

Justices (Recording of Pleas and Decisions) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 152

Made under the

Justices Act 1886

General Outline

Short Title

Justices (Recording of Pleas and Decisions) Amendment Regulation 2018

Authorising law

Section 266(1) of the *Justices Act 1886*.

Policy objectives and the reasons for them

The *Criminal Law Amendment Act 2017* (CLAA) amended section 552I of the Criminal Code (the Code) and section 145 of the *Justices Act 1886* (the Act), enabling a Magistrates Court to take multiple pleas from a legally represented defendant without stating the substance of each charge, provided the magistrate is satisfied that in relation to each charge, the defendant has received legal advice and is aware of the substance of each charge (a bulk plea). Prior to the amendments, a judge or magistrate would separately read each charge to and take a plea from a defendant. Depending on the number of charges, this could be a lengthy process.

The objective of the amendments to the Code and the Act was to facilitate consistent and efficient court procedures. However, sections 15 and 16 of the *Justices Regulation 2014* (the Regulation) continue to require the court to record each plea and decision on the relevant bench charge sheet or bench cover sheet, respectively. Depending on the number of charges involved, this can be a lengthy process.

Achievement of policy objectives

The *Justices (Recording of Pleas and Decisions) Amendment Regulation 2018* (the Amendment Regulation) will amend sections 15 and 16 of the Regulation to provide for the court to record bulk pleas and decisions on a lead bench charge sheet or lead bench cover sheet. Alternatively, for bulk decisions the Amendment Regulation allows decisions to be recorded on a schedule attached to the lead bench charge or cover sheet.

By virtue of the definitions of 'decision' and 'order' in section 4 of the Act, the recording of bulk decisions will apply to committals, sentences, bail applications or any other determination made by a magistrate.

When utilising the bulk recording process, the court will be required to record the court file number on all bench charge or cover sheets.

In summary, under the Amendment Regulation, the process for recording bulk pleas and decisions will be as follows:

Bulk Pleas

- Record bulk pleas on the lead bench charge sheet (***lead plea charge sheet***) (or lead bench cover sheet (***lead plea cover sheet***)); and
- Record the court file number of the lead plea bench charge sheet (or lead plea bench cover sheet) on all subsequent bench charge or cover sheets.

Bulk Decisions

- Record bulk decisions on the lead bench charge sheet (***lead decision charge sheet***) (or lead bench cover sheet (***lead decision cover sheet***)); or
- Record bulk decisions on a schedule attached to the lead bench charge sheet or lead bench cover sheet; and
- Record the court file number of the lead decision charge sheet (or lead decision cover sheet) on all subsequent bench charge or cover sheets.

The Amendment Regulation also includes a transitional provision to apply the bulk recording process retrospectively. This will validate the current practice of some courts.

The Amendment Regulation will facilitate consistent and efficient court procedures.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of section 145 of the *Justices Act 1886*.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Amendment Regulation will provide more efficient methods for recording pleas and decisions.

There are no anticipated costs associated with implementation of the Amendment Regulation and it is consistent with the current business practice of some courts.

Consistency with fundamental legislative principles

The inclusion of transitional provisions which apply the bulk recording process retrospectively is a breach of fundamental legislative principles. However, the 'obligation' imposed through retrospective application of the Amendment Regulation applies solely to the court and validates the current practice of some courts to record decisions in bulk. On this basis, the obligation is not significant and is supported by section 34 of the *Statutory Instruments Act 1992* which allows for the retrospective application of a beneficial provision of a statutory instrument.

Consultation

The Chief Magistrate has been consulted on the Amendment Regulation.

Given the amendments relate to internal court files and only has administrative implications for magistrates and registry staff, no consultation was undertaken with other non-Government stakeholders.

The Department of Justice and Attorney-General has self-assessed the Amendment Regulation and considers that it falls within the Queensland Government Guide to Better Regulation exclusion category (j) in that the legislative proposal relates to the administration of courts. Therefore, further regulatory impact assessment is not required.