

Queensland



*Appeal Costs Fund Act 1973*

# APPEAL COSTS FUND REGULATION 1999

**Reprinted as in force on 6 October 2003  
(includes commenced amendments up to 2003 SL No. 237)**

**Reprint No. 1E**

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the Office of the Queensland Parliamentary Counsel  
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# Information about this reprint

This regulation is reprinted as at 6 October 2003. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## **Dates shown on reprints**

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

**Replacement reprint date** If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.

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# APPEAL COSTS FUND REGULATION 1999

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# APPEAL COSTS FUND REGULATION 1999

[as amended by all amendments that commenced on or before 6 October 2003]

## PART 1—PRELIMINARY

### 1 Short title

This regulation may be cited as the *Appeal Costs Fund Regulation 1999*.

### 2 Commencement

This regulation commenced on 1 July 1999.

### 3 Definitions

In this regulation—

“**approved form**” means a form approved by the chief executive under section 13.

“**minor claim**” means a claim for an amount, including interest, of not more than \$7 500, whether as a balance or after an admitted set off, reduction by any amount paid by or credited to the defendant, abandonment of any excess, or otherwise.

“**minor debt claim**” means a minor claim in which the plaintiff—

- (a) claims to recover against a defendant a debt or liquidated demand in money, with or without interest; and
- (b) elects in the claim to have it heard and decided in a Magistrates Court under the simplified procedures in the *Uniform Civil Procedure Rules 1999*.

## **PART 2—ADDITIONAL FEES ON DOCUMENTS**

### **4 Additional fees on documents commencing legal proceedings**

(1) The additional fees payable under section 10 of the Act are in schedule 1.

(2) However, no additional fee is payable on the issue of a minor debt claim.

## **PART 3—CLAIMS UNDER INDEMNITY CERTIFICATES**

### **5 How to claim payment out of the fund under an indemnity certificate**

To claim payment out of the fund under an indemnity certificate issued by a court, a claimant must—

- (a) apply, in the approved form, to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) lodge the following documents with the application—
  - (i) the indemnity certificate;
  - (ii) a copy of any court order relied on;
  - (iii) any order of the registrar stating the amount at which a costs statement has been assessed, for part or all of the costs claimed;
  - (iv) an itemised bill of costs for any other costs claimed;
  - (v) for an indemnity certificate under section 15 of the Act—a copy of a receipt, or other documents, evidencing any payment of costs, by or on behalf of the respondent, relied on;
  - (vi) if payment of an appellant's costs is claimed under section 16(2) of the Act—sworn evidence of the respondent's failure to pay the appellant's costs;
  - (vii) sworn evidence of any other facts relied on.

## **PART 4—CLAIMS UNDER THE ACT, SECTION 22 OR 23**

### **6 How to claim payment out of the fund under the Act, s 22**

To claim payment from the fund under section 22<sup>1</sup> of the Act, a claimant must—

- (a) apply, in the approved form, to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) lodge the following documents with the application—
  - (i) a copy of any order or transcript evidencing a fact mentioned in section 22(1)(a) of the Act;
  - (ii) a copy of any order, for a new trial, mentioned in section 22(1)(b) of the Act;
  - (iii) if the order does not show it was made on an appeal on a question of law—a copy of any transcript showing that fact;
  - (iv) any certificate granted under section 22(1)(c) of the Act;
  - (v) an itemised bill of costs for all costs relating to the claimant of the original trial and of the new trial, that identifies each cost of the original trial thrown away or partly thrown away;
  - (vi) a copy of any order to pay additional costs of a new trial;
  - (vii) a copy of a receipt, or other documents, relied on to show the payment of any additional costs of a new trial;
  - (viii) sworn evidence of any other facts relied on.

### **7 How to claim payment out of the fund under the Act, s 23**

To claim payment from the fund under section 23<sup>2</sup> of the Act, a claimant must—

- (a) apply, in the approved form, to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) lodge the following documents with the application—

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1 Section 22 (Abortive proceedings and new trials after proceedings discontinued)

2 Section 23 (Entitlement on order for new trial on certain grounds)

- (i) a copy of the order for a new trial;
- (ii) if the order does not show the grounds for the order and the claim relates to costs mentioned in section 23(1) of the Act—a copy of any transcript showing the grounds;
- (iii) a copy of any order, for costs, mentioned in section 23(1)(a) of the Act;
- (iv) any order of the registrar stating the amount at which a costs statement has been assessed, for part or all of the costs claimed;
- (v) an itemised bill of costs for all other costs claimed;
- (vi) a copy of a receipt, or other documents, relied on to show the payment of any costs by or on behalf of the respondent;
- (vii) sworn evidence of any other facts relied on.

## **PART 5—PROVISIONS ABOUT THE BOARD**

### **8 Board may require additional evidence from claimant**

The board may require a person claiming payment out of the fund to give the board any additional evidence it considers reasonably necessary to decide the claim.

### **9 Certificates of the board**

A certificate of the board under section 14<sup>3</sup> of the Act must—

- (a) be in the approved form; and
- (b) state the amount the person named in the certificate is entitled to be paid from the fund; and
- (c) state whether the payment is to be made to the person or the person's solicitor;<sup>4</sup> and

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3 Section 14 (Payments out of fund)

4 See section 25 (Payment to solicitor) of the Act.



- (d) authorise payment of the amount out of the fund; and
- (e) be signed by the chairperson of the board or by a board member authorised by the board to sign certificates issued under section 14 of the Act.

