



Queensland

Domestic and Family Violence Protection Amendment Rule 2023

Subordinate Legislation 2023 No. 96

made under the

Magistrates Courts Act 1921

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1 Short title

This rule may be cited as the *Domestic and Family Violence Protection Amendment Rule 2023*.

2 Commencement

This rule commences on 1 August 2023.

3 Rules amended

This rule amends the *Domestic and Family Violence Protection Rules 2014*.

4 Amendment of r 11 (What pt 3 is about)

Rule 11(2), after ‘proceeding’—

insert—

and includes other matters about attempted service and service under a substituted service order

5 Amendment of r 14 (Statement of police service)

(1) Rule 14(2), after ‘service’—

insert—

or a statement of substituted police service

(2) Rule 14(4)(d), ‘commits’—

omit, insert—

may commit

(3) Rule 14(4)(d), example, ‘misleading’—

omit, insert—

false

6 Insertion of new rr 14AA and 14AB

After rule 14—

insert—

14AA Affidavit of attempted personal service

- (1) This rule applies if an application for a substituted service order is made under the DFVP Act, section 184A in relation to personal service of a document on a respondent.
- (2) A police officer who has attempted to personally serve the document on the respondent must file an affidavit of attempted personal service with the registry of the DFVP court hearing the application, unless the DFVP court orders otherwise.
- (3) The affidavit of attempted personal service must be filed—
 - (a) if the application is made under the DFVP Act, section 184A(4)(b)—as soon as practicable after a copy of the application is given to the police commissioner under rule 19A; or
 - (b) if the application is made under the DFVP Act, section 184A(4)(c)—when the application is filed.
- (4) The affidavit of attempted personal service must—
 - (a) be in the approved form; and
 - (b) be made by a police officer who has attempted to serve the document; and
 - (c) include the following details for each attempt by a police officer to serve the document—
 - (i) the name and rank of the officer who attempted to serve the document;

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- (ii) the time, day and date the document was attempted to be served;
 - (iii) the place at which the document was attempted to be served;
 - (iv) the name of the person attempted to be served;
 - (v) the reason service was not effected; and
- (d) either—
- (i) have the document that was attempted to be served filed with it as an exhibit; or
 - (ii) if the document that was attempted to be served has been filed—mention the document in a way sufficient to enable the document to be identified.
- (5) If more than 1 police officer has attempted to personally serve the document on the respondent, each of the officers is taken to have complied with subrule (2) if an affidavit of attempted personal service is filed by any 1 of the officers under this rule.
- (6) If the DFVP court orders, a police officer mentioned in an affidavit of attempted personal service must give evidence orally about the attempted service of the document by the officer.

14AB Statement of substituted police service

- (1) This rule applies if a police officer serves a document on a respondent under a substituted service order.
- (2) The police officer must file a statement (a *statement of substituted police service*) with the registry of the DFVP court hearing the proceeding, unless a DFVP court orders otherwise.

- (3) The statement of substituted police service must—
 - (a) be made and signed by the police officer who served the document; and
 - (b) include each of the following details—
 - (i) the officer’s name and rank;
 - (ii) the time, day and date the document was served;
 - (iii) the way, stated in the substituted service order, in which the document was served;
 - (iv) the name of the person served; and
 - (c) if the officer complied with the DFVP Act, section 184A(5)(a) and (b)—
 - (i) state that the provisions were complied with; and
 - (ii) include details of how the document, and the nature and effect of the document, were explained to the respondent; and
 - (d) if the officer did not comply with the DFVP Act, section 184A(5)(a) and (b)—state the basis on which it was not reasonable in the circumstances to comply with the provisions; and
 - (e) include a statement that—
 - (i) the contents of the statement are true; or
 - (ii) if the contents of the statement are stated on the basis of information and belief—the contents are true to the best of the knowledge of the officer; and
 - (f) include a statement that the officer understands that a police officer who

provides a false matter in the statement may commit an offence.

Example of offence—

false declaration under the Criminal Code, section 194

- (4) The statement of substituted police service must also—
 - (a) have the substituted service order filed with the statement as an exhibit; and
 - (b) either—
 - (i) have the document that was served filed with the statement as an exhibit; or
 - (ii) if the document that was served has been filed—mention the document in a way sufficient to enable the document to be identified.

7 Amendment of r 14A (Affirming statement of police service)

Rule 14A, after ‘police service’—

insert—

or statement of substituted police service

8 Amendment of r 15 (How ordinary service is performed)

Rule 15(1), after ‘service’—

insert—

or service under a substituted service order

9 Amendment of r 16 (Informal service)

Rule 16(1)(a), after ‘service’—

insert—

[s 10]

or service under a substituted service order

10 Amendment of pt 3, div 4, hdg (Informing police commissioner if domestic violence order is to be revived)

Part 3, division 4, heading, from ‘if domestic’—
omit, insert—

of particular matters

11 Insertion of new r 19A

After rule 19—

insert—

19A Obligation to inform police commissioner of particular application for substituted service order

- (1) This rule applies if an application for a substituted service order is made under the DFVP Act, section 184A(4)(b).
- (2) The clerk of the DFVP court must, as soon as reasonably practicable after the application is filed, give a copy of the application to the police commissioner.

12 Insertion of new pt 3, div 5

Part 3—

insert—

Division 5 Copy of criminal history and domestic violence history

19B Obligation to give criminal history and domestic violence history to respondent

- (1) This rule applies if the police commissioner is

required under the DFVP Act, section 36A or 90A to ensure a copy of a respondent's criminal history and domestic violence history is filed in or given to a DFVP court in relation to a DFVP application.

- (2) The police commissioner must ensure an identical copy of the respondent's criminal history and domestic violence history is given to the respondent before the date and time stated in the DFVP application for the first hearing of the application, unless it is not reasonable in the circumstances.

13 Amendment of r 22 (Directions that may be issued by DFVP court for proceeding)

- (1) Rule 22—

insert—

- (q) that the police commissioner give the DFVP court a copy of a respondent's criminal history and domestic violence history for a proceeding under the DFVP Act, section 42 or 43.

- (2) Rule 22—

insert—

- (2) Also, subrule (3) applies if, in a proceeding that is a DFVP application, the DFVP court considers it is necessary to have a respondent's current criminal history and domestic violence history because of the time that has passed since a copy of the respondent's criminal history and domestic violence history was filed in or given to the court under the DFVP Act, section 36A or 90A.
- (3) The DFVP court may issue a direction that the police commissioner give the court a copy of the respondent's current criminal history and domestic violence history.

[s 14]

- (4) If the DFVP court issues a direction under subrule (1)(q) or (3)—
 - (a) the direction applies only to information—
 - (i) in the police commissioner’s possession; or
 - (ii) that, under a law, the police commissioner is permitted to access and give to the court to be used in a proceeding under the DFVP Act; and
 - (b) any domestic violence history given to the court must, if the respondent’s domestic violence history includes a domestic violence order made or varied with the respondent’s consent under the DFVP Act, section 51, state that fact.

14 Amendment of r 35 (Requirements for affidavits)

Rule 35(7)(b), ‘commits’—

omit, insert—

may commit

15 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

statement of substituted police service see rule 14AB(2).

ENDNOTES

- 1 Made by the Governor in Council on 27 July 2023.
- 2 Notified on the Queensland legislation website on 28 July 2023.
- 3 The administering agency is the Department of Justice and Attorney-General.

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