

# **Uniform Civil Procedure (Offers to Settle) Amendment Rule 2023**

Explanatory notes for SL 2023 No. 61

Made under the

*Supreme Court of Queensland Act 1991*

## **General Outline**

### **Short Title**

*Uniform Civil Procedure (Offers to Settle) Amendment Rule 2023*

### **Authorising law**

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

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

Section 85(1)(a) of the Act empowers the Governor in Council to make under the Act for the practices and procedures of the Supreme Court, the District Court or the Magistrates Courts or their registries. Section 85(2) of the Act states 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.

Chapter 9, part 5 of the *Uniform Civil Procedure Rules 1999* (UCPR) encourages the parties to civil matters to attempt to resolve their cases before trial, by imposing costs consequences on:

- a defendant who rejects an offer to settle by the plaintiff, if the plaintiff obtains an order that is no less favourable than the offer; or
- a plaintiff who rejects an offer to settle by the defendant, if the plaintiff does not obtain an order that is more favourable than the offer.

The Rules Committee has reviewed the offer to settle provisions in chapter 9, part 5 of the UCPR in consultation with the legal profession and as a result, requested amendments to rules 360 (Costs if offer by plaintiff) and 361 (Costs if offer by the defendant) of the UCPR and the insertion of new rule 361A in relation to costs if an offer has been made by the defendant and the plaintiff's proceeding is dismissed.

### **Achievement of policy objectives**

The Amendment Rule amends rule 360 and rule 361 to be retitled (Costs if offer by defendant – order obtained by plaintiff) to clarify the costs implications for parties to a proceeding resulting from offers to settle, inserts a new rule 361A (Costs if offer by

defendant – dismissal of plaintiff’s proceeding) to outline the costs implications resulting from an offer to settle where the plaintiff’s proceeding is dismissed, and inserts a transitional provision for the amendments.

## **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 clarifies the costs implications for parties to a proceeding resulting from offers to settle. The provisions are aimed at encouraging parties to civil matters to attempt to resolve their cases before trial. The settlement of cases without court intervention has a beneficial impact on Queensland courts and the justice system. It is noted, however, that a party who rejects an offer to settle may bear increased costs depending on the court outcome.

## **Consistency with fundamental legislative principles**

The Amendment Rule is consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*.

## **Consultation**

The Rules Committee has consented to the making of the Amendment Rule.

The amendments have been the subject of consultation between the Rules Committee and the legal profession.

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.