

Uniform Civil Procedure and Other Rules Amendment Rule 2023

Explanatory notes for SL 2023 No. 72

Made under the

Magistrates Courts Act 1921

Supreme Court of Queensland Act 1991

General Outline

Short Title

Uniform Civil Procedure and Other Rules Amendment Rule 2023

Authorising law

Section 57C of the *Magistrates Courts Act 1921*

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

Policy objectives and the reasons for them

Section 85 of the *Supreme Court of Queensland Act 1991* (the SC Act) empowers the Governor in Council to make rules including rules for the practices and procedures of the Supreme Court, the District Court or the Magistrates Courts or their registries or another matter mentioned in Schedule 1 of the SC Act. Schedule 1, item 21 (Costs) of the SC Act specifically refers to the assessment of costs. The rules of court are contained in the *Uniform Civil Procedure Rules 1999* (UCPR).

Section 85(2) of the SC Act provides that a rule made by the Governor in Council under section 85 of the SC Act may only be made with the consent of the Rules Committee (a committee of magistrates and judges established by the Chief Justice of Queensland under the SC Act).

Under section 57C(1) of the *Magistrates Courts Act 1921* (the MC Act), 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. The rules of court are contained in the *Domestic and Family Violence Protection Rules 2014* (DFVP Rules).

The UCPR and DFVP Rules include scales of costs that are used to assess costs under the UCPR and DFVP Rules in relation to the award and assessment of legal costs for court proceedings.

The *Uniform Civil Procedure and Other Rules Amendment Rule 2023* (the Amendment Rule) adjusts the scales of costs for the Supreme, District and Magistrates Courts under the UCPR in line with a formula developed for the indexation of the scales of costs in the federal courts (the formula) based on movements in the consumer price index and wage price index since the scales were last increased in 2022.

The Amendment Rule increases the current scales of costs by 4.99% from 1 July 2023. Due to the effect of rounding certain amounts will be slightly more or less than an exact increase of 4.99%. The rounding rules applied are: amounts over \$1,000 to the nearest dollar; amounts under \$1 to the nearest cent; and otherwise, to the nearest five cents.

As the DFVP Rules scale of costs is based on schedule 2, part 3 of the UCPR, this scale of costs is also updated by the Amendment Rule.

Achievement of policy objectives

The Amendment Rule adjusts the scales of costs in the UCPR and DFVP Rules to reflect movements in the consumer price index and wage price index since the scales were last increased in 2022.

Consistency with policy objectives of authorising law

The Amendment Rule is consistent with the policy objectives of the authorising law.

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

The Amendment Rule ensures that the scales maintain their value having regard to movements in the consumer price index and wage price index. There are no implementation costs for the Amendment Rule.

Consistency with fundamental legislative principles

The Amendment Rule is consistent with the fundamental legislative principles.

Consultation

The Rules Committee has consented to the making of the amendments to the UCPR in the Amendment Regulation.

The Chief Magistrate has consented to the making of the amendments to the DFVP Rules in the Amendment Regulation.

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