

Uniform Civil Procedure (Fees) Amendment Regulation 2025

Explanatory notes for SL 2025 No. 57

Made under the

District Court of Queensland Act 1967

Magistrates Courts Act 1921

Supreme Court of Queensland Act 1991

General Outline

Short Title

Uniform Civil Procedure (Fees) Amendment Regulation 2025

Authorising laws

Section 131 of the *District Court of Queensland Act 1967*

Section 58 of the *Magistrates Courts Act 1921*

Section 92 of the *Supreme Court of Queensland Act 1991*

Policy objectives and the reasons for them

Bailiffs play an important role in the civil justice system by performing a range of service and enforcement functions in the Supreme, District and Magistrates Courts. These functions include:

- serving documents on persons or corporations at nominated addresses, including service of foreign legal processes;
- executing enforcement warrants, which may involve the seizure and sale of property and organising the sale of property at auction;
- executing enforcement hearing warrants, including apprehension of persons with police assistance to bring the person before the court; and
- bringing any necessary applications before the court to facilitate the service and enforcement of processes, judgments, and orders according to law.

In the Supreme and District Courts, service and enforcement functions may be performed by a bailiff or by a sheriff, deputy sheriff, marshal or marshal's officer, depending on the type of work required and the jurisdiction in which it is undertaken. In the Magistrates

Courts, service and enforcement functions may only be performed by a bailiff. In the Supreme, District and Magistrates Courts, registrars may perform service functions only.

The employment relationship of bailiffs is complex and varies depending on the jurisdiction they are appointed to. In the Supreme and District Courts, bailiffs may be appointed to perform in-court orderly and other administrative functions as well as out-of-court service and enforcement functions. In the Magistrates Courts, bailiffs are appointed to perform out-of-court service and enforcement functions only.

The *Uniform Civil Procedure (Fees) Regulation 2019* (Fees Regulation) prescribes the fees payable for service and enforcement functions performed in the Supreme, District and Magistrates Courts. Where bailiffs are appointed to perform out-of-court functions only, they may only retain the prescribed fees and are not entitled to a wage, salary or other allowance. Where bailiffs are appointed to perform both in-court and out-of-court functions, they may only retain the prescribed fees in respect of out-of-court functions performed outside their normal working hours.

An amount is paid into the court by an enforcement creditor in the form of a security deposit before the service or enforcement functions are performed. The court holds the deposit until the required action is undertaken and disburses fees to the bailiff upon receipt of the bailiff's report detailing the fees claimed and evidence of functions performed. All claims by bailiffs for payment of prescribed fees are administered by a court registrar to ensure the fees are appropriately claimed and paid in accordance with the Fees Regulation. Any residual amount from the deposit is returned to the enforcement creditor.

A review of prescribed service and enforcement fees was recently undertaken to address concerns regarding the sustainability of existing fees, particularly those claimable by bailiffs in the Magistrates Courts. The review recommended that:

- service and enforcement fees in the Magistrates Courts are increased and aligned with corresponding fees in the Supreme and District Courts, so that bailiffs receive the same fees for performing the same service and enforcement functions regardless of the jurisdiction;
- the Consumer Price Index (CPI), rather than the Government Indexation Rate (GIR), is used as the annual indexation measure applying to service and enforcement fees to minimise devaluation of fees over time; and
- superannuation costs are included in relevant service and enforcement fees to ensure full cost recovery and end government subsidisation of services for private benefit.

The policy objectives of the *Uniform Civil Procedure (Fees) Amendment Regulation 2025* (Amendment Regulation) are to implement the recommendations of the review by:

- increasing and aligning service and enforcement fees in the Magistrates Courts with those in the Supreme and District Courts;
- applying CPI as the annual indexation measure for all service and enforcement fees instead of the GIR; and
- providing for the adjustment of relevant service and enforcement fees to include the applicable superannuation guarantee charge.

