

Criminal Practice Amendment Rule 2020

Explanatory notes for SL 2020 No. 239

Made under the

Supreme Court of Queensland Act 1991

General Outline

Short Title

Criminal Practice Amendment Rule 2020 (Amendment Rule)

Authorising law

Section 85 of the *Supreme Court of Queensland Act 1991* (the Act)

Policy objectives and the reasons for them

Under section 85 of the Act, the Governor in Council may make rules of court for the practices and procedures of the Supreme, District and Magistrates Courts or their registries or another matter mentioned in schedule 1 with the consent of the Rules Committee (a committee of magistrates and judges established by the Chief Justice of Queensland under section 89 of the Act). The rules of practice and procedure relating to the court's criminal jurisdiction are contained in the *Criminal Practice Rules 1999* (CPR).

Chapter 2 of the CPR prescribes the general format for an indictment, information (the form of a private prosecution) or a complaint. Rule 14(4) of the CPR provides that an indictment or information must contain a statement of the offence under rule 15. Rule 15 provides that the statement of an offence in an indictment, complaint or other document may be in the words of:

- (a) the schedule form for the offence (i.e. the form for the offence in schedule 3 or 4), with the changes necessary to make the words consistent with the particular circumstances of the alleged offence; or
- (b) if there is no schedule form for the offence, the Criminal Code or other Act creating the offence.

The schedule forms in schedules 3 and 4 to the CPR prescribe the wording for statement of offences relevant to offences in the Criminal Code and *Drugs Misuse Act 1986* (DMA), respectively.

Over recent years a range of amendments have been made to existing offences and new offences have been created which means that the schedules to the CPR are out of date. The objective of the Amendment Rule is to update the CPR to reflect these changes.

Achievement of policy objectives

The policy objective to update the statements of offences in the CPR is achieved by making amendments to the existing schedules of the CPR to:

- omit forms from the CPR where the relevant offence has been repealed;
- insert forms for new offences;
- amend the wording of forms where the relevant offence has been amended; and
- amend headings to Parts and Chapters in schedule 3 of the CPR to ensure consistency with the Criminal Code.

Amendments are also made to insert new schedule 4A into the CPR to prescribe the statement of offences for indictments, information and complaints relevant to offences under the *Peace and Good Behaviour Act 1992* (PGB Act). In addition, consequential amendments are made to rule 13 and schedule 6 of the CPR as a result of the insertion of new schedule 4A.

Consistency with policy objectives of authorising law

The Amendment Rule is consistent with the objectives of the Act.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Amendment Rule will ensure the CPR more accurately reflect contemporary laws by reflecting amendments made to the Criminal Code, DMA and PGB Act.

Any costs, although expected to be minimal, arising from implementation will be met from existing departmental resources.

Consistency with fundamental legislative principles

The Amendment Rule is consistent with fundamental legislative principles.

Consultation

The Rules Committee has consented to the making of the Amendment Rule.

The Office of the Director of Public Prosecutions (ODPP) was consulted during the development of the Amendment Rule. The ODPP supports the Amendment Rule.

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 police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services.

Given the Amendment Rule is limited to making technical procedural amendments to update the CPR consistent with developments in the criminal law in Queensland, no further consultation was undertaken.