



Queensland

Uniform Civil Procedure (Preliminary Disclosure) Amendment Rule 2021

Subordinate Legislation 2021 No. 184

made under the

Supreme Court of Queensland Act 1991

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1 Short title

This rule may be cited as the *Uniform Civil Procedure (Preliminary Disclosure) Amendment Rule 2021*.

2 Rules amended

This rule amends the *Uniform Civil Procedure Rules 1999*.

3 Amendment of r 97 (Disclosure)

(1) Rule 97(1), ‘2 and 3’—

omit, insert—

1 and 2

(2) Rule 97(2), ‘2 or 3’—

omit, insert—

1 or 2

4 Insertion of new ch 7, pt 1AA, hdg

Before chapter 7, part 1—

insert—

Part 1AA Disclosure generally

5 Renumbering of ch 7, pt 1, pt 2, divs 1–3 and pt 3

Chapter 7, part 1, part 2, divisions 1 to 3 and part 3—

renumber as chapter 7, part 1AA, division 1, division 2, subdivisions 1 to 3 and division 3.

6 Renumbering of ch 7, pt 1AA (Disclosure generally)

Chapter 7, part 1AA—

renumber as chapter 7, part 2.

[s 7]

7 Insertion of new ch 7, pt 1

Chapter 7—

insert—

Part 1 Preliminary disclosure

208A Application of part

This part applies only to the Supreme Court.

208B Definitions for part

In this part—

applicant means a person who applies for an order under this part.

document includes a class of documents.

identity, of a prospective defendant, includes the name and the occupation, if any, of the prospective defendant.

prospective defendant, in relation to an applicant, means a person against whom the applicant intends to start a proceeding.

whereabouts, of a prospective defendant, includes a place of residence, registered office, place of business or other location of the prospective defendant.

208C Orders to ascertain identity or whereabouts of prospective defendant

- (1) The court may make an order under subrule (2) if it appears to the court that—
 - (a) an applicant may have a right to relief against a prospective defendant; and
 - (b) the applicant has made reasonable inquiries, but is unable to sufficiently ascertain the

identity or whereabouts of the prospective defendant; and

- (c) another person may have information, or possession or control of a document or thing, that may assist in ascertaining the identity or whereabouts of the prospective defendant.
- (2) The court may order that the other person—
- (a) attend to give evidence relating to the identity or whereabouts of the prospective defendant as directed by the order; or
 - (b) produce to the applicant a document or thing relating to the identity or whereabouts of the prospective defendant as directed by the order.
- (3) If the court makes an order under subrule (2)(a), it may also order that the other person—
- (a) produce to the court a document or thing relating to the identity or whereabouts of the prospective defendant as directed by the order; or
 - (b) give evidence before a registrar.
- (4) Unless the court orders otherwise—
- (a) an application for an order under subrule (2) must be supported by an affidavit stating—
 - (i) the facts on which the applicant relies; and
 - (ii) the information, document or thing in respect of which the order is sought; and
 - (b) a copy of the application and the supporting affidavit must be served personally on the other person.
- (5) An application for an order under subrule (2) must be made—

[s 7]

- (a) if it relates to an existing proceeding to which the applicant is a party—by application in the proceeding; or
- (b) otherwise—by originating application.

208D Orders for preliminary disclosure

- (1) The court may make an order under subrule (2) if it appears to the court that—
 - (a) an applicant may have a right to relief against a prospective defendant; and
 - (b) it is impracticable for the applicant to start a proceeding against the prospective defendant without reference to a document; and
 - (c) there is an objective likelihood that the prospective defendant has, or is likely to have, possession or control of the document; and
 - (d) inspection of the document would assist the applicant to make the decision to start the proceeding; and
 - (e) the interests of justice require the order to be made.
- (2) The court may order that the prospective defendant—
 - (a) disclose the document to the applicant as directed by the order; or
 - (b) produce the document to the court as directed by the order.
- (3) Unless the court orders otherwise—
 - (a) an application for an order under subrule (2) must be supported by an affidavit stating—
 - (i) the facts on which the applicant relies; and

- (ii) the document in respect of which the order is sought; and
 - (b) a copy of the application and the supporting affidavit must be served personally on the prospective defendant.
- (4) An application for an order under subrule (2) must be made—
 - (a) if it relates to an existing proceeding to which the applicant is a party—by application in the proceeding; or
 - (b) otherwise—by originating application.

