

Criminal Practice Amendment Rule (No. 2) 2023

Explanatory notes for SL 2023 No. 133

Made under the

Supreme Court of Queensland Act 1991

General Outline

Criminal Practice Amendment Rule (No. 2) 2023

Authorising law

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* (SCQ Act) provides that the Governor in Council, with the consent of the Rules Committee, 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 of the SCQ Act.

Chapter 2 of the *Criminal Practice Rules 1999* (the CP Rules) prescribes forms for proceedings including those for an indictment, an information or a complaint.

Rule 14(1) to (3) of the CP Rules provide that an indictment to be presented in the Supreme Court or District Court or an information to be presented in the Supreme Court must be in the corresponding form in Schedule 2.

Rule 14(4) of the CP Rules provides that an indictment or information must also contain a statement of the offence under rule 15. Pursuant to rule 15, the statement of an offence in an indictment, complaint or other document may be in words of:

- (a) the schedule form for the offence, 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 for indictments, informations and complaints in Schedule 3 of the CP Rules prescribe the wording for statement of offences in the Criminal Code.

The objective of the *Criminal Practice Amendment Rule (No. 2) 2023* (Amendment Rule) is to support implementation of the *Strengthening Community Safety Act 2023* (the Act) by amending Schedule 3 of the *Criminal Practice Rules 1999* (the CP Rules) to reflect the amendments to the offence in section 408A (Unlawful use or possession of motor vehicles, aircraft or vessels) of the Criminal Code.

The Amendment Rule also seeks to update references to the sovereign in Forms 1 to 3 of Schedule 2 of the CP Rules.

Achievement of policy objectives

The Amendment Rule achieves the policy objectives by amending Form 240 in Schedule 3 of the CP Rules to reflect the creation of new circumstances of aggravation under section 408A of the Criminal Code, as amended by the Act.

Additionally, the Amendment Rule amends Forms 1 to 3 in Schedule 2 of the CP Rules to update references to the sovereign contained in indictments and informations to 'The King'.

Consistency with policy objectives of authorising law

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

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Amendment Rule will ensure the CP Rules accurately reflect the updated aggravated offences in the Criminal Code and the current monarch.

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

Consistency with fundamental legislative principles

The Amendment Rule is consistent with fundamental legislative principles.

Consultation

The Office of the Director of Public Prosecutions was consulted.

The Rules Committee approved the Amendment Rule.

An Impact Analysis Statement has been completed which identifies that the Amendment Rule is not subject to Regulatory Impact Assessment requirements under the Queensland Government Better Regulation Policy. This is because it is a regulatory proposal that relates to general criminal laws and the administration of courts.