



Queensland

*Land Court Act 2000*

# Land Court Rules 2022

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Queensland

# Land Court Rules 2022

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# Land Court Rules 2022

## Part 1 Preliminary

### 1 Short title

These rules may be cited as the *Land Court Rules 2022*.

### 2 Application of rules

- (1) These rules, other than part 3, division 2 and parts 7 and 8, apply to proceedings in the Land Court and, with necessary changes, to proceedings in the Land Appeal Court.
- (2) Part 3, division 2 and part 7 apply only to proceedings in the Land Court.
- (3) Part 8 applies only to appeals to the Land Appeal Court.
- (4) In a provision of these rules, a reference to the court is a reference to the court mentioned in subrule (1) that is appropriate in the context of the provision.

### 3 Application of Uniform Civil Procedure Rules 1999

- (1) If these rules, an order or a direction do not provide for a matter in relation to a proceeding in the court and the uniform rules provide for the matter, the uniform rules apply in relation to the matter with necessary changes.
- (2) For subrule (1)—
  - (a) an originating application under these rules is to be treated as if it were a claim under the uniform rules; and
  - (b) a notice of appeal under these rules is to be treated as if it were a notice of appeal under the uniform rules; and
  - (c) a document that starts a recommendatory proceeding under these rules is to be treated as if it were an

application for a statutory order of review under the uniform rules.

- (3) The following rules of the uniform rules do not apply—
  - (a) rules 961 and 962;
  - (b) rules 964 to 966;
  - (c) rule 970;
  - (d) rule 972;
  - (e) rule 975;
  - (f) rules 982 and 983.
- (4) For the uniform rules, chapter 22, part 3, a reference to a solicitor is taken to be a reference to a solicitor or agent.

## **4 Main purposes of rules**

The main purposes of these rules are—

- (a) to ensure that when the court performs a function under an Act, including applying these rules, the court—
  - (i) facilitates the just and quick resolution of the issues in a proceeding; and
  - (ii) avoids undue delay, expense and technicality in a proceeding; and
- (b) to ensure that a party to a proceeding undertakes to the court and to each other party to the proceeding to—
  - (i) participate in the proceeding in an expeditious way; and
  - (ii) comply with these rules and any order or direction made by the court in relation to the proceeding.

## **5 Definitions**

The dictionary in schedule 1 defines particular words used in these rules.



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## Part 2 Starting proceedings

### 6 Starting proceeding

A proceeding in the court is started by filing an originating process in the registry.

### 7 Originating process

- (1) An originating process for a proceeding must—
  - (a) be in the approved form; and
  - (b) state—
    - (i) the name of the respondent; and
    - (ii) the relevant entity's address for service; and
  - (c) be signed by the relevant entity; and
  - (d) comply with any requirements of the Act giving jurisdiction for the proceeding to the court.
- (2) If at any time after filing the originating process the relevant entity's address for service changes, the entity must file and serve a notice of the change of address in the approved form on each other party to the proceeding.
- (3) In this rule—

***address for service***, of a relevant entity, means the relevant entity's residential or business address.

***relevant entity*** means—

- (a) the applicant or appellant who files the originating process; or
- (b) if the applicant or appellant is represented by a lawyer or agent—the lawyer or agent who files the originating process.

## **8 Service of originating process**

Unless the court otherwise orders, the applicant or appellant must serve a copy of the originating process on each other party to the proceeding.

# **Part 3 Court supervision**

## **Division 1 Rules, orders and directions**

### **9 Directions hearing**

At any time after an originating process is filed—

- (a) any party may apply to the court for a hearing (a ***directions hearing***) about an order or directions about the proceeding; or
- (b) the court may order the parties to attend a directions hearing.

### **10 Compliance with rules, orders and directions**

- (1) This rule applies if a party to a proceeding does not comply with a rule or an order or a direction made by the court.
- (2) The court may—
  - (a) waive compliance with the rule, order or direction, or excuse non-compliance with the rule, order or direction, if the court considers compliance would be likely to cause injustice, unreasonable expense or inconvenience; or
  - (b) extend time for compliance with the rule, order or direction; or
  - (c) give directions; or
  - (d) make another order.

