

Domestic and Family Violence Protection Amendment Rule 2017

Explanatory notes for SL 2017 No. 192

Made under the

Magistrates Courts Act 1921

General Outline

Short Title

Domestic and Family Violence Protection Amendment Rule 2017

Authorising law

Section 57C of the *Magistrates Courts Act 1921*.

Policy objectives and the reasons for them

The purpose of the *Domestic and Family Violence Protection Amendment Rule 2017* (Amendment Rule) is to reduce the administrative burden on the Queensland Police Service, provide greater consistency between the domestic and family violence protection legislation and Queensland Courts procedures, and address minor technical issues identified in the *Domestic and Family Violence Protection Rules 2014* (DFVP Rules).

Achievement of policy objectives

The Amendment Rule:

- amends rules 13 and 14 of the DFVP Rules to relieve a Queensland Police Service (QPS) officer from filing an affidavit of personal service with the DFVP registry when an officer is required to personally serve a court order, and instead provides that a statement of police service is sufficient proof of service by a police officer of any documents that a police officer is required to personally serve under the DFVP Act;
- further amends rule 14 to provide that a police officer must affirm that the contents of the statement of police service is true, and that the officer understands that a police officer who provides a false matter commits an offence;

- inserts a new rule 14A of the DFVP Rules to provide that the Officer in Charge of the police station (or where this is not practicable, an officer of senior rank) must witness the signature of the maker of the statement;
- amends rule 50 to provide that where a DFVP application has been withdrawn before a DFVP court decides the application, the Officer in Charge of the nearest police station must serve notice of the application to withdraw on each person who is a party in the proceeding other than the applicant (noting that to address potential safety risks to an applicant, a police officer is not required to notify a respondent, unless the respondent has been served with a copy of the original DFVP application);
- inserts a new rule 50A of the DFVP Rules to provide that where the DFVP court decides an application to withdraw a DFVP application, and one or both parties are absent, the clerk of the DFVP court must notify the Officer in Charge of the nearest police station of the decision, and a police officer must tell the absent party that the application has been withdrawn (noting that to address potential safety risks to an applicant, a police officer is not required to notify a respondent, unless the respondent has been served with a copy of the original DFVP application);
- amends Schedule 1, section 1 of the DFVP Rules to provide that costs allowed in a proceeding under the DFVP Act include costs associated with the appearance of a clerk of an advocate not the clerk of the DFVP court; and
- amends the Schedule 2 Dictionary of the DFVP Rules to insert a definition for 'costs assessor' to have the same meaning as that provided by rule 743L of the Uniform Civil Procedure Rules 1999.

Consistency with policy objectives of authorising law

The Amendment Rule is consistent with the objectives of the *Magistrates Courts Act 1921*.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

It is not expected that the Amendment Rule will impose additional administrative burdens or costs on the DFVP courts or the QPS, as the notification requirements in the rule relating to a court's determination of an application to withdraw a DFVP application reflect the current practice of both the court registry and the QPS. The Amendment Rule will also reduce administrative burden on QPS by introducing a simpler process for proofing personal service of court orders.

Consistency with fundamental legislative principles

The Amendment Rule is consistent with fundamental legislative principles.

Consultation

The Chief Magistrate has been consulted about the Amendment Rule. The Chief Magistrate has consented to the DFVP Amendment Rule, pursuant to section 57C(2) of the *Magistrates Court Act 1921*.

A self-assessment by the Department of Justice and Attorney-General has determined that a Regulatory Impact Statement is not required as the Amendment Rule is excluded under category (j) of the *Queensland Government Guide to Better Regulation*, as it is a regulatory proposal relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services.