



Queensland

# Uniform Civil Procedure Amendment Rule (No. 1) 2013

## Explanatory Notes for SL 2013 No. 100

made under the

*Supreme Court of Queensland Act 1991*

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## General outline

### Short title

*Uniform Civil Procedure Amendment Rule (No. 1) 2013*

### Authorising law

Section 85 of the *Supreme Court of Queensland Act 1991*.

### Policy objectives and the reasons for them

Under the *Supreme Court of Queensland Act 1991*, the rules of court for the Supreme, District and Magistrates Courts are made by the Governor in Council, with the consent of the Rules Committee (a committee of magistrates and judges established by the Chief Justice of Queensland under the Act). These court rules include the *Uniform Civil Procedure Rules 1999* which provide for matters of civil procedure for these courts. These rules are then applied by the Land Court and the Planning and Environment Court.

The objective of the amendment Rule is to amend the *Uniform Civil Procedure Rules 1999* to allow for the operation of trans-Tasman proceedings arrangements.

The *Trans-Tasman Proceedings Act 2010* (Cth) (the Trans-Tasman Act) and the *Trans-Tasman Proceedings (Transitional and Consequential Provisions) Act 2010* (Cth) were both assented to on 13 April 2010 but their substantive provisions are yet to commence. The Trans-Tasman Act implements the *Agreement between the Government of Australia and the Government of New Zealand on Trans-Tasman Court Proceedings and Regulatory Enforcement* which was signed on 24 July 2008.

The scheme streamlines the process for resolving civil proceedings with a trans Tasman element in order to reduce costs and improve efficiency and minimises existing impediments to enforcing certain New Zealand judgments and regulatory sanctions.

The *Trans-Tasman Proceedings Regulation 2012* (Cth) (the Trans-Tasman Regulation) supports the powers provided for in the Trans-Tasman Act.

The Trans-Tasman Act applies to Australian Federal, State and Territory courts, and also to some tribunals for limited matters.

The Supreme, District, Magistrates, Planning and Environment, and Land Courts are variously prescribed under the Trans-Tasman Regulation for the following purposes:

- courts to which a party to a civil proceeding commenced, or to be commenced, in a New Zealand court may apply to for interim relief;
- courts which may issue subpoenas to be served on a person in New Zealand with leave of the court;
- courts that are authorised to receive a document or other object that is required to be produced by a subpoena;
- courts that are prescribed for the purposes of applications for remote appearances related to remote evidence; and
- courts which may, at the request of a New Zealand court or tribunal, direct an officer of the court to provide assistance, such as attending at the place in Australia from which a remote appearance is made in a hearing related to a proceeding before the New Zealand court or tribunal; taking any action that the New Zealand court or tribunal directs to facilitate the proceeding; and assisting with the administering by the New Zealand court or tribunal of an oath or affirmation.

The amendment Rule amends the *Uniform Civil Procedure Rules 1999* to accommodate these matters and the registration and enforcement of New Zealand judgments.

An unrelated amendment is also made to Rule 947M of the *Uniform Civil Procedure Rules 1999*, to facilitate the enforcement of foreign judgments which have been registered in a foreign currency by requiring the amount payable pursuant to the enforcement warrant to be noted in Australian currency at a prescribed rate of exchange.

### **Achievement of policy objectives**

The policy objectives of the amendment Rule are achieved by making the necessary amendments to the *Uniform Civil Procedure Rules 1999* to allow for the operation of trans-Tasman proceedings arrangements under the Trans-Tasman Act and Trans Tasman Regulation, and to make another minor amendment.

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

The amendment Rule is consistent with the policy objectives of the Act.

### **Inconsistency with policy objectives of other legislation**

The amendment Rule is not inconsistent with policy objectives of other legislation.

### **Benefits and costs of implementation**

Costs of implementation will be met within the existing agency resources.

### **Consistency with fundamental legislative principles**

The amendment Rule does not conflict with the fundamental legislative principles.

### **Consultation**

The Rules Committee has consented to the proposed amendments.

The Office of Best Practice Regulation has been consulted and advises that a Regulatory Impact Statement is not required.

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#### ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Justice and Attorney-General.

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