

Uniform Civil Procedure (Preliminary Disclosure) Amendment Rule 2021

Explanatory notes for SL 2021 No. 184

made under the

Supreme Court of Queensland Act 1991

General Outline

Short Title

Uniform Civil Procedure (Preliminary Disclosure) Amendment Rule 2021

Authorising law

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

Policy objectives and the reasons for them

Section 89 of the Act provides for the establishment of a Rules Committee (a committee of magistrates and judges established by the Chief Justice of Queensland). Under section 85 of the Act, the Governor in Council, with the consent of the Rules Committee, may make rules of court for the practices and procedures of the Supreme Court, the District Court and the Magistrates Courts or their registries. The rules of court for civil law matters are contained in the *Uniform Civil Procedure Rules 1999* (UCPR).

The *Uniform Civil Procedure (Preliminary Disclosure) Amendment Rule 2021* (Amendment Rule) amends the UCPR to provide for preliminary disclosure orders in the Supreme Court.

Preliminary discovery provides a mechanism by which a prospective applicant can obtain relevant documents prior to the commencement of substantive proceedings in order to assess the merits of the potential claim and/or identify the proper defendant. The Amendment Rule is based on a similar procedure which exists at the Federal Court level.

Achievement of policy objectives

The policy objective is achieved by the Amendment Regulation inserting new chapter 7, part 1 which provides for orders for preliminary disclosure in the Supreme Court.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Amendment Regulation will assist in the effective and expeditious completion of court business by assisting meritorious claims to proceed against the proper defendant. There are no costs associated with the implementation of the Amendment Rule.

Consistency with fundamental legislative principles

The Amendment Rule is consistent with the fundamental legislative principles.

Consultation

The Rules Committee was consulted and has consented to the making of the amendments to the UCPR in the Amendment Rule.

The Queensland Law Society and the Bar Association of Queensland were also consulted during the development of the Amendment Rule and support the amendment.

The Department of Justice and Attorney-General has self-assessed the Amendment Regulation to be excluded from further regulatory impact analysis under *The Queensland Government Guide to Better Regulation* under exclusion category (j) as a regulatory proposal relating to the administration of courts and tribunals.