

Queensland



Subordinate Legislation 2001 No. 281

Supreme Court of Queensland Act 1991

UNIFORM CIVIL PROCEDURE AMENDMENT RULE (No. 2) 2001

TABLE OF PROVISIONS

Rule		Page
1	Short title	3
2	Rules amended	3
3	Amendment of r 100 (Definitions for ch 4).	3
4	Insertion of new ch 4, pt 7, div hdg	3
5	Amendment of r 124 (Service outside Australia)	3
6	Insertion of new ch 4, pt 7, div 2.	3
	<i>Division 2—Service in convention countries</i>	
	129A Service in convention countries	4
7	Omission of r 130 (Application of pt 8)	5
8	Renumbering of r 129A.	5
9	Amendment of r 132 (Orders for substituted service).	6
10	Amendment of r 133 (Noncompliance with rules)	6
11	Amendment of r 435 (Exhibits).	6
12	Amendment of r 470 (Leave required for steps after request for trial date)	7
13	Amendment of r 547 (Plaintiff's statement of loss and damage)	7
14	Amendment of r 548 (Plaintiff's statement must identify particular documents)	8
15	Amendment of r 551 (Defendant's statement must identify particular documents)	9
16	Replacement of r 555 (Legal advice)	10
	555 Privilege.	10

Uniform Civil Procedure Amendment Rule (No. 2) No. 281, 2001
2001

17	Amendment of r 714 (Agent's fees)	10
18	Amendment of r 802 (Enforcing money order in different court).	11
19	Amendment of r 813 (Order for enforcement hearing outside district)	11
20	Amendment of r 814 (Enforcement hearing warrant).	11
21	Amendment of r 817 (Procedure)	12
22	Amendment of r 840 (Debts that may be redirected under enforcement warrant)	12
23	Amendment of r 875 (Issue of warrant)	12
24	Amendment of sch 4 (Dictionary).	12

1 Short title

This rule may be cited as the *Uniform Civil Procedure Amendment Rule (No. 2) 2001*.

2 Rules amended

This rule amends the *Uniform Civil Procedure Rules 1999*.

3 Amendment of r 100 (Definitions for ch 4)

Rule 100—

insert—

‘**“convention”** means an agreement, arrangement, treaty or convention, relating to legal proceedings in civil matters, made between Australia and another country.

“convention country” means a country other than Australia to which a convention applies.’.

4 Insertion of new ch 4, pt 7, div hdg

Chapter 4, part 7, before rule 124—

insert—

‘Division 1—Ordinary service outside Australia’.

5 Amendment of r 124 (Service outside Australia)

Rule 124, heading—

omit, insert—

‘When service outside Australia permitted’.

6 Insertion of new ch 4, pt 7, div 2

After rule 129—

insert—

‘Division 2—Service in convention countries

‘129A Service in convention countries

‘(1) This rule applies if a person—

- (a) is required by a convention to serve a document in a convention country in accordance with the convention; or
- (b) otherwise wants to serve a document in a convention country in accordance with a convention.

‘(2) A person serving a document in a convention country must lodge with the registrar—

- (a) the document to be served; and
- (b) if a particular way of service is required, a request for service in that way; and
- (c) if English is not an official language of the convention country, a translation in an official language of the country, certified by the person making it to be a correct translation, of the documents mentioned in paragraphs (a) and (b); and
- (d) the further copies of each of the documents mentioned in paragraphs (a) to (c) the registrar directs; and
- (e) a request and undertaking under subrule (4).

‘(3) A certificate given in a translation of a document filed under subrule (2) must state the person’s full name and address and qualifications for making the translation.

‘(4) A request and undertaking lodged under subrule (2) must—

- (a) request the registrar to send a sealed copy of the document to be served to the convention country for service on a specified person; and
- (b) refer to the relevant convention; and
- (c) include an undertaking by the person or the person’s solicitor to pay to the registrar the expenses incurred by the registrar in complying with the request.

‘(5) The registrar must give to the Attorney-General for transmission for service—

- (a) the documents, stamped with the seal of the court; and
- (b) if the judicial authority of the country requires a letter of request—the request.

‘(6) If, after the registrar sends documents to the Attorney-General under subrule (5), a certificate of service, attempted service or non-service is filed purporting to be a certificate from—

- (a) a judicial authority or other responsible person in the convention country; or
- (b) an Australian consular authority in the convention country;

the certificate is evidence of the matters stated in the certificate.