## 11 Restriction orders

- (1) A party to a proceeding may apply to the court in writing for an order (a ***restriction order***) restricting access to a document, or part of a document, in the proceeding.
- (2) An application made under subrule (1) must state the following information—
  - (a) the document, or the part of a document, that the party wants to be subject to the restriction order;
  - (b) the proposed terms of the order;
  - (c) why the party is applying for the order;
  - (d) why it is in the interests of justice for the court to make the order;
  - (e) any cultural or customary concerns of Aboriginal people and Torres Strait Islanders.
- (3) If the court makes the restriction order, the court may include any conditions on the order the court considers are in the interests of justice.

## Division 2 Identifying issues

### 12 Statement of facts and issues

- (1) Each party to a proceeding must file a statement (a ***statement of facts and issues***) in the registry.
- (2) The statement of facts and issues must—
  - (a) be in the approved form; and
  - (b) state—
    - (i) all the issues the party considers the court must decide; and
    - (ii) all the material facts on which the party relies; and

- (iii) any conclusion or point of law on which the party relies, but only if the party also states the material facts in support of the conclusion or point; and
  - (iv) the decision the party is asking the court to make; and
- (c) if the proceeding is a recommendatory proceeding—
  - (i) state the recommendatory provision that applies to the proceeding; and
  - (ii) comply with any requirements of the recommendatory Act applying to the conduct of the proceeding; and
- (d) be filed by the date directed by the court.
- (3) If the court waives compliance with this rule, the court may direct that the parties comply with the uniform rules, with necessary changes, in relation to the proceeding.
- (4) In this rule—

*recommendatory Act* means the Act conferring on the court the function under the recommendatory provision.

## **Division 3                      Disclosure**

### **13                      Disclosure must be for main purpose**

A party must not apply for an order for disclosure unless the making of the order is in accordance with the main purposes of these rules.

### **14                      Disclosure**

- (1) A party may apply to the court for an order for disclosure by another party to the proceeding.
- (2) The application must state the proposed scope of the disclosure.

- (3) If the court makes an order for disclosure by a party, the party must disclose documents in accordance with the order.
- (4) Nothing in this rule prevents the parties to a proceeding agreeing at any time to disclose documents to each other by consent.

## Division 4                      Alternative dispute resolution

### 15            Land Court ADR panel

- (1) The court may establish a panel (the *Land Court ADR panel*) of persons to conduct alternative dispute resolution of matters.
- (2) The Land Court ADR panel must consist of appropriately qualified persons chosen by the president (each a *convenor*).
- (3) The court may refer either of the following matters to alternative dispute resolution by a convenor—
  - (a) a matter that is not before the court but may be brought before the court;
  - (b) a matter that is before the court and was started other than under part 2 of the Act.

*Note—*

See section 27C of the Act and the *Civil Proceedings Act 2011*, section 43 for the power of the court to refer a proceeding started under part 2 of the Act to mediation.

- (4) The president may state, by practice direction—
  - (a) the qualifications and other requirements of a convenor; and
  - (b) the procedures a convenor must follow in conducting alternative dispute resolution of a matter.
- (5) In this rule—  
*alternative dispute resolution*, of a matter, means—

- (a) for a matter mentioned in subrule (3)(a)—a facilitative process, including, for example, mediation, conciliation, case appraisal and facilitated negotiation; or
- (b) for a matter mentioned in subrule (3)(b)—a relevant ADR process.

*relevant ADR process* see section 27C(5) of the Act.

## **Division 5                      Evidence**

### **Subdivision 1              Preliminary**

#### **16              Definitions for division**

In this division—

*expert*, in relation to an issue arising in a proceeding, means a person who would, if called as a witness in the proceeding, be qualified to give opinion evidence as an expert witness in relation to the issue.

