

Criminal Practice Amendment Rule 2024

Explanatory notes for SL 2024 No. 55

Made under the

Supreme Court of Queensland Act 1991

General Outline

Short Title

Criminal Practice Amendment Rule 2024

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 for another matter mentioned in schedule 1 of the SCQ Act.

The rules of practice and procedure relating to the criminal jurisdiction of courts are contained in the *Criminal Practice Rules 1999* (the CP Rules). Chapter 2 of the CP Rules prescribes the general format for an indictment, an information or a complaint.

Rule 14(4) of the CP Rules provides that an indictment or information must 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 the 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 statements of offences in the Criminal Code.

The policy objective of the *Criminal Practice Amendment Rule 2024* (Amendment Rule) is to amend the relevant form in schedule 3 of the CP Rules (Form 242A) to reflect amendments to the name of the offence in section 408E of the Criminal Code made by the *Information Privacy and Other Legislation Amendment Act 2023* (IPOLA Act). Amendments to section 408E of the Criminal Code in the IPOLA Act include an

amendment to replace the current offence heading 'Computer hacking and misuse' with a new title 'Misuse of restricted computer' to clarify the type of conduct captured by the offence.

The Amendment Rule further amends Form 242A to better reflect the existing circumstances of aggravation for the section 408E offence in the heading for the form.

Achievement of policy objective

The Amendment Rule achieves the policy objective by amending Form 242A in schedule 3 of the CP Rules to:

- remove the references to 'Computer hacking and misuse' and replace them with 'Misuse of restricted computer'; and
- more correctly reflect the existing circumstances of aggravation under the section 408E offence by including a reference to 'detriment' and changing the current reference to '\$5,000 or more' to 'more than \$5,000'.

Consistency with policy objectives of authorising law

The Amendment Rule is consistent with the objectives of the SCQ 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 CP Rules accurately reflect contemporary laws by reflecting the amended offence in the Criminal Code.

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

The Office of the Director of Public Prosecutions (ODPP) was consulted.