

# **Uniform Civil Procedure (Expert Evidence) Amendment Rule 2022**

Explanatory notes for SL 2022 No. 23

Made under the

*Supreme Court of Queensland Act 1991*

## **General Outline**

### **Short Title**

Uniform Civil Procedure (Expert Evidence) Amendment Rule 2022

### **Authorising law**

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

### **Policy objectives and the reasons for them**

Section 85 of the Act empowers the Governor in Council to make rules including rules for the practices and procedures of the Supreme Court, the District Court or the Magistrates Courts or their registries or another matter mentioned in Schedule 1. Schedule 1, item 12 (Evidence) specifically refers to expert evidence.

Section 85(2) of the Act provides that a rule made by the Governor in Council under section 85 of the Act may only be made with the consent of the Rules Committee.

The Rules Committee has undertaken a review of the expert evidence rules in chapter 11, part 5 (Expert Evidence) of the *Uniform Civil Procedure Rules 1999* (UCPR) with a view to aligning the rules with current and best practice.

### **Achievement of policy objectives**

The *Uniform Civil Procedure (Expert Evidence) Amendment Rule 2022* (Amendment Rule) amends the UCPR to remove the express preference for the use of a single expert due to its disuse in practice.

The Amendment Rule provides a direction-making power for the court in matters relating to expert evidence including about: what can and cannot be adduced; limiting the number of experts that may be called; requiring experts to confer in preparing their reports; how and when expert evidence is to be adduced in a proceeding; and requiring experts to hold a conference to identify, and attempt to resolve, any disagreement or jointly prepare a report.

The Amendment Rule affirms the duties of experts including: to assist the court; not advocate for a party; not accept instructions from any person to adopt or reject a particular opinion; and to comply with the code of conduct (also introduced by the Amendment Rule based on the model that exists in New South Wales).

The Amendment Rule also provides for: the required content of an expert report; when a party intending to rely on a report must disclose the report; expert immunity for the contents of the report; a supplementary report to be made following a change of expert opinion; the appointment of experts jointly by parties or by the court; and court orders and directions as to the fees and expenses payable to the expert.

The amendments will apply consistently across the Supreme Court, the District Court and the Magistrates Courts (except for minor civil claims).

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

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

## **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 Amendment Rule will align the rules relating to expert evidence with current practice. 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 Amendment Rule.

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