*expert evidence* means the evidence given by an expert.

*joint report*, for a proceeding, means a report—

- (a) stating the joint opinion of experts in relation to an issue arising in the proceeding; and
- (b) identifying the matters about which the experts agree or disagree and the reasons for any disagreement.

*meeting of experts*—

1    A *meeting of experts* is a meeting of experts in the absence of the parties—

- (a) to discuss and attempt to reach agreement about the experts' evidence in relation to an issue arising in a proceeding as it relates to each expert's area of expertise; and
- (b) to prepare a joint report.

- 2 The term includes—
- (a) a resumed meeting of experts or further meeting of experts; and
  - (b) a meeting attended by experts in either, or a combination, of the following ways—
    - (i) personally;
    - (ii) a way that allows contemporaneous communication between the experts, including by audio link, audio visual link or another form of electronic communication.

## **Subdivision 2 Evidence of party or lay witnesses**

### **17 Statement of evidence of party or lay witness**

- (1) This rule applies to a party to a proceeding who intends to do either or both of the following things—
  - (a) give evidence in the proceeding;
  - (b) call a lay witness to give evidence in the proceeding.
- (2) However, this rule does not apply if a subpoena is issued requiring the party or lay witness to give evidence in the proceeding.
- (3) Before the party gives evidence or calls the lay witness to give evidence, the party must file in the registry and serve on each other party a written statement (a ***statement of evidence***) containing—
  - (a) the name, address and occupation of the party or lay witness; and
  - (b) the evidence intended to be given by the party or lay witness.
- (4) During the examination-in-chief of the party or lay witness, the party or lay witness must not, without the court's leave—

- (a) repeat, or expand on, matters contained in the party's, or lay witness's, statement of evidence; or
  - (b) introduce evidence not contained in the statement.
- (5) In this rule—

*lay witness* means a person, other than an expert, called by a party as a witness in a proceeding.

## **Subdivision 3 Evidence of experts**

### **18 Expert**

An expert may be—

- (a) engaged to give evidence by 1 or more parties to a proceeding; or
- (b) after hearing from the parties to a proceeding—nominated by the court to give evidence in the proceeding.

### **19 Directions generally**

- (1) The court may, at any time, give the directions it considers appropriate about the use of expert evidence in a proceeding.
- (2) Without limiting subrule (1), 1 or more of the following directions may be given under this rule—
  - (a) a direction that reports be served within a particular period;
  - (b) a direction that expert evidence on a particular issue may not be adduced, or may be adduced only with the leave of the court;
  - (c) a direction that expert evidence may be adduced on particular issues only;
  - (d) a direction limiting the number of experts who may be called to give evidence on a particular issue or for a particular area of expertise;



- (e) a direction requiring experts in relation to the same issue to confer before preparing their reports in relation to the issue;
  - (f) a direction requiring an expert who has prepared more than 1 report for a proceeding to prepare a single report that reflects the expert's evidence-in-chief in the proceeding;
  - (g) a direction for an expert engaged jointly by the parties or nominated by the court, including—
    - (i) for an expert not yet engaged or nominated—how the expert will be engaged or nominated; and
    - (ii) how the expert will be instructed; and
    - (iii) who has the liability for the expert's fees and expenses; and
    - (iv) how the expert may seek information or instructions from the parties or the court;
  - (h) a direction about how and when expert evidence is to be adduced in the proceeding;
  - (i) any other direction that may assist an expert in the performance of the expert's functions.
- (3) This rule does not limit any other power of the court to make orders or give directions.

## **20 Duty of expert**

- (1) An expert who gives evidence in a proceeding has a duty to assist the court in relation to any matter arising in the proceeding that is within the expertise of the expert.
- (2) The expert's duty to assist the court overrides any obligation the expert may have to any party to the proceeding, any person who engaged the expert to give evidence or any person who is liable for the expert's fees or expenses.
- (3) The expert must—
  - (a) be independent and impartial; and

- (b) observe the limits of the expert's expertise; and
  - (c) comply with these rules and any directions given by the court; and
  - (d) comply, to the extent applicable, with the code of conduct for experts set out in the uniform rules, schedule 1C.
- (4) For the purpose of subrule (3)(d), the code of conduct applies with necessary changes.