208E Security for costs

An order under this part may be made subject to a condition that the applicant give security for costs and expenses of the person against whom the order is to be made.

208F Privilege

- (1) This rule applies if a person against whom an order is made under this part wishes to claim privilege from—
 - (a) disclosure of information sought from the person when giving evidence as directed by the order; or
 - (b) disclosure or production of a document ordered to be disclosed or produced under the order.
- (2) If the order requires the person making the claim of privilege to attend to give evidence relating to the identity or whereabouts of the prospective defendant, the person may make the claim at the time of attending to give the evidence.
- (3) If subrule (2) does not apply, the person making the claim of privilege—

[s 8]

- (a) must serve written notice of the claim of privilege on the applicant within 7 days after service of the order or, with the court's leave, at a later time; and
- (b) if the applicant challenges the claim of privilege—must comply with the requirements of rule 213(2) and (3).

208G Costs and other expenses

- (1) On an application for an order under this part, the court may make orders for the costs of—
 - (a) the applicant; or
 - (b) the person against whom the order is made or sought; or
 - (c) any other party to the proceeding.
- (2) The costs in respect of which an order under subrule (1) may be made include—
 - (a) payment of conduct money; and
 - (b) payment of an amount to be made on account of an expense or loss in relation to the proceeding; and
 - (c) the costs of making and serving a list of documents; and
 - (d) the costs of producing a document or thing for inspection; and
 - (e) the costs of otherwise complying with the requirements of an order made under this part.

8 Amendment of r 209 (Application of chapter)

Rule 209, 'chapter'—

omit, insert—

part

9 Amendment of rr 210, 214 and 223

Rules 210, 214(1)(a) and 223(1)(a) and (b), ‘part’—
omit, insert—
division

10 Amendment of r 225 (Consequences of nondisclosure)

Rule 225(1) and (2), ‘this part’—
omit, insert—
this division

11 Amendment of r 227 (Production of documents at trial)

Rule 227, ‘division’—
omit, insert—
subdivision

12 Amendment of r 228 (Entitlement to deliver interrogatories)

Rule 228, ‘part’—
omit, insert—
division

13 Amendment of r 230 (Granting of leave to deliver interrogatories)

Rule 230(3), ‘division’—
omit, insert—
subdivision

[s 14]

14 Amendment of rr 231, 239, 241, 242 and 248

Rules 231(1), 239, 241, 242(4) and 248(3), ‘part’—
omit, insert—
division

15 Amendment of r 467 (Request for trial date)

- (1) Rule 467(4)(a), after ‘part 2’—
insert—
 , division 2
- (2) Rule 467(4)(c), after ‘division 2’—
insert—
 , subdivision 2

16 Amendment of r 522N (Particular rules do not apply to employment claims)

Rule 522N(b), after ‘part 2’—
insert—
 , division 2

17 Amendment of r 555 (Privilege)

Rule 555, after ‘part 2’—
insert—
 , division 2

18 Amendment of sch 3 (Dictionary)

- (1) Schedule 3—
insert—
 document, for chapter 7, part 1, see rule 208B.
 identity, of a prospective defendant, for chapter 7,

part 1, see rule 208B.

prospective defendant, in relation to an applicant, for chapter 7, part 1, see rule 208B.

whereabouts, of a prospective defendant, for chapter 7, part 1, see rule 208B.

- (2) Schedule 3, definition *applicant*, after paragraph (a)—
insert—
 - (aa) for chapter 7, part 1, see rule 208B; or
- (3) Schedule 3, definition *applicant*, paragraphs (aa) to (c)—
renumber as paragraphs (b) to (d).

ENDNOTES

- 1 Made by the Governor in Council on 9 December 2021.
- 2 Notified on the Queensland legislation website on 10 December 2021.
- 3 The administering agency is the Department of Justice and Attorney-General.

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