

LEGAL AFFAIRS — MAGISTRATES COURT RULES AMENDMENT RULES 2021

93. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Magistrates Court Rules Amendment Rules 2021*, and I ask:

- (a) what was the catalyst for bringing about these amendments to the rules;
- (b) who was consulted prior to these amendment rules being finalised;
- (c) did any person consulted raise any concerns;
- (d) if yes to (c), what were these concerns;
- (e) have the finalised amendment rules addressed these concerns; and
- (f) if no to (e), why not?

**Hon Matthew Swinbourn replied:**

- (a) With the continued development of the court's Electronic Case Management System (ECMS), the Magistrates Court of Western Australia moved to make the lodging of documents, listing of hearings and providing of documents to court users in the civil jurisdiction, a more efficient, effective and electronic process. Multiple, separate amendments were progressed in the same instrument, relating to mandating lodgement of documents through ECMS (eLodgement), listing hearings electronically through ECMS, providing documents or notification of hearings electronically through ECMS and creating new court processes.

**Mandating eLodgement in the Civil Jurisdiction of the Magistrates Court**

Since 2014, the Magistrates Court has been accepting civil documents for lodgement by means of the ECMS. These amendments to the Magistrates Court (Civil Proceeding) Rules 2005 (CP Rules) and the Magistrates Court (Minor Cases Procedure) Rules 2005 (Minor Case Rules) now mandate that documents in civil proceedings are to be lodged electronically using the ECMS (with some exemptions). Provisions have also been included that allow the Court to grant an exemption to a court user from the requirement to use ECMS, should they not have access to, or be able to utilise it (r96 of the CP Rules). These amendments, changes and new processes were implemented to improve court efficiency, and ensure court resources were being utilised as effectively as possible.

**Fixing hearings generally through ECMS**

As part of the movement to a fully electronic court process, the Department of Justice identified a number of rules that required a registrar to manually list a court hearing, when certain applications were made. Amendments were made to the Magistrates Court (General) Rules 2005 (General Rules), to allow for the ECMS to list hearings for these applications, rather than requiring a registrar to manually do so (r13D of the General Rules). Additionally, minor amendments were made relating to providing documents or notification of hearings electronically through ECMS, where these notifications are generated through the system using the information provided in the ECMS. These new processes were introduced to continue to improve court efficiency around the listing and notification of court hearings.

**Warrant of Commitment Inquiry Process**

The Fines, Penalties and Infringement Notices Enforcement Amendment Act 2019 (FPINE Amendment Act) amended the Fines, Penalties and Infringement Notices Enforcement Act 1994 (FPINE Act) to make a number of changes to the fines enforcement process, one of which relates to the establishment of a new warrant of inquiry process. The legislation overseeing the warrant of commitment inquiry process is covered by Division 3E of Part 4 of the FPINE Amendment Act. Section 52R(4) provides that Rules of Court made under the Magistrates Court (Civil Proceedings) Act 2004 may deal with the practice and procedure that applies to warrant of commitment inquiries and applications and orders made under that Division. Accordingly, the CP Rules were amended to set out new practices and procedures for when an application of this nature is made to and heard by the Court.

- (b) **Mandating eLodgment in the Magistrates Court**

As these were Rules of Court amendments, the Chief Magistrate was consulted, and provided approval, prior to any amendments being sought. Consultation throughout the project took place with the Chief Magistrate, the Director Magistrates Court and Tribunals, Magistrates, Executive Managers (regional and metropolitan), Regional Manager, Registry Managers and Clerks of Court. Additional information is available to the public on the Magistrates Court website and was provided directly to law firms, the law society, and local shires.

**Fixing hearings generally through ECMS**

As these were Rules of Court amendments, the Chief Magistrate was consulted, and provided approval, prior to any amendments being sought. Consultation throughout the project took place with the Chief Magistrate, the Director Magistrates Court and Tribunals and Executive Managers (regional and metropolitan).

**Warrant of Commitment Inquiry Process**

As these were Rules of Court amendments, the Chief Magistrate was consulted, and provided approval, prior to any amendments being sought. Consultation throughout the project took place with the Chief Magistrate, the Director Magistrates Court and Tribunals, Sheriff of WA, Registrar of the Fines Enforcement Registry and the Magistrates Court Manager of Customer Service.

- (c) Each person consulted during the drafting exercise was able to provide feedback, comments and suggestions. Any suggestions raised were discussed, and taken into consideration when the instrument was being drafted. No concerns were raised during this process.
- (d)–(f) Not applicable.