## **21 Obligation of party who calls expert**

- (1) A party who calls an expert to give evidence in a proceeding must, before the expert gives evidence, give the expert—
- (a) a copy of these rules and any directions made by the court about the giving of expert evidence; and
  - (b) any other information or material necessary to enable the expert to comply with rule 20.
- (2) Also, the party must not—
- (a) instruct or advise the expert to give any particular evidence or opinion about the evidence; and
  - (b) do anything that prevents, or is likely to prevent, the expert from complying with rule 20.

## **22 Expert reports**

In a proceeding, the court may direct that an expert—

- (a) prepare a report and provide the report to the court; or
- (b) participate in a meeting of experts with 1 or more other experts.

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## **23 Briefing experts**

- (1) If the court directs a meeting of experts, the parties must prepare and deliver to the experts a consolidated brief of instructions that—
  - (a) identifies any issue that any party considers the experts need to address; and
  - (b) includes any information or documents that any party considers relevant to that issue.
- (2) Including information or a document in a consolidated brief of instructions is without prejudice to each party's right to object at the hearing to—
  - (a) the admission into evidence of all or part of any information or document included in the brief of instructions; and
  - (b) any evidence relating to the information or document.

## **24 Joint reports**

If the court directs a meeting of experts, the experts must give the joint report prepared by the experts in the meeting of experts to the parties—

- (a) if the court has given a direction about the period within which the report is to be given—as directed by the court; or
- (b) otherwise—as soon as practicable after the meeting of experts has concluded.

## **25 Evidence or admission from meeting of experts**

- (1) Evidence of anything done or said, or an admission made, at a meeting of experts in a proceeding is admissible in the following only if all parties to the proceeding agree—
  - (a) the hearing of the proceeding;
  - (b) the hearing of another proceeding in the court;

- (c) another civil proceeding.
- (2) Subrule (1) does not apply to a joint report for the proceeding.
- (3) In this rule—  
*civil proceeding* does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the meeting of experts.

## **26 Permitted communications between experts and parties**

- (1) If the court directs a meeting of experts, any of the experts may, in writing—
  - (a) ask the parties for information that may assist the proper and timely conduct or conclusion of the meeting of experts or preparation of the joint report; or
  - (b) inform the parties of any matter adversely affecting the proper and timely conduct or conclusion of the meeting of experts or preparation of the joint report.
- (2) A communication mentioned in subrule (1) must—
  - (a) be made jointly to all of the parties; and
  - (b) state—
    - (i) whether or not all of the experts agree on the terms of the communication; and
    - (ii) if all of the experts do not agree on the terms of the communication—the matters on which the experts disagree.
- (3) Any response by a party to a communication mentioned in subrule (1) must—
  - (a) be in writing; and
  - (b) be addressed to the experts jointly; and
  - (c) be in terms agreed to by the parties or directed by the court.
- (4) If the meeting of experts has not concluded, or the joint report has not been given to the parties as required under this

subdivision, a party may, in writing, request the experts to give a written report (a ***progress report***) about the progress of the meeting of experts or the joint report.

- (5) The experts must, within 2 business days after a request is made under subrule (4), give a progress report to all of the parties.
- (6) The progress report must state—
  - (a) whether or not all of the experts agree on the terms of the report; and
  - (b) if all of the experts do not agree on the terms of the report—the matters on which the experts disagree.
- (7) This rule does not apply to a proceeding the court has directed be subject to a process under rule 27.

