

Uniform Civil Procedure Rules and Other Legislation Amendment and Repeal Regulation (No. 1) 2018

Explanatory notes for SL 2018 No. 127

Made under the

Childrens Court Act 1992

Industrial Relations Act 2016

Magistrates Courts Act 1921

Motor Accident Insurance Act 1994

Personal Injuries Proceedings Act 2002

Supreme Court of Queensland Act 1991

Workers' Compensation and Rehabilitation Act 2003

General Outline

Short title

Uniform Civil Procedure Rules and Other Legislation Amendment and Repeal Regulation (No.1) 2018

Authorising law

Section 7 of the *Childrens Court Act 1992*

Section 551 of the *Industrial Relations Act 2016*

Section 57C of the *Magistrates Courts Act 1921*

Section 51C(4) and 100 of the *Motor Accident Insurance Act 1994*

Sections 40(2) and 75 of the *Personal Injuries Proceedings Act 2002*

Sections 85 and 92 of the *Supreme Court of Queensland Act 1991* (the Act)

Section 584 of the *Workers' Compensation and Rehabilitation Act 2003*

Policy objectives and the reasons for them

Under section 85 of the Act, the Governor in Council may make rules of court for the Supreme, District and Magistrates Courts, with the consent of the Rules Committee (a committee of magistrates and judges established by the Chief Justice of Queensland under the Act), including practice and procedure rules for Queensland courts or their

registries. The rules of court are contained in the *Uniform Civil Procedure Rules 1999* (UCPR) and the *Criminal Practice Rules 1999* (CPR).

Under section 92 of the Act, the Governor in Council may make regulations to prescribe various court fees and costs.

Under sections 51C(4) and 100 of the *Motor Accident Insurance Act 1994*, and under sections 40(2) and 75 of the *Personal Injuries Proceedings Act 2002*, the Governor in Council may make regulations which state the basis for calculating and paying costs in certain cases where mandatory final offers are accepted. Under section 584 and schedule 1 of the *Workers' Compensation and Rehabilitation Act 2003*, the Governor in Council may make regulations including in relation to costs.

Under section 57C(1) of the *Magistrates Courts Act 1921*, the Governor in Council may, with the consent of the Chief Magistrate, make rules of court providing for the practices and procedures of a proceeding in a court under the *Domestic and Family Violence Protection Act 2012*, or a registry of a court in relation to a proceeding under that Act.

Under section 7 of the *Childrens Court Act 1992*, the Governor in Council may, with the agreement of the President of the Childrens Court, make rules of court including to make provision about the procedure of the Childrens Court.

Under section 551 of the *Industrial Relations Act 2016* (IR Act), the Governor in Council may, with the consent of the rules committee (a committee established under section 550 of the IR Act) make rules under the IR Act including for proceedings in the court, commission or Industrial Magistrates Court and before the registrar (which include the industrial tribunal).

The *Uniform Civil Procedure Rules and Other Legislation Amendment and Repeal Regulation (No.1) 2018* (Amendment Regulation) repeals the *General (Appeal Against Decisions of the Mental Health Tribunal) Rules 1986*, and amends the following instruments to improve court practices and procedures and update the scales of costs:

- *Childrens Court Rules 2016*;
- *Criminal Practice (Fees) Regulation 2010*;
- *Criminal Practice Rules 1999* (CPR);
- *Domestic and Family Violence Protection Rules 2014* (DFVP Rules);
- *Industrial Relations (Tribunals) Rules 2011*;
- *Motor Accident Insurance Regulation 2004*;
- *Personal Injuries Proceedings Regulation 2014*;
- *Uniform Civil Procedure Rules 1999* (UCPR); and
- *Workers' Compensation and Rehabilitation Regulation 2014*.

Achievement of policy objectives

The Amendment Regulation makes various amendments to the UCPR and the CPR to facilitate the introduction of an electronic transaction framework for Queensland courts.

Following a review by the Rules Committee, the Amendment Regulation also adjusts the scales of costs for the Supreme, District and Magistrates Courts that are used to assess costs under the UCPR in relation to the award and assessment of legal costs for court proceedings. Replacement schedules 1 and 2 introduce a single scale of costs for the Supreme and District Courts (with the exception of general care and conduct of proceedings); reduce the number of scales in the Magistrates Courts' scales of costs from seven to four; modernise and update certain items in the scales of costs; and increase certain items in the scales of costs to reflect movements in the consumer price index since the relevant monetary amounts were last increased.

As the DFVP Rules scale of costs is based on schedule 3, part 3 of the UCPR, this scale of costs is also updated.

The Amendment Regulation also makes minor consequential amendments to the following rules and regulations as a result of the introduction of the new scales: *Childrens Court Rules 2016*; *Industrial Relations (Tribunals) Rules 2011*, *Motor Accident Insurance Regulation 2004*, *Personal Injuries Proceedings Regulation 2014*, and *Workers' Compensation and Rehabilitation Regulation 2014*.

A review conducted by the Rules Committee identified a number of administrative issues in the operation of the CPR. As a consequence, the Amendment Regulation:

- prescribes the application of inspection and copying fees under the CPR;
- updates the practice and procedure for access to court files held by the registry;
- prescribes the procedure for issuing serious drug offence certificates under the *Penalties and Sentences Act 1992*; and
- repeals obsolete rules relating to appeals against decisions of the Mental Health Tribunal.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the Acts.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The introduction of an electronic transaction framework, and the new scales of costs, will streamline court proceedings and cost assessments. The proposed scales update the existing framework and reflect changes to jurisdictional limits and changes in legal costs over time.

There are no implementation costs for the Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

In the course of the review of the scales of costs, and when identifying necessary amendments to the CPR, the Rules Committee conducted consultation with legal stakeholders.

The Rules Committee has consented to the Amendment Regulation.

The Chief Magistrate has consented to the amendments to the DFVP Rules.

The President of the Childrens Court has agreed to the consequential amendment to the *Childrens Court Rules 2016*.

The Industrial Relations Rules Committee has consented to the consequential amendment to the *Industrial Relations (Tribunals) Rules 2011*.

The Queensland Law Society, the Bar Association of Queensland and the Office of the Director of Public Prosecutions have been consulted regarding the Amendment Regulation.

The Department of Justice and Attorney-General has self-assessed the Amendment Regulation to be excluded from further regulatory impact analysis under exclusion category (j) of the *Queensland Government Guide to Better Regulation* as it is a regulatory proposal relating to the administration of courts and tribunals.