

# **Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation 2024**

Explanatory notes for SL 2024 No. 4

Made under the

*Supreme Court of Queensland Act 1991*

## **General Outline**

### **Short Title**

Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation 2024

### **Authorising law**

Sections 85 and 92 of the *Supreme Court of Queensland Act 1991* (the Act)

### **Policy objectives and the reasons for them**

Under section 85 of the Act, the Governor in Council, with the consent of the Rules Committee, may make rules of court for the admission of persons to the legal profession under the *Legal Profession Act 2007*, including fees relating to admission. Part 3 of the *Supreme Court (Admission) Rules 2004* (the Admission Rules) provides for the process for admission to the legal profession. Further, under section 85, practice and procedure rules for Queensland courts or their registries may also be made by Governor in Council with the consent of the Rules Committee. The rules of court for civil matters are contained in the *Uniform Civil Procedure Rules 1999* (UCPR). The UCPR provide for uniform court procedures across the court hierarchy.

Under section 92 of the Act, the Governor in Council may make regulations to prescribe court fees and costs for the Supreme Court, District Court, Magistrates Courts or Planning and Environment Court including how fees, costs and fines are to be received and dealt with. The regulation prescribing these matters is the *Uniform Civil Procedure (Fees) Regulation 2019* (Fees Regulation).

The *Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation 2024* (the Amendment Regulation) amends the Admission Rules to extend the period for admission application material to be provided to the Court and the Legal Practitioners Admissions Board) to allow adequate time for proper consideration of applications and the associated processes. The Amendment Regulation provides that these amendments will commence on 1 May 2024.

The Amendment Regulation also amends the UCPR to:

- address anomalies in the rules which provide for the payment of conduct money for subpoenas to give evidence where the witness will give evidence by audio link or audio visual link from the person's place of employment, practice or residence. Consequential amendments are made to the UCPR to provide a mechanism for the recipient of a subpoena to be notified that they are required to give evidence by audio link or audio visual link and the Fees Regulation to ensure that a witness who gives evidence from the witness's place of employment, practice or residence is still entitled to an attendance allowance (although not a travelling allowance or accommodation allowance);
- replace rules 980 and 981 with a new rule dealing with inspection and copying of documents on the court file, restricting the approach particularly in relation to non-parties' access, ahead of electronic filing and following consultation with key stakeholders. Provided that there is no court order restricting access to documents, these rules currently permit open access to inspect and copy documents filed under the UCPR, subject to the payment of prescribed fees;
- extend existing rules in relation to preliminary disclosure to the District Court and the Magistrates Courts to assist the effective and expeditious completion of court business by facilitating meritorious claims proceeding against the proper defendant. Preliminary discovery provides a mechanism by which a prospective applicant can obtain relevant documents prior to the commencement of substantive proceedings in order to assess the merits of the potential claim and/or identify the proper defendant; and
- amend rule 660 to ensure that the rule reflects common court practice, which is for a broad outline of the proposed order to be discussed in open court, the parties to prepare an order consistent with the proposed order and the judge to make the order by signing the order in chambers.

## **Achievement of policy objectives**

The Amendment Regulation amends:

- the Admission Rules to extend the period for admission application material to be provided and for associated processes;
- the UCPR and Fees Regulation to address anomalies relating to the payment of conduct money for subpoenas to give evidence where the witness will give evidence by audio link or audio visual link; and
- the UCPR to replace rules 980 and 981 with a new rule dealing with inspection and copying of documents on the court file ahead of electronic filing, provide for preliminary disclosure orders in the District Court and the Magistrates Courts and clarify the operation of rule 660 in relation to making orders.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the policy objectives of the authorising law. Under sections 85 and 92 of the Act broad powers are conferred on the courts through rules and regulations governing court practice and procedure.

## **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 amends the Admission Rules, the UCPR and the Fees Regulation to improve and clarify the practice and procedure in Queensland courts. There are no costs associated with the implementation of the Amendment Regulation.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with the fundamental legislative principles.

## **Consultation**

The Rules Committee consulted with key stakeholders in formulating some of the proposed amendments and was consulted during the drafting of the Amendment Regulation.

The Department of Justice and Attorney-General has assessed the Amendment Regulation as excluded from the further regulatory impact assessment under the *Queensland Government Better Regulation Policy*.