## **27 Court-directed process for experts**

- (1) The court may direct that a proceeding be subject to a process under which the court appoints an appropriately qualified person (a ***convenor***) to—
  - (a) facilitate the preparation of expert evidence to be given in the proceeding; and
  - (b) work with the parties to manage the process for experts, including by—
    - (i) briefing experts; and
    - (ii) managing requests by experts for information or instructions from the parties or the court; and
    - (iii) assisting communication between the court, experts and lawyers or agents representing the parties; and
  - (c) work with the experts, including by—
    - (i) ensuring the experts have all the information and instructions they require; and
    - (ii) assisting the experts during a meeting of experts; and

- (iii) facilitating the preparation of a joint report for the proceeding; and
- (d) assist the parties in case management.
- (2) The convenor may not—
  - (a) decide any substantive issue or procedural dispute in the proceeding; or
  - (b) preside at a hearing, final hearing or appeal from a decision made in the proceeding.

## **28 Disclosure of report**

A party to a proceeding intending to rely on a report prepared by an expert must, unless the court orders otherwise, disclose the report as soon as practicable and, in any case, within the earlier of the following—

- (a) 90 days after filing the party's statement of facts and issues;
- (b) 7 days before the hearing of the proceeding.

## **29 Evidence given by expert**

- (1) An expert may give evidence-in-chief in a proceeding only by giving a report to the court.
- (2) The report may be tendered as evidence in the proceeding only if—
  - (a) the report has been disclosed under this subdivision; or
  - (b) the court gives leave.
- (3) Subject to a direction given under rule 19, any party to the proceeding may tender the report as evidence in the proceeding, but only if the party produces the expert for cross-examination, if required.
- (4) Despite subrule (1), oral evidence-in-chief may be given by an expert if the court gives leave.

- (5) If an expert has prepared and provided a report, the expert must not give expert evidence that is contrary to the opinion expressed in the report unless the court gives leave.
- (6) A court may direct an expert to give expert evidence concurrently with 1 or more other experts in the same or a related area of expertise.

### **30 Immunity**

An expert has the same protection and immunity for the contents of a report disclosed under this subdivision as the expert could claim if the contents of the report were given orally in a proceeding.

## **Part 4 Ending proceedings early**

### **31 Failure to prosecute proceedings**

- (1) A respondent in a proceeding, other than a recommendatory proceeding, may apply to the court for an order dismissing the proceeding for want of prosecution if—
  - (a) the applicant or appellant is required under these rules to take a step in the proceeding, or is required to comply with an order of the court, within a stated time; and
  - (b) the applicant or appellant does not take the step or do what is required within the stated time.
- (2) If an application is made under subrule (1), the court may—
  - (a) dismiss the proceeding; or
  - (b) make any order it considers appropriate in the circumstances.
- (3) An order dismissing a proceeding for want of prosecution may be set aside only—
  - (a) on appeal; or

- (b) if the parties to the proceeding agree to the order being set aside.
- (4) However, despite subrule (3), if the order was made in the absence of the applicant or appellant, the court may, on terms the court considers appropriate, vary or set aside an order dismissing a proceeding for want of prosecution.

## **32 Discontinuance**

- (1) A proceeding or part of a proceeding, other than a recommendatory proceeding, may, at any time, be discontinued—
  - (a) by the applicant or the appellant; or
  - (b) if all parties to the proceeding agree to the discontinuance.
- (2) An applicant or appellant may discontinue a proceeding or part of a proceeding against 1 or more respondents without discontinuing against other respondents.
- (3) To discontinue a proceeding or part of a proceeding the applicant or appellant must—
  - (a) file a notice in the approved form; and
  - (b) as soon as practicable after filing the notice, serve the notice on the other parties to the proceeding; and
  - (c) for a discontinuance to which the parties agree—ensure the respondent signs the notice before it is filed.

## **33 Withdrawal**

- (1) A party may withdraw from a recommendatory proceeding.
- (2) To withdraw from a recommendatory proceeding a party must—
  - (a) file a notice in the approved form; and
  - (b) as soon as practicable after filing the notice, serve the notice on the other parties to the proceeding.



