory Notes for SL 2011 No. 166

made under the

*Recording of Evidence Act 1962*

*Supreme Court of Queensland Act 1991*

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## General outline

### Short title

*Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation (No. 1) 2011.*

### Authorising law

Section 13(2)(f) of the *Recording of Evidence Act 1962*

Sections 118 and 120 of the *Supreme Court of Queensland Act 1991*

### Policy objectives and the reasons for them

The principal purpose of the Amendment Regulation is to amend the court fees payable for civil matters and increase the fees charged for the provision of copies of transcripts and records. The amendments aim to: align Queensland fees for the Supreme and District Courts with those of other Australian States and Territories; achieve fee parity with the Federal Court for matters of shared jurisdiction under the *Corporations Act 2001*

and the *Admiralty Act 1988*; and more closely reflect the actual costs of providing copies of transcripts and recordings.

As a consequence of the new and increased fees, the Amendment Regulation replaces the current fee waiver regime with an expanded fee reduction regime to ensure justice continues to be accessible to all who need it.

### **Achievement of policy objectives**

The regulation amends the *Uniform Civil Procedure (Fees) Regulation 2009*, the *Uniform Civil Procedure Rules 1999* and the *Recording of Evidence Regulation 2008* to achieve the stated objectives.

### **Consistency with policy objectives of authorising law**

The regulation is consistent with the main objectives of the *Supreme Court of Queensland Act 1991* and the *Recording of Evidence Act 1962*.

Section 118 of the *Supreme Court of Queensland Act 1991* provides for the making of rules of court with the consent of the rules committee established under the Act. Section 120 of the *Supreme Court of Queensland Act 1991* provides that the Governor in Council may make regulations for matters including the fees and costs and how fees, costs and fines are to be received and dealt with.

The *Recording of Evidence Act 1962* provides for the recording of legal proceedings. Section 13(2)(f) of the *Recording of Evidence Act 1962* provides that the Governor in Council may make regulations under the Act for providing for fees to be paid in respect of the recording of legal proceedings.

### **Inconsistency with policy objectives of other legislation**

The regulation is not inconsistent with the policy objectives of other legislation.

### **Benefits and costs of implementation**

The benefit of this amendment is to prescribe new fees and increase some existing fees for court services. It is anticipated that the introduction of

these fees will improve the parties' preparation prior to a hearing or trial, improve planning and use of available court time, encourage greater use of alternative dispute resolution mechanisms; and potentially remove unnecessary proceedings from the courts. The Amendment Regulation provides for an expanded fee reduction regime to ensure justice continues to be accessible to all who need it.

### **Consistency with fundamental legislative principles**

This regulation does not raise any fundamental legislative principle issue for consideration.

### **Consultation**

The Rules Committee has been consulted and has approved the amendments to the *Uniform Civil Procedure Rules 1999*.

### **Notes on Provisions**

Clause 1 sets out the short title of the regulation.

Clause 2 provides that the regulation commences on 1 September 2011.

Clause 3 provides that Part 2 amends the *Uniform Civil Procedure (Fees) Regulation 2009*.

Clause 4 inserts a new division heading.

Clause 5 omits section 4(4) and (5) relating to the non payment of fees by exempt individuals and inserts a new section 4(4) to clarify that a liquidator, administrator or other person acting for or on behalf of a corporation must pay the fee payable by a corporation.

Clause 6 inserts new sections 4A - 4C and a new division heading. Section 4A introduces setting down and hearing fees for the Supreme and District Courts. Section 4B provides for actions which may be taken if setting down and hearing fees are not paid. Section 4C provides for the refund of 75% of the setting down and hearing fees in certain circumstances.

Clause 7 inserts a new division heading and new section 5A which maintains the exemption from the prepayment of court fees for a state-related person that was previously contained in Rule 972 of the *Uniform Civil Procedure Rules 1999*.

Clause 8 inserts new sections 9 -10C. Section 9 outlines the effect of a fee reduction on the payment of other fees in the proceedings. Sections 10 -10B provide the registrar with the power to grant parties a fee reduction in certain circumstances. Section 10C allows for the review of the registrar's decision by a court.

Clause 9 inserts new Part 6 which provides for a transitional provision.

Clause 10 amends Schedule 1 (Fees payable in the Supreme Court and District Court) to prescribe new fees for issuing a subpoena under rule 414 of the *Uniform Civil Procedure Rules 1999* and hearing fees and setting-down fees. The clause increases filing fees for claims (including counter claims), originating applications and appeals (including applications for leave to appeal and cross-appeals). Clause 10 also renumbers the items.

Clause 11 amends Schedule 3 (Dictionary) to insert new definitions.

Clause 12 provides that Part 3 amends the *Recording of Evidence Regulation 2008*.

Clause 13 amends the Schedule 1 (Fees) to increase the fee for supplying a transcript of a proceeding and the fee for supplying an audio recording in electronic form. In addition, the clause introduces a fee for the certification of a transcript of a proceeding.

Clause 14 provides that Part 4 amends the *Uniform Civil Procedure Rules 1999*.

Clause 15 makes a technical amendment to Rule 759 so that reference is made to the appropriate fee in the amended Schedule.

Clause 16 omits rule 971(2)-(9).

Clause 17 replaces rule 972 stating that a state-related person may file a document without payment of a fee.

Clause 18 makes a technical amendment to rule 975D so that appropriate reference is made to rule 971 as amended.

Clause 19 inserts new Chapter 24, Part 5 which provides for a transitional provision.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Justice and Attorney-General.

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