



Queensland

Uniform Civil Procedure and Another Rule Amendment Rule (No. 1) 2014

Subordinate Legislation 2014 No. 320

made under the

Supreme Court of Queensland Act 1991

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Part 1 Preliminary

1 Short title

This rule may be cited as the *Uniform Civil Procedure and Another Rule Amendment Rule (No. 1) 2014*.

Part 2 Amendment of Criminal Practice Rules 1999

2 Rule amended

This part amends the *Criminal Practice Rules 1999*.

3 Amendment of sch 3 (Forms for indictments, informations and complaints— statement of offences under the Code)

Schedule 3, form 211, from ‘support’—

omit, insert—

support;

when AB knew or ought reasonably to have known that the failure (*or* conduct) would be likely to cause harm to EF.

Part 3 Amendment of Uniform Civil Procedure Rules 1999

4 Rule amended

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

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5 Amendment of references to the Acts Interpretation Act 1954, s 36

Each of the following provisions is amended by omitting ‘section 36’ and inserting ‘schedule 1’—

- rule 107, note
- rule 124(1)(j), note
- rule 211(1), note
- rule 250(1), note
- schedule 1A, rule 1.4, note 2
- schedule 4, definitions *business day*, *oath* and *swear*.

6 Amendment of r 144 (Conditional notice of intention to defend)

Rule 144(5)—

omit, insert—

- (5) The conditional notice of intention to defend becomes an unconditional notice of intention to defend if—
- (a) the defendant does not apply for an order under rule 16 within the 14 days; or
 - (b) for a defendant who applies for an order under rule 16 within the 14 days—the application is determined and the order is not made.

7 Amendment of r 352 (Definitions for pt 5)

(1) Rule 352, definitions *offer* and *offer to settle*—

omit, insert—

offer means an offer to settle made under this part.

(2) Rule 352—

insert—

proceeding means a proceeding—

- (a) started by claim; or
- (b) in which the court has made an order under rule 14 ordering the proceeding to continue as if started by claim; or
- (c) started by originating application if an order or direction has been made for pleadings, or other documents defining the issues, to be filed and served.

8 Amendment of various sections

Each of the following provisions is amended by omitting ‘to settle’—

- rule 353, heading
- rule 353(1), second mention
- rule 353(2) and (3)
- rule 354(1) to (3)
- rule 355(1) to (3), (5) and (6)
- rule 356
- rule 357(1) to (5)
- rule 358(1) to (4)
- rule 359(1) and (2)
- rule 360, heading
- rule 360(1)(a)
- rule 361, heading
- rule 361(1)(a), (2) and (3)
- rule 362, heading
- rule 362(2)

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- rule 362A(2)
- rule 363(2), first mention
- rule 364(4)
- rule 365.

9 Amendment of r 358 (Acceptance of offer)

Rule 358(4), ‘a judgment’—

omit, insert—

an order

10 Amendment of r 360 (Costs if offer to settle by plaintiff)

Rule 360(1)(a), ‘a judgment’—

omit, insert—

an order

11 Amendment of r 361 (Costs if offer to settle by defendant)

Rule 361(1)(a), ‘obtains a judgment that is not more favourable’—

omit, insert—

does not obtain an order that is more favourable

12 Amendment of r 364 (Offer to contribute)

(1) Rule 364(2)—

omit, insert—

- (2) A party to the contribution claim may serve on another party to the contribution claim an offer, subject to any conditions specified in the offer—
- (a) to settle the contribution claim; or
 - (b) to contribute towards an offer to settle the claim made by the plaintiff.

(2) Rule 364(3), from ‘an offer’ to ‘was served’—

omit, insert—

an offer under subrule (2) in deciding whether it should order that the party on whom the offer was served

13 Amendment of r 365 (Failure to comply with offer)

Rule 365(a), ‘a judgment on the conditions of the offer and the court may give the judgment’—

omit, insert—

an order on the conditions of the offer and the court may make the order

14 Amendment of r 602 (Contents of supporting affidavit)

(1) Rule 602(2), before ‘whichever’—

insert—

a copy of

(2) Rule 602(3)—

omit, insert—

(3) For each copy of a document exhibited to the affidavit under subrule (2)—

(a) the original document must also be filed when the affidavit is filed; and

(b) an additional copy of the document must be given to the registry.

(4) A copy of a document mentioned in subrules (2) and (3)(b)—

(a) if the original document is a written document—may be a legible photocopy of the document; or

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- (b) otherwise—must be a legible transcription of the contents of the document.

15 Insertion of new r 700A

Chapter 17A, part 2, division 1—

insert—

700A Estates of deceased persons and trusts

- (1) This rule applies to—
 - (a) a proceeding under the *Succession Act 1981*, part 4; or
 - (b) another proceeding relating to an interest in property under a will or trust.
- (2) Without limiting the court's discretion under these rules to make an order about costs in relation to all or part of the proceeding, the court may, in determining an order for costs, take into account the following matters—
 - (a) the value of the property the subject of the proceeding and, in particular, the value of the property about which there is a disputed entitlement;
 - (b) whether costs have been increased because of any one or more of the following—
 - (i) noncompliance with these rules;
 - (ii) noncompliance with a practice direction;
 - (iii) the litigation of unmeritorious issues;
 - (iv) failure to make, promptly or at all, appropriate concessions or admissions;
 - (v) giving unwarranted attention to minor or peripheral issues;

- (c) an offer of settlement made by a party to the proceeding.

16 Amendment of r 743R (Effect of ending of appointment or notice about possible ending of appointment)

Rule 743R(2)—

omit, insert—

- (2) Unless the court orders otherwise, a costs assessor—
 - (a) if the costs assessor has been given notice under rule 743Q(2)—may complete a costs assessment started before the notice was given; or
 - (b) if the costs assessor’s appointment ends—
 - (i) must not complete a costs assessment started before the appointment ended; and
 - (ii) must return any document, provided to the costs assessor for the costs assessment, to the party who provided it.

17 Amendment of r 975 (Use of approved forms)

Rule 975, note, ‘section 49(1)’—

omit, insert—

section 48A(1)

18 Amendment of sch 1A (Rules for proceedings under Corporations Act or ASIC Act)

Schedule 1A, rule 1.7(3), ‘section 49’—

omit, insert—

section 48A

[s 19]

19 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definition *offer to settle*—
omit.
- (2) Schedule 4—
insert—

proceeding, for chapter 9, part 5, see rule 352.

ENDNOTES

- 1 Made by the Governor in Council on 18 December 2014.
- 2 Notified on the Queensland legislation website on 19 December 2014.
- 3 The administering agency is the Department of Justice and Attorney-General.

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Authorised by the Parliamentary Counsel