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## **34 Costs**

- (1) This rule applies if the parties do not agree about the costs each party must pay if—
  - (a) a proceeding or part of a proceeding is discontinued under rule 32; or
  - (b) a party withdraws from a recommendatory proceeding under rule 33.
- (2) The court may order the relevant party to pay—
  - (a) the costs of the party to whom the discontinuance or withdrawal relates up to the date of the discontinuance or withdrawal; and
  - (b) the costs of another party or parties caused by the discontinuance or withdrawal.
- (3) In this rule—

*relevant party* means—

  - (a) in relation to a discontinuance—the applicant or appellant; or
  - (b) in relation to a withdrawal—the party who withdraws from the recommendatory proceeding.

## **Part 5 Hearings**

### **35 Oral hearing**

- (1) Unless otherwise ordered by the court, a proceeding must be conducted as an oral hearing.
- (2) The court may conduct all or part of the proceeding by audio visual link, audio link or another form of electronic communication approved by the court.

### **36 When court may dispense with oral hearing**

- (1) The court may, at the request of a party to a proceeding or on its own initiative, dispense with the oral hearing of the proceeding, or an application in the proceeding, if—
  - (a) the court is satisfied that it is appropriate to decide the proceeding or application without an oral hearing; and
  - (b) the parties are given notice of the court’s proposal to decide the proceeding or application without an oral hearing; and
  - (c) there is no objection raised by any party to the proceeding.
- (2) However, if at any time the court decides it is inappropriate to decide the proceeding or application without an oral hearing, the court—
  - (a) must, as soon as practicable, notify the parties of the decision; and
  - (b) may set a date for hearing the proceeding or application.
- (3) A proceeding, or an application in a proceeding, is decided ***without an oral hearing*** if it is decided on written material and submissions without the parties to the proceeding attending.

### **37 If proceeding not conducted by oral hearing—further information**

- (1) If the court is hearing a proceeding, or an application in a proceeding, without an oral hearing, the court may get further information, including evidence, about the proceeding or application electronically or in another way.
- (2) If the court decides to get further information, the court must—
  - (a) inform all parties why the court is getting the information; and
  - (b) give all parties an opportunity to be heard.

**38 Site inspections**

The court may inspect a place, process or thing, or witness a demonstration, about which a question arises in a proceeding before the court.

**39 List of issues in dispute**

- (1) The court may direct the parties to a proceeding to jointly prepare a list of issues in dispute relating to the proceeding.
- (2) If the court gives a direction under subrule (1), the court may also direct that the list of issues in dispute address particular matters.
- (3) If the parties do not agree on the list of issues in dispute, the court may settle the list itself.

## **Part 6 Judgment and orders**

**40 Judgment**

Final relief in a proceeding is granted by giving a judgment setting out the entitlement of a party to payment of money or another form of relief.

**41 Order**

- (1) An order of the court is made by—
  - (a) the order being pronounced in court by the member or judicial registrar making the order; or
  - (b) the order being set out in a document, with or without reasons, and signed by the person making the order.
- (2) An order takes effect on—
  - (a) the day on which it is made; or
  - (b) if the court orders another day—that day.

**42 Registrar to give copy of court's order and reasons**

- (1) If the court makes an order in a proceeding, the registrar must give each party to the proceeding a copy of the order.
- (2) The court's reasons for making the order may, if in written form, be published by the reasons being delivered in court to the registrar to give a copy to each party to the proceeding.
- (3) The court's reasons for an order may be given to the parties before the order is made.

**43 Delivery of reserved judgment or order by a different member or judicial registrar**

- (1) If a member reserves a judgment or order in a proceeding, the member may—
  - (a) arrange for written reasons for the judgment or order to be prepared setting out the proposed order; and
  - (b) sign the written reasons for the judgment or order and send them to another member for delivery.
- (2) The other member must, at a convenient time, publish in court the written reasons for the judgment or order.
- (3) The publication by the other member has the same effect as if, at the time of publication, the member who reserved the judgment or order had been present in court and made the judgment or order proposed in the written reasons for the judgment or order, and published the reasons, in person.
- (4) In this rule—  
*member* includes judicial registrar.