‘(7) If a person gives an undertaking under subrule (2) and does not, within 7 days after being given an account of the registrar’s expenses in complying with the request for service, pay to the registrar the expenses, the court may, on application by the registrar—

- (a) order the person to pay the expenses to the registrar; and
- (b) stay the proceeding until the unpaid amount is paid.

‘(8) Despite subrule (2)(e), the registrar may—

- (a) require the person to provide security in a form satisfactory to the registrar for the anticipated expenses of complying with the request; and
- (b) decline to proceed under subrule (5) until security is provided.’.

7 Omission of r 130 (Application of pt 8)

Rule 130—

omit.

8 Renumbering of r 129A

Rule 129A—

renumber as rule 130.

9 Amendment of r 132 (Orders for substituted service)

Rule 132, ‘the court’—

omit, insert—

‘the Supreme Court’.

10 Amendment of r 133 (Noncompliance with rules)

Rule 133, ‘The court’—

omit, insert—

‘The Supreme Court’.

11 Amendment of r 435 (Exhibits)

(1) Rule 435(1)—

omit, insert—

‘(1) A document to be used with and mentioned in an affidavit is an exhibit.’.

(2) Rule 435(2), ‘An original thing’—

omit, insert—

‘Another thing to be’.

(3) Rule 435(4), ‘original of a document’—

omit, insert—

‘document to be’.

(4) Rule 435(5)(b), ‘attached to’—

omit, insert—

‘bound with’.

(5) Rule 435(8) to (10)—

omit, insert—

‘(8) An exhibit to an affidavit must be filed at the same time as the affidavit.

‘(9) Subrules (10) and (11) apply if—

- (a) an exhibit to an affidavit is comprised of a group of documents;
or
- (b) there is more than one documentary exhibit to an affidavit.

‘(10) The documents are to be presented in a way that will facilitate the court’s efficient and expeditious reference to them.

‘(11) As far as practicable—

- (a) the documents are to be bound in 1 or more paginated books; and
- (b) a certificate is to be bound—
 - (i) if there is 1 book—at the front of the book; or
 - (ii) if there is more than 1 book—at the front of each book dealing with the exhibits in the book; and
- (c) an index to each book is to be bound immediately after the certificate.

‘(12) If a document or other thing has been filed in a proceeding, whether or not as an exhibit to an affidavit, in a subsequent affidavit filed in the proceeding—

- (a) the document or thing must not be made an exhibit to the affidavit; and
- (b) the document or thing may be referred to in the affidavit in a way sufficient to enable the document or thing to be identified.’

12 Amendment of r 470 (Leave required for steps after request for trial date)

Rule 470, from ‘After’ to ‘the party’—

omit, insert—

‘After the filing of the request for trial date, a party’.

13 Amendment of r 547 (Plaintiff’s statement of loss and damage)

(1) Rule 547(3)(b)(i) and (ii)—

omit, insert—

- (i) the name and address of each of the plaintiff’s employers, the period of employment by each employer, the capacity in

which the plaintiff was employed by each employer and the plaintiff's net earnings for each period of employment—

(A) in the 3 years immediately before the injury; and

(B) since the injury; and

(ii) if the plaintiff is self-employed, details of the plaintiff's net income—

(A) in the 3 years immediately before the injury; and

(B) since the injury; and'.

(2) Rule 547(3)—

insert—

'(g) details of any accident, injury or illness suffered by the plaintiff—

(i) in the 3 years immediately before the injury; and

(ii) since the injury.'.

14 Amendment of r 548 (Plaintiff's statement must identify particular documents)

(1) Rule 548(1)(d)(ii)(B), after 'injury;'—

insert—

'and'.

(2) Rule 548(1)(d)—

insert—

'(iv) documents about the superannuation entitlements of the plaintiff and prospective loss of superannuation entitlements by the plaintiff;'.
'.

(3) Rule 548(1)(e)—

omit, insert—

'(e) documents about the cost of meeting needs of the plaintiff alleged to have arisen or increased because of the plaintiff's injury;

- (f) documents about any additional expenses to which it is alleged the plaintiff has been or will be put because of the injury;
- (g) documents that are or contain a contemporaneous record, account or description of—
 - (i) the plaintiff’s injury, disability, pain and suffering, loss of amenities or treatment; or
 - (ii) the consequences of them; or
 - (iii) the cost resulting from them.’.

