

# Criminal Practice (Interpreters) and Other Rules Amendment Rule 2024

## 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* (HR Act), I, the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Criminal Practice (Interpreters) and Other Rules Amendment Rule 2024* (Amendment Rule) made under the *Supreme Court of Queensland Act 1991* (the 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

Section 89 of the Act provides for the establishment of a Rules Committee (a committee of magistrates and judges established by the Chief Justice of Queensland).

Under section 85 of the Act, the Governor in Council, with the consent of the Rules Committee may make rules of court for the Supreme, District and Magistrates Courts, including practice and procedure rules for Queensland courts or their registries. The rules of court relating to the criminal jurisdiction and proceedings are contained in the *Criminal Practice Rules 1999* (CPR). The rules of court for civil matters are contained in the *Uniform Civil Procedure Rules 1999* (UCPR). The CPR and the UCPR provide for uniform court procedures across the court hierarchy.

The Amendment Rule amends the CPR and the UCPR to deal with the use of interpreters. Interpreters play an essential role in the administration of justice in our linguistically diverse society. The amendments implement the *Recommended Standards for Working with Interpreters in Courts and Tribunals* (Standards) developed by the Judicial Council on Cultural Diversity and endorsed by the Council of Chief Justices. The purpose of the Standards, which include Model Rules, is to establish recommended and optimal practices for Australian courts and tribunals. The Model Rules recognise and affirm the important role of interpreters by confirming their status as officers of the court, owing their paramount duty to the court.

The Amendment Rule inserts a new chapter 11, part 2 (Interpreters) in the CPR and a new chapter 11, part 12 (Interpreters) in the UCPR which include provisions about when an interpreter is required, who may act as an interpreter and the functions of an interpreter. The Amendment Rule also inserts a new schedule 5A (Code of conduct for interpreters) in the CPR and a new schedule 1D (Code of conduct for interpreters) in the UCPR which prescribe the

duties of interpreters including the duty to the court, the duty to comply with directions, the duty of accuracy, the duty of impartiality, the duty of competence and the duty of impartiality.

## Human Rights Issues

In my opinion, the Amendment Rule promotes the following human rights under the HR Act:

- Recognition and equality before the law (section 15);
- Freedom of expression (section 21); and
- Fair hearing (section 31).

Section 15 of the HR Act provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination, as well as equal and effective protection against discrimination.

The Amendment Rule promotes the right to recognition and equality before the law by ensuring that all parties are linguistically present at the proceedings and placed in the same position as an English-speaking person. Affirming that interpreters have a duty to assist the Court promotes equality before the law by ensuring that interpreters act fairly and are under the direction of the court.

Section 21 of the *Human Rights Act 2019* provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information of all kinds. It protects the right of all persons to hold an opinion without interference and the right of all persons to seek, receive and express information and ideas (including verbal and non-verbal communication).

The Amendment Rule facilitates, subject to the oversight of the court, the use of interpreters during proceedings if required. This promotes a party's ability to impart information to, and receive information from, the court.

Section 31 of the HR Act provides the right to a fair hearing, that is that a person has the right to have proceedings decided by a competent, independent, and impartial court or tribunal following a fair, public hearing. This right affirms the right of individuals to procedural fairness when coming before a court or tribunal, including that each party is given a reasonable opportunity to present its case. The right applies to both criminal and civil proceedings and what constitutes a 'fair' hearing will depend on the facts of the case and will require the weighing of various public interest factors including the rights of the accused and the victim (in criminal proceedings) or of all parties (in civil proceedings).

The Amendment Rule promotes the right to a fair hearing by ensuring that parties can participate in proceedings in their own language. The proper use of interpreters ensures access to justice and procedural fairness for people with limited English proficiency. Further, the Amendment Rule affirms that interpreters have a duty to assist the Court. This ensures that interpreters act fairly and as such promotes the right to a fair hearing.

## Conclusion

I consider that the Amendment Rule is compatible with the HR Act because it promotes recognition and equality before the law, freedom of expression and the right to a fair hearing and does not otherwise engage human rights issues.

**YVETTE D'ATH MP**  
Attorney-General and Minister for Justice  
and Minister for the Prevention of Domestic and Family Violence

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