**44 Consent judgments and orders**

- (1) The court may give judgment, or make another order, by consent if—
  - (a) the parties consent in writing; and

- (b) the court considers it appropriate to give the judgment or make the order.
- (2) The parties' written consent must be filed in the registry.
- (3) The judgment or order must—
  - (a) state that it is given or made by consent; and
  - (b) be filed in the registry.

#### **45 Power to correct errors**

- (1) This rule applies if in an order or a certificate of the court, or in a record of an order or a certificate of the court—
  - (a) there is a clerical error; and
  - (b) the error resulted from an accidental slip or omission.
- (2) At any time, the court may, on application by a party or on its own initiative, correct the clerical error.

#### **46 Lawyer's or agent's delay or neglect**

The court may order a lawyer or agent to repay to the lawyer's or agent's client all or part of any costs ordered to be paid by the client to another party if the party incurred the costs because of the lawyer's or agent's delay, misconduct or negligence.

## **Part 7 Judicial registrars**

#### **47 Definition for part**

In this part—

***relevant matter*** means a matter a judicial registrar may hear and decide under rule 48(1).

**48 Matters judicial registrars may hear and decide—Act, s 29**

- (1) For section 29(1) of the Act, each of the following matters is prescribed—
  - (a) a procedural application before the hearing of a proceeding;
  - (b) whether the court can accept a valuation appeal notice under the *Land Valuation Act 2010*, section 158;
  - (c) the type of ADR or ADR facilitator under the *Mineral and Energy Resources (Common Provisions) Act 2014* proposed in a notice given under section 88(4) of that Act;
  - (d) any other matter the president considers a judicial registrar is appropriately qualified to hear and decide.
- (2) In deciding if the judicial registrar is appropriately qualified under subrule (1)(d), the president may have regard to any of the following matters—
  - (a) the nature, importance and complexity of the issues relevant to the matter;
  - (b) the need for the registrar to have special knowledge, expertise or experience relating to the matter;
  - (c) any other matter the president considers relevant.

**49 Removal of application about relevant matter**

- (1) This rule applies to a hearing of an application about a relevant matter before the court as constituted by a judicial registrar.
- (2) The president may, before the end of the hearing, order that the application or a part of it be removed to the court as constituted by a member.

**50 Referral of application about relevant matter**

- (1) A judicial registrar must refer an application about a relevant matter to the president if—

- (a) a party asks the judicial registrar to refer the application;  
and
  - (b) the judicial registrar considers it is in the interests of  
justice to refer the application.
- (2) If the judicial registrar refers an application under subrule (1),  
the president may refer the application to be decided by the  
court as constituted by a member.
- (3) If a member is referred an application under subrule (2), the  
member may give any direction necessary about the conduct  
of the hearing.

#### **51 Involvement of court as constituted by a member**

The court as constituted by a member may, in relation to an  
application removed under rule 49 or referred under rule 50—

- (a) hear and decide the application or remit the application  
to the court as constituted by a judicial registrar with the  
directions the court considers appropriate; or
- (b) decide a matter arising under the application or remit the  
matter to the court as constituted by a judicial registrar  
with the directions the court considers appropriate.

## **Part 8 Land Appeal Court**

#### **52 Parties to an appeal**

- (1) A party to a proceeding must be made a respondent to an  
appeal if—
- (a) the party is directly affected by the relief sought in the  
notice of appeal; or
  - (b) the party is interested in maintaining the decision under  
appeal.
- (2) The appellant must serve a notice of appeal on each  
respondent to the appeal.

