

LEGAL AFFAIRS — MAGISTRATES COURT RULES AMENDMENT RULES 2022

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

I refer to the *Magistrates Court Rules Amendment Rules 2022*, 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) Allowing evidentiary items to be provided to the Court electronically

Since 2014, the Magistrates Court has been accepting an array of civil documents for lodgment by means of the Courts Electronic Case Management System (ECMS). In 2021, lodgment of most documents through the ECMS became mandatory. Currently in the civil jurisdiction of the Magistrates Court, if a witness is summonsed and directed to provide evidentiary material to the court, they can only do so either by post or in person.

The purpose of these amendments is to allow a witness to deliver or send the evidentiary material electronically, through the ECMS, in line with other documents that can already be provided through the ECMS. The effect of the amendments will be that there is an additional option to deliver or send evidentiary material to the Court using the ECMS. This added option will allow for greater access to justice services, as not all witnesses can always attend a court or a post office. This option will not be mandatory, however, it will make the process more efficient and accessible should a user wish to facilitate the process via this means, in lieu of the existing options.

Allowing surety cancellations at any Court registry

The purpose of this amendment is to allow for a surety to attend any court registry in the State to submit an application made in accordance with the Bail Regulations 1988, for the cancellation of a surety undertaking. As sureties may be located anywhere within the State, it may not be possible for the surety to attend the Court where the relevant matter is being heard, in order to apply for the cancellation of a surety undertaking. The effect of the amendments means there will be a greater and more equitable access to justice services across the State.

Change in Consumer / Trader Claim process

The purpose of these amendments is to address the differences between the current Consumer / Trader Claims (CTCs) process and the process for all other Minor Case claims in the Magistrates Court civil jurisdiction. Presently, there is a difference in procedure between CTCs commenced in the minor case jurisdiction to CTCs commenced in the general procedure jurisdiction, as well as differences in Minor Case CTCs compared to Minor Case claims that are not lodged as CTCs.

These differences are often leading to unnecessary confusion, delay, and additional costs for court users. The effect of these amendments will be that there are two clear processes only: one for Minor Case Claims, and one for General Procedure Claims (regardless of whether they are identified as CTCs). These changes will mean the process is more efficient and consistent across the jurisdiction and will reduce the number of issues and concerns raised by court users and the legal profession alike.

- (b) 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, civil Magistrates from Perth Magistrates Court, the Director Magistrates Court and Tribunals and Executive Management from the Magistrates Court (regional and metropolitan).
- (c) No concerns were raised during consultation.
- (d) Not applicable.
- (e) Not applicable.
- (f) Not applicable.