



Queensland

*Appeal Costs Fund Act 1973*

# Appeal Costs Fund Regulation 1999

Reprinted as in force on 1 December 2009

Reprint No. 3B

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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 1 December 2009. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

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.**

## Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

## Dates shown on reprints

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised 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 an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised 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.



Queensland

# Appeal Costs Fund Regulation 1999

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# Appeal Costs Fund Regulation 1999

[as amended by all amendments that commenced on or before 1 December 2009]

## 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 Definition

In this regulation—

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

## 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) An individual may apply to the proper officer of the Supreme Court or the District Court of Queensland to whom an additional fee is payable under section 10 of the Act by the

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individual for an order exempting the individual from payment of the fee on the ground that, having regard to the individual's financial position, it is clearly in the interests of justice to make the order.

- (3) The proper officer may, by order, exempt an individual from payment of the fee if the proper officer considers that, having regard to the individual's financial position, it is clearly in the interests of justice to make the order.
- (4) The proper officer may decide the application summarily and without extensive investigation.
- (5) In having regard to the individual's financial position, the proper officer must have regard to the following matters—
  - (a) if the individual receives an income-tested pension under the *Social Security Act 1991* (Cwlth), the type and amount of the pension;
  - (b) how much the individual is paying as rent for his or her accommodation;
  - (c) whether a spouse or close relative may be willing to give the individual financial help;
  - (d) any other matter the proper officer considers relevant.
- (6) The individual, if dissatisfied with the proper officer's decision on the individual's application, may apply for a review of the decision to—
  - (a) if the court is the Supreme Court, a Supreme Court judge; or
  - (b) if the court is the District Court of Queensland, a District Court judge.
- (7) On an application for a review of the proper officer's decision, the judge conducting the review may—
  - (a) consider the application with or without a hearing; and
  - (b) consider anything the proper officer considered under subsection (5); and
  - (c) make the order the judge considers appropriate.

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## **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.

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## **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 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.



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

To claim payment from the fund under section 23 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 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.

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## **9 Certificates of the board**

A certificate of the board under section 14 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; and

*Editor's note—*

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.

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- (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) of the Act, the prescribed amount is \$15000.
- (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 \$15000.

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- (4) For section 24(2)(c) of the Act, the prescribed amount is \$15000.

## **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

section 4

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On the issue of a document commencing—

- |  |       |
|--|-------|
| (a) a cause or matter in the Supreme Court . . . . .           | 21.00 |
| (b) a proceeding in the District Court of Queensland . . . . . | 16.00 |
| (c) a proceeding in a Magistrates Court . . . . .              | 2.80  |

## **Schedule 2      Fees payable to board members**

section 12

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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

### 1 Index to 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 1 December 2009. 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
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 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.

Reprint No.	Amendments included	Effective	Reprint date
1	none	1 July 1999	6 August 1999
1A	2000 SL No. 66	1 May 2000	5 May 2000
1B	2000 SL No. 146	1 July 2000	25 August 2000
1C	2001 SL No. 111	30 July 2001	7 September 2001

Reprint No.	Amendments included	Effective	Notes
1D	2002 SL No. 223	1 September 2002	
1E	2003 SL No. 237	6 October 2003	
1F	2004 SL No. 178	20 September 2004	
1G	2005 SL No. 326	19 December 2005	R1G withdrawn, see R2
2	—	19 December 2005	
2A	2006 SL No. 60	7 April 2006	
2B	2006 SL No. 284	27 November 2006	



Reprint No.	Amendments included	Effective	Notes
2C	2007 SL No. 275	26 November 2007	
2D	2008 SL No. 266	1 September 2008	R2D withdrawn, see R3
3	—	1 September 2008	
3A	2009 SL No. 181	1 September 2009	
3B	2009 SL No. 265	1 December 2009	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	2, 3

## 6 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 31 August 2010 (see SIA s 56A(1)(b) and SIR s 5 sch 3)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

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**  
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)
- Justice Legislation (Costs and Fees) Amendment Regulation (No. 1) 2004 SL No. 178**  
notfd gaz 10 September 2004 pp 173–7  
ss 1–2 commenced on date of notification  
remaining provisions commenced 20 September 2004 (see s 2)
- Justice and Other Legislation (Costs and Fees) Amendment Regulation (No. 1) 2005 SL No. 326**  
notfd gaz 16 December 2005 pp 1490–6  
ss 1–2 commenced on date of notification  
remaining provisions commenced 19 December 2005 (see s 2)
- Small Claims Tribunals and Other Legislation Amendment Regulation (No. 1) 2006 SL No. 60 pts 1–2**  
notfd gaz 7 April 2006 pp 1376–8  
commenced on date of notification
- Justice and Other Legislation (Fees) Amendment Regulation (No. 1) 2006 SL No. 284**  
notfd gaz 24 November 2006 pp 1476–9  
ss 1–2 commenced on date of notification  
remaining provisions commenced 27 November 2006 (see s 2)
- Justice and Other Legislation (Fees) Amendment Regulation (No. 1) 2007 SL No. 275**  
notfd gaz 9 November 2007 pp 1355–7  
ss 1–2 commenced on date of notification  
remaining provisions commenced 26 November 2007 (see s 2)
- Justice and Other Legislation (Fees) Amendment Regulation (No. 1) 2008 SL No. 266**  
notfd gaz 22 August 2008 pp 2651–6  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 September 2008 (see s 2)
- Justice Legislation (Fees) Amendment Regulation (No. 1) 2009 SL No. 181**  
notfd gaz 28 August 2009 pp 1491–6  
ss 1–2 commence on date of notification  
remaining provisions commenced 1 September 2009 (see s 2)
- Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Regulation (No. 1) 2009 SL No. 265 pts 1, 4**  
notfd gaz 20 November 2009 pp 900–3  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 December 2009 (see s 2)

## 7 List of annotations

### Definition

- s 3 def “minor claim” om 2009 SL No. 265 s 8  
def “minor debt claim” om 2009 SL No. 265 s 8

### Additional fees on documents commencing legal proceedings

- s 4 amd 2006 SL No. 284 s 3 sch; 2009 SL No. 265 s 9

### Fees payable to board members

- s 12 amd 2000 SL No. 146 s 4

### Prescribed limits on amounts payable

- s 14 amd 2006 SL No. 60 s 3

### Repeal

- s 16 exp 2 July 1999 (see s 16(2))

### SCHEDULE 1—ADDITIONAL FEES ON DOCUMENTS

- 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; 2004 SL No. 178 s 3 sch; 2005 SL No. 326 s 3  
sch  
sub 2006 SL No. 284 s 3 sch; 2007 SL No. 275 s 3 sch; 2008 SL No. 266 s 3  
sch; 2009 SL No. 181 s 3 sch

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