### **53 Inclusion, removal or substitution of party**

- (1) A court may order—
  - (a) the inclusion or removal of a person, whether or not the person was a party to the original proceeding, as a party to an appeal from the decision in the original proceeding; or
  - (b) the inclusion or substitution of a person directly affected by the appeal as a party to the appeal.
- (2) However, a person who has not consented in writing may not be made an appellant.
- (3) If the court orders the inclusion of a person as a party to an appeal, it may adjourn the hearing of the appeal and make an order or give a direction it considers appropriate about the conduct of the appeal.

## **Part 9 Land court registry**

### **54 Electronic filing, giving, making or issuing of documents**

- (1) A document required to be filed or given under these rules may be filed or given electronically in a way set out in a direction.
- (2) For a document filed electronically under these rules, the day on which the document is taken to have been filed is—
  - (a) if the whole of the document is received by the registry before 4.30p.m. on a day the registry is open for business—that day; or
  - (b) otherwise—the next day the registry is open for business.
- (3) A document that may be made or issued under these rules may be made or issued electronically.
- (4) A document made or issued electronically under these rules—
  - (a) must include an image of the seal of the court; and



- (b) is valid even if the document does not include a signature.
- (5) A hard copy of an electronically issued document is taken for all purposes, including, for example, service, to be—
  - (a) a copy of the electronically issued document; and
  - (b) stamped with the court’s seal.
- (6) A document required by subpoena to be produced to the court under these rules may be produced to the court electronically.

## **55 Registrar may issue notice**

If a function is expressly conferred on the registrar under the Act or another Act, the registrar may issue a notice about—

- (a) the procedure that will apply to how the registrar will perform the function; and
- (b) any other matter the registrar considers necessary in relation to the performance of the function.

# **Part 10 Repeal and transitional provision**

## **Division 1 Repeal**

### **56 Repeal**

The Land Court Rules 2000, SL No. 166 are repealed.

## **Division 2                      Transitional provision**

### **57            Application of rules**

- (1) Unless the court directs otherwise, these rules apply to the next step in a proceeding started in the court, but not completed, before the commencement.
- (2) Anything done in relation to a proceeding started in the court, but not completed, before the commencement under the repealed *Land Court Rules 2000* is taken to have been done in relation to the proceeding under these rules.

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## Schedule 1 Dictionary

## rule 5

***agent*** means a person, representing an applicant, who does or may charge a fee for the representation.

***application in a proceeding*** means an application about a proceeding made after the proceeding is started and before it is decided.

***court*** means—

- (a) for part 3, division 2 and part 7—the Land Court; or
- (b) for part 8—the Land Appeal Court; or
- (c) otherwise—the Land Court or Land Appeal Court.

*Note—*

See rule 2.

***electronically*** means by electronic or computer-based means.

***expert***, for part 3, division 5, see rule 16.

***expert evidence***, for part 3, division 5, see rule 16.

***joint report***, for part 3, division 5, see rule 16.

***meeting of experts***, for part 3, division 5, see rule 16.

***notice of appeal*** means a notice in the approved form that starts an appeal to the court.

***order*** includes a judgment, direction, decision, determination or recommendation of the court whether final or otherwise.

***originating application*** means an application in the approved form that starts a proceeding in the court, other than an appeal.

***originating process*** means any of the following documents that, under an Act conferring jurisdiction on the court, may start a proceeding in the court—

- (a) an originating application;
- (b) a notice of appeal;

(c) another document.

**party**, to a proceeding, includes the party's lawyer or agent.

**proceeding** includes a recommendatory proceeding.

**recommendatory proceeding** means a proceeding before the court in which the court is performing a function conferred under a recommendatory provision.

**relevant matter**, for part 7, see rule 47.

**restriction order** see rule 11(1).

**service**—

- (a) of a document that is an originating process, means service in accordance with the uniform rules, chapter 4; or
- (b) of a document other than an originating process, includes, if the court directs, service electronically.

**statement of facts and issues** see rule 12(1).

**uniform rules** means the *Uniform Civil Procedure Rules 1999*.

**without an oral hearing** see rule 36(3).