

Uniform Civil Procedure (Notice of Intention to Apply for Grant) Amendment Rule 2017

Explanatory notes for SL 2017 No. 206

made under the

Supreme Court of Queensland Act 1991

General Outline

Short title

Uniform Civil Procedure (Notice of Intention to Apply for Grant) Amendment Rule 2017

Authorising law

Section 85 of the *Supreme Court of Queensland Act 1991* (SCQ Act).

Policy objectives and the reasons for them

Section 85(1) of the SCQ Act provides that the Governor in Council may make rules of court for the practices and procedures of the Supreme Court, the District Court or the Magistrates Courts or their registries. Section 85(2) of the SCQ Act provides that a rule may only be made with the consent of the Rules Committee (a committee of magistrates and judges established by the Chief Justice of Queensland under section 89 of the SCQ Act).

The *Court and Civil Legislation Amendment Act 2017* (the Amendment Act) received assent on 5 June 2017.

Section 252 of the Amendment Act amends section 67 of the *Trusts Act 1973* (Trusts Act) to provide that a notice of a proposed distribution of trust property or an estate (included in a notice of intention to apply for a grant of probate of a will or letters of administration of the estate of a deceased person) is to be published in a publication approved by the Chief Justice under a practice direction. Otherwise, a notice of a proposed distribution of trust property or an estate is to be published in a newspaper circulating throughout the State and sold at least once each week.

The objective of the *Uniform Civil Procedure (Notice of Intention to Apply for Grant) Amendment Rule 2017* (Amendment Rule) is to make consequential amendments to rule 599 of the *Uniform Civil Procedure Rules 1999* (UCPR). Rule 599 deals with the separate but associated requirement to give notice of an intention to apply for a grant

of probate of the will or letters of administration of the estate of a deceased person (grant notices). Rule 599 permits grant notices to give notice under section 67 of the Trusts Act of the proposed distribution of trust property out of the deceased estate.

Achievement of policy objectives

The policy objective is achieved by amending rule 599 of the UCPR to remove certain publication requirements which are unnecessary following the amendment of section 67 of the Trusts Act by the Amendment Act.

The Amendment Rule will commence on the commencement of section 252 of the Amendment Act.

Consistency with policy objectives of authorising law

The Amendment Rule is consistent with the policy objectives of the SCQ Act.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The consequential amendments ensure consistency between section 67 of the Trusts Act and rule 599 of the UCPR.

There are no costs associated with the implementation of the Amendment Rule.

Consistency with fundamental legislative principles

The Amendment Rule is consistent with fundamental legislative principles.

Consultation

The Rules Committee consented to the Amendment Rule.