15 Amendment of r 551 (Defendant’s statement must identify particular documents)

(1) Rule 551(1)(d)—

insert—

‘(iii) documents about the superannuation entitlements of the plaintiff and prospective loss of superannuation entitlements by the plaintiff;’.

(2) Rule 551(1)—

insert—

- ‘(e) documents about the cost of meeting needs of the plaintiff alleged to have arisen or increased because of the plaintiff’s injury;
- (f) documents about any additional expenses to which it is alleged the plaintiff has been or will be put because of the injury;
- (g) if the defendant was an employer of the plaintiff after the plaintiff’s injury—
 - (i) documents about the amount of wages paid to the plaintiff by the defendant since the injury; and
 - (ii) documents about the tax paid by the plaintiff and the taxable income of the plaintiff since the injury; and
 - (iii) documents about the superannuation entitlements of the plaintiff and prospective loss of superannuation entitlements by the plaintiff;

- (h) if the employment of the plaintiff by the defendant terminated at the time of or after the plaintiff's injury, documents relating to the termination of the employment.'.

16 Replacement of r 555 (Legal advice)

Rule 555—

omit, insert—

'555 Privilege

'Subject to the express requirements of rules 548 and 551,¹ this part does not require a party to disclose, to any extent greater than required by chapter 7, part 1,² a document in relation to which there is a valid claim to privilege from disclosure.'.

17 Amendment of r 714 (Agent's fees)

(1) Rule 714, heading—

omit, insert—

'714 Professional charges and disbursements'.

(2) Rule 714(1)—

omit, insert—

'(1) If a costs statement includes a charge for work done by a solicitor practising in Queensland and acting as agent for a party's solicitor, the charge must be shown as a professional charge, not as a disbursement.'

(3) Rule 714(3)—

omit, insert—

'(3) If a costs statement includes a charge for work done by a solicitor or barrister practising outside Queensland, the charge must be shown as a disbursement.'

1 Rules 548 (Plaintiff's statement must identify particular documents) and 551 (Defendant's statement must identify particular documents)

2 Chapter 7 (Disclosure), part 1 (Disclosure by parties)

18 Amendment of r 802 (Enforcing money order in different court)

Rule 802(2), ‘District Court, or’—

omit, insert—

‘District Court, or a’.

19 Amendment of r 813 (Order for enforcement hearing outside district)

Rule 813(3)—

insert—

‘(c) the registrar of the court that issues a summons under paragraph (b) must forward to the registrar of the court where the money order was made a copy of—

(i) the summons; and

(ii) any documents filed in relation to the summons; and

(iii) the record of any enforcement hearing held and a copy of any order made.’.

20 Amendment of r 814 (Enforcement hearing warrant)

(1) Rule 814(1), after ‘before the court’—

omit, insert—

‘or, for a Magistrates Court, the Magistrates Court or another Magistrates Court’.

(2) Rule 814(1), ‘if the court’—

omit, insert—

‘if the issuing court’.

(3) Rule 814—

insert—

‘(6) If a warrant is issued by a Magistrates Court directing that a person be brought before another Magistrates Court—

(a) the registrar of the issuing court must forward the warrant to the registrar of the other court to give to an enforcement officer; and

- (b) the registrar of the court to which the warrant is forwarded must—
- (i) report to the registrar of the issuing court as to the execution of the warrant; and
 - (ii) forward to the registrar of the issuing court the record of any enforcement hearing held and a copy of any order made.’.

21 Amendment of r 817 (Procedure)

Rule 817(1)(b), before ‘a statement’—

insert—

‘if the person is an enforcement creditor,’.

22 Amendment of r 840 (Debts that may be redirected under enforcement warrant)

Rule 840(2), from ‘to an enforcement creditor’ to ‘institution,’—

omit.

23 Amendment of r 875 (Issue of warrant)

(1) Rule 875(g)—

omit, insert—

‘(g) interest in a managed investment scheme;’.

(2) Rule 875(h)(iii)—

omit.

24 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definition “**prescribed interest**”—

omit.

(2) Schedule 4—

insert—

‘ **“interest in a managed investment scheme”** see the Corporations Act, section 9.’.

ENDNOTES

1. Made by the Governor in Council on 20 December 2001.
2. Notified in the gazette on 21 December 2001.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Justice and Attorney-General.