

# Land Court Rules 2022

Explanatory notes for SL 2022 No. 22

Made under the

*Land Court Act 2000*

## General Outline

### Short Title

*Land Court Rules 2022*

### Authorising law

Section 21 of the *Land Court Act 2000* (the Act)

### Policy objectives and the reasons for them

Section 21 of the Act provides that the Governor in Council, with the concurrence of the Chief Justice of Queensland and the President of the Land Court, may make rules about anything necessary or convenient to be prescribed for the Land Court (the Court), including rules governing the procedures of the Court or registry.

Since the *Land Court Rules 2000* (the previous Rules) were made, there have been significant amendments to the Act affecting the powers and procedures of the Court. The Court has also undertaken considerable procedural reform, implemented through practice directions, in areas such as case management, alternative dispute resolution (ADR) and expert evidence.

The Court recently undertook a review of the previous Rules and identified a number of areas where they did not properly reflect or support the amendments to the Act or the procedural reforms implemented by the Court.

### Achievement of policy objectives

The *Land Court Rules 2022* (the new Rules) replace the previous Rules with a new, modernised set of rules to govern the Court's procedures and practices. The main purposes of the new Rules are to ensure that the Court facilitates the just and quick resolution of the issues in a proceeding and avoids undue delay, expense and technicality, and that parties undertake to participate in a proceeding in an expeditious way and comply with the rules and any order or direction of the Court.

In particular, the new Rules provide for modernised procedures and practices of the Court in relation to the following matters:

- starting proceedings;
- compliance with rules, orders and directions of the Court, including orders restricting access to a document in a proceeding;
- the filing of a statement of facts and issues by each party to a proceeding;
- applications by a party for the disclosure of documents by another party to the proceeding;
- the establishment of the Land Court ADR panel consisting of appropriately qualified persons (convenors), and the power of the Court to refer matters to ADR by a convenor;
- the giving of evidence by parties and lay witnesses;
- expert evidence, including the making of orders about the use of expert evidence, duties of experts, obligations of parties calling experts, expert reports, meetings of experts, the preparation of joint reports, and the appointment of convenors to manage the expert evidence process;
- ending proceedings early, including failure to prosecute proceedings, discontinuance and withdrawal;
- hearings, including the conduct of hearings by electronic communication, when the Court may dispense with an oral hearing, and the joint preparation of a list of issues in dispute by the parties;
- the giving of judgments and orders by the Court, including costs orders against a party's lawyer or agent where another party incurs costs because of the lawyer's or agent's delay, misconduct or negligence;
- the matters a judicial registrar may hear and decide, and when those matters may be removed or referred to the Court for decision;
- appeals to the Land Appeal Court; and
- the electronic filing, giving, making or issuing of documents and the power of the registrar to issue notices.

The new Rules also provide for the application of rules to recommendatory matters such as mining objection hearings, where the Court is performing an administrative rather than a judicial function.

The new Rules have been drafted to be broadly consistent with the *Uniform Civil Procedure Rules 1999* (UCPR). Where the new Rules do not provide for a matter, the provisions of the UCPR apply in relation to the matter with necessary changes.

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

The new Rules are consistent with the policy objectives of the authorising law.

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

The new Rules are not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The new Rules will benefit Court users by providing a new, modernised set of rules governing the procedures and practices of the Court.

There are no costs associated with implementing the new Rules.

## **Consistency with fundamental legislative principles**

The new Rules are consistent with fundamental legislative principles.

## **Consultation**

In formulating the new Rules, the Court consulted a Legal Profession Reference Group.

The Chief Justice and the President of the Land Court were consulted and provided their concurrence for the making of the new Rules as required by section 21 of the Act.

The Department of Justice and Attorney-General has assessed the new Rules as excluded from further regulatory impact assessment under category (j) (administration of courts and tribunals) of the *Queensland Government Guide to Better Regulation*.