

Land Court Amendment Rule (No. 1) 2013

Explanatory notes for SL 2013 No. 280

made under the

Land Court Act 2000

General Outline

Short title

Land Court Amendment Rule (No. 1) 2013

Authorising law

Section 21 of the *Land Court Act 2000*.

Policy objectives and the reasons for them

Section 21 of the *Land Court Act 2000* provides for the Governor in Council, with the concurrence of the Chief Justice of the Supreme Court and the President of the Land Court, to make rules of court about anything required or permitted to be prescribed by the rules, or necessary or convenient to be prescribed for the Land Court, including procedures of the court or the registry.

The *Land Court Amendment Rule (No. 1) 2013* (the amendment rule) amends the *Land Court Rules 2000*.

The objective of the amendment Rule is to amend the *Land Court Rules 2000* to clarify various Land Court procedures and registry operations, introduce new requirements for the provision of evidence in the Land Court, introduce a discretion to determine matters without an oral hearing and remove redundant provisions.

The amendment Rule:

- provides for proceedings to be started in the Land Court by way of filing an “originating process”, defined to include an originating process and a notice of appeal, to reflect current practice;
- inserts new rules regarding the provision of expert evidence in the Land Court which substantially reflect the *Planning and Environment Court Rules 2010*. For example, the new rules provide for meetings of experts and the preparation of joint expert reports and set out detailed requirements for the

preparation and exchange of statements of evidence by experts. There are also new rules for the preparation and exchange of non-expert statements of evidence;

- clarifies the judicial registrar's power to hear and decide matters in respect of the Land Court's jurisdiction given under any Act;
- amends the rules allowing the court to decide matters without an oral hearing so that they apply to both an application in a proceeding and the final proceeding;
- extends the Land Court's power to determine a matter on the papers in specified circumstances;
- aligns the Land Court registry opening hours with other court registries;
- removes the reference to the President approving forms as this is now included in the *Land Court Act 2000*; and
- makes other minor and consequential amendments.

Achievement of policy objectives

The policy objective of the amendment Rule is achieved by amending the *Land Court Rules 2000* to clarify various Land Court procedures and registry operations, introduce new requirements for the provision of evidence in the Land Court, introduce a discretion to determine matters without an oral hearing and remove redundant provisions.

Consistency with policy objectives of authorising law

The amendment Rule is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

The amendment Rule is not inconsistent with policy objectives of other legislation.

Benefits and costs of implementation

The amendment Rule will assist litigants and their legal representatives before the Land Court by clarifying various Land Court procedures and registry operations, making the rules relating to expert evidence more consistent with other courts and streamlining proceedings that do not require an oral hearing.

There are no cost implications.

Consistency with fundamental legislative principles

The amendment Rule does not conflict with fundamental legislative principles.

Consultation

The President of the Land Court and the Chief Justice of the Supreme Court concur with the making of the proposed amendment Rule.

The Office of Best Practice Regulation has been consulted and advises that a Regulatory Impact Statement is not required.