

Uniform Civil Procedure (Affidavits and Statutory Declarations) Amendment Rule 2022

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence provide this human rights certificate with respect to the *Uniform Civil Procedure (Affidavits and Statutory Declarations) Amendment Rule 2022* (Amendment Rule) made under section 85 of the *Supreme Court of Queensland Act 1991* and section 31Y of the *Oaths Act 1867* (Oaths Act).

In my opinion, the Amendment Rule, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The purpose of the Amendment Rule is to amend the *Uniform Civil Procedure Rules 1999* (UCPR) to accommodate the new ways that affidavits and statutory declarations can be made, signed and witnessed, following amendments to the Oaths Act made by part 6 of the *Justice and Other Legislation Amendment Act 2021* (JOLA Act).

Part 6 of the JOLA Act will commence by proclamation on 30 April 2022. Part 6 of the JOLA Act amends the Oaths Act to modernise the way that affidavits and statutory declarations can be made, including by:

- allowing affidavits and statutory declarations to be witnessed over audio visual (AV) link by a narrow cohort of special witnesses or other prescribed persons;
- allowing affidavits and statutory declarations to be made in the form of an electronic document and electronically signed if witnessed by a special witness or other prescribed persons (whether witnessed in person or over AV link);
- allowing affidavits and statutory declarations to be made using counterparts in certain circumstances;
- allowing a person (a substitute signatory) to sign an affidavit or statutory declaration for and at the direction of the signatory in certain circumstances;
- allowing rules of court or practice directions to be made about particular methods of electronic signature that must be used for affidavits or statutory declarations that are filed or admitted into evidence in a proceeding; and

- allowing rules of court or practice directions to state a minimum period for which an original physical version of a document that is filed or admitted into evidence in a proceeding is to be kept (under section 31Y(3) of the Oaths Act).

The Amendment Rule updates terminology to align with the Oaths Act, provides for the filing of affidavits and statutory declarations (however made), specifies additional requirements for the completion of affidavits and statutory declarations to complement the requirements in the Oaths Act and specifies a retention period of seven years for original physical versions of affidavits and statutory declarations for the purposes of section 31Y(3) of the Oaths Act.

Human Rights Issues

The Amendment Rule does not affect or engage a human right.

Conclusion

I consider that the *Uniform Civil Procedure (Affidavits and Statutory Declarations) Amendment Rule 2022* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

SHANNON FENTIMAN MP
ATTORNEY-GENERAL AND MINISTER FOR
JUSTICE, MINISTER FOR WOMEN AND
MINISTER FOR THE PREVENTION OF
DOMESTIC AND FAMILY VIOLENCE

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