## **10 Duties of secretary**

The duties of the secretary of the board (the “**secretary**”) include—

- (a) keeping a register of all applications made to the board for payment out of the fund; and
- (b) keeping minutes of meetings of the board; and
- (c) ensuring that accounts about claims on the fund are prepared as directed by the board; and
- (d) conducting correspondence and other business as directed by the board.

## **11 Registrars to produce documents to board on request**

(1) For the purposes of the Act, the board may request a court’s registrar to produce, or send, to the board a stated file or document.

(2) The request must be signed by the secretary, or someone else authorised by the board to make a request under this section.

(3) The registrar must comply with the request (subject to any present need of the court for the file or document first being satisfied).

(4) The board must return the file or document to the registrar when the board is finished with it.

(5) In this section—

“**registrar**” includes the clerk of a Magistrates Court.

## **12 Fees payable to board members**

(1) The fees payable to members of the board are in the schedule 2.

(2) However, a board member who is a public service officer is not entitled to a fee unless the meeting is held in exceptional circumstances and entirely outside the officer’s normal working hours.

(3) If a fee payable is for a supply on which GST is payable, the fee is to be increased to take account of the GST.

## **PART 6—MISCELLANEOUS**

### **13 Approval of forms**

(1) The chief executive may approve forms for use under the Act.

(2) The prescribed form for a purpose of the Act is the form approved by the chief executive for the purpose.

### **14 Prescribed limits on amounts payable**

(1) For section 16(3)(b) of the Act, the prescribed amount is \$15 000.

(2) For section 18(2) of the Act, the prescribed amount is \$750.

(3) For section 23(2)(c) of the Act, the prescribed amount is \$15 000.

(4) For section 24(2)(c) of the Act, the prescribed amount is \$15 000.

### **15 Transitional provision**

If a claim for payment out of the fund was made and has not been dealt with before the commencement of this section, the claim must be dealt with as if this regulation had not been made.

**SCHEDULE 1****ADDITIONAL FEES ON DOCUMENTS COMMENCING  
LEGAL PROCEEDINGS**

section 4

\$

On the issue of a claim or application or other document  
commencing a proceeding—

(a) in the Supreme Court . . . . .	17.80
(b) in the District Court . . . . .	13.60
(c) in a Magistrates Court . . . . .	2.20

**SCHEDULE 2****FEES PAYABLE TO BOARD MEMBERS**

	section 12
	\$
For attending a meeting of the board—	
(a) meeting of 2 hours or less—	
• chairperson . . . . .	59.00
• other board member . . . . .	41.00
(b) meeting of over 2 hours but not over 4 hours—	
• chairperson . . . . .	89.00
• other board member . . . . .	59.00
(c) meeting of over 4 hours	
• chairperson . . . . .	119.00
• other board member . . . . .	79.00

## ENDNOTES

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 6 October 2003. Future amendments of the Appeal Costs Fund Regulation 1999 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

### TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	none	1 July 1999	6 August 1999
1A	to 2000 SL No. 66	1 May 2000	5 May 2000
1B	to 2000 SL No. 146	1 July 2000	25 August 2000
1C	to 2001 SL No. 111	30 July 2001	7 September 2001 (Column discontinued) Notes
1D	to 2002 SL No. 223	1 September 2002	
1E	to 2003 SL No. 237	6 October 2003	

## 5 List of legislation

### **Appeal Costs Fund Regulation 1999 SL No. 134**

made by the Governor in Council on 24 June 1999  
notfd gaz 25 June 1999 pp 932–8  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 1999 (see s 2)  
exp 1 September 2009 (see SIA s 54)

amending legislation—

### **Justice Legislation (Variation of Fees and Costs) Regulation 2000 SL No. 66 pts 1–2**

notfd gaz 20 April 2000 pp 1533–6  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 May 2000 (see s 2)

### **Justice Legislation Amendment Regulation (No. 1) 2000 SL No. 146 pts 1–2**

notfd gaz 30 June 2000 pp 736–48  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2000 (see s 2)

### **Justice Legislation (Variation of Fees and Costs) Regulation 2001 SL No. 111 pts 1–2**

notfd gaz 20 July 2001 pp 1138–40  
ss 1–2 commenced on date of notification  
remaining provisions commenced 30 July 2001 (see s 2)

### **Justice Legislation (Variation of Fees and Costs) Regulation (No. 1) 2002 SL No. 223 pts 1–2**

notfd gaz 30 August 2002 pp 1557–61  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 September 2002 (see s 2)

**Justice Legislation (Variation of Costs and Fees) Regulation (No. 1) 2003 SL No. 237**  
**ss 1–3, sch**

notfd gaz 3 October 2003 pp 382–5

ss 1–2 commenced on date of notification

remaining provisions commenced 6 October 2003 (see s 2)

**6 List of annotations****Fees payable to board members****s 12** amd 2000 SL No. 146 s 4**Repeal****s 16** exp 2 July 1999 (see s 16(2))**SCHEDULE 1—ADDITIONAL FEES ON DOCUMENTS COMMENCING  
LEGAL PROCEEDINGS**

sub 2000 SL No. 66 s 4; 2001 SL No. 111 s 4; 2002 SL No. 223 s 4

amd 2003 SL No. 237 s 3 sch