Achievement of policy objectives

The Amendment Regulation achieves these policy objectives by amending the Fees Regulation to:

- prescribe the adjusted service and enforcement fees for the 2025-26 financial year;
- prescribe a method for calculating the adjusted service and enforcement fees for each subsequent financial year; and
- provide for the publication of the adjusted service and enforcement fees each subsequent financial year on the Department of Justice (department) website.

Service and enforcement fees for 2025-26 financial year

Previously, service and enforcement fees were prescribed in Schedule 1 of the Fees Regulation for the Supreme and District Courts and Schedule 2, part 2 for the Magistrates Courts. Those fees are now combined into a new Schedule 2A which prescribes the service and enforcement fees applying to all courts.

For the 2025-26 financial year, new section 14A provides that the fee amounts are stated in new Schedule 2A, column 2. The fee amounts have been adjusted to reflect the change in CPI over the previous financial year, with relevant fee amounts further adjusted to include the applicable superannuation guarantee charge (12% as at 1 July 2025).

The adjusted fee amounts have then been rounded to the nearest multiple of 5 cents (if the adjusted amount is not more than \$100) or to the nearest multiple of 10 cents (if the adjusted amount is more than \$100).

Service and enforcement fees for subsequent financial years

For each subsequent financial year, service and enforcement fees will be calculated using one of two methods, depending on whether or not the fee amount attracts the superannuation guarantee charge.

For fee amounts attracting the superannuation guarantee charge, the amounts are calculated using the method prescribed in new section 14D of the Amendment Regulation. Firstly, the amounts are adjusted by multiplying the base amount stated in new Schedule 2A, column 3 by the CPI multiplier for the financial year. The amounts are then further adjusted to include the applicable superannuation guarantee charge for the financial year. Finally, the amounts are rounded to the nearest multiple of 5 cents (if the adjusted amount is not more than \$100) or to the nearest multiple of 10 cents (if the adjusted amount is more than \$100).

For fee amounts not attracting the superannuation guarantee charge, the amounts are calculated using the method prescribed in new section 14E. Firstly, the amounts are adjusted by multiplying the base amount stated in new Schedule 2A, column 3 by the CPI multiplier for the financial year. The amounts are then rounded to the nearest multiple of 5 cents.

The CPI multiplier, for a financial year, is the amount worked out using the formula in new section 14C, which calculates the change in CPI between the base year of 2025-26 and the financial year for which the fee amounts are being adjusted.

New section 14F provides that, for each subsequent financial year, the chief executive must publish the adjusted fee amounts on the department's website while those amounts are in effect.

Consistency with policy objectives of authorising laws

The Amendment Regulation is consistent with the policy objectives of the authorising laws.

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 benefits of implementing the Amendment Regulation are that fees for service and enforcement functions will reflect the value of the functions performed, and that bailiffs will be entitled to the same fees for performing those functions regardless of the court jurisdiction in which they are working.

While there will be a minor increase in costs for court users requiring service and enforcement functions in the Magistrates Courts, that increase is justified by the objective of ensuring ongoing sustainability of the fee structure for bailiffs, which in turn will ensure continued access to justice for court users.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

Stakeholders representing a range of court users (eg. legal, financial, insurance and debt collection organisations), as well as individual bailiffs, were consulted as part of the review of service and enforcement fees.

Stakeholders were broadly supportive of increasing the fees payable in respect of service and enforcement functions performed in the Magistrates Courts and aligning service and enforcement fees for consistency across the court jurisdictions.

An Impact Analysis Statement (IAS) was prepared as part of the review of prescribed service and enforcement fees. The IAS concluded that while there will be a minor financial impact on some court users from an increase in fees in the Magistrates Courts, that impact is justified by the objective of ensuring ongoing sustainability of the fee structure for bailiffs, which in turn will ensure continued access to justice for court users. The IAS notes that the change in fee structure will be cost neutral to Government.