

Legal Profession (Barristers Rules) Notice 2016

Explanatory notes for SL 143 No. 2016

Made under the

Legal Profession Act 2007

General Outline

Short Title

Legal Profession (Barristers Rules) Notice 2016

Authorising law

Section 225 of the *Legal Profession Act 2007* (the Act).

Policy objectives and the reasons for them

The policy objectives of this subordinate legislation are: to give notice of the '2011 Barristers' Rule, as amended' (the Rule); and repeal the *Legal Profession (Barristers Rules) Notice 2011*.

The Rule incorporates amendments to rules 1, 15, 75 and 76.

The amendment to rule 1 is of a consequential nature.

Amended rule 15 provides that acting as a mediator or arbitrator or expert in any dispute resolution is barristers' work.

Rules 75-76 impose restrictions on the publication of material (for example, media comment) by a barrister about a proceeding, whether or not the barrister has a connection with the proceeding. The Bar Association of Queensland (BAQ) considers the rules unduly limit barristers' freedom of speech. The amended rules apply in relation to the publication of material concerning a proceeding in which the barrister appears or is likely to appear. Under amended rule 75, the restriction on the disclosure by the barrister of confidential information does not apply where the disclosure is with the permission of persons to whom the duty of confidence is owed. Amended rule 75 also provides that publication by the barrister should not constitute conduct in breach of rule 12 which proscribes various conduct, including conduct prejudicial to the administration of justice or likely to bring the profession into disrepute.

Under section 230 of the Act, the BAQ must ensure the Rule is available, without charge, for public inspection: at the BAQ's principal place of business during normal working hours; or on the BAQ's website.

Achievement of policy objectives

The notice gives effect to the stated objective of giving effect to the Rule.

Consistency with policy objectives of authorising law

Section 220 of the Act provides that the BAQ may make rules about legal practice in Queensland engaged in by Australian legal practitioners as barristers. Section 225 of the Act provides that these rules have no effect unless the Minister notifies the making of them.

Inconsistency with policy objectives of other legislation

The notice is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The benefit of this notice is to give effect to the Rule. There is no implementation cost for this notice.

Consistency with fundamental legislative principles

This notice does not raise any fundamental legislative principles issue.

Consultation

The BAQ has consulted on the Rule as required by section 223 of the Act.