



Queensland Civil and Administrative Tribunal Act 2009

Queensland Civil and Administrative Tribunal Regulation 2009

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Queensland

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Queensland Civil and Administrative Tribunal Regulation 2009

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Queensland Civil and Administrative Tribunal Regulation 2009*.

2 Commencement

This regulation commences on 31 July 2009.

3 Definitions

The dictionary in schedule 3 defines particular terms used in this regulation.

Part 2 Oath of office

4 Oath of office

(1) For section 228(2) of the Act, the oath is as follows—

‘I, [name] swear I will discharge the functions of the office of [title of office] of the Queensland Civil and Administrative Tribunal to the best of my knowledge and ability and that I will treat everyone fairly and without bias according to law.

So help me God.’.

(2) For section 228(2) of the Act, the affirmation is as follows—

‘I, [name] do solemnly sincerely and truly affirm and declare I will discharge the functions of the office of [title of office] of the Queensland Civil and Administrative Tribunal to the best

[s 4A]

of my knowledge and ability and that I will treat everyone fairly and without bias according to law.’.

Part 3 Prescribed fees

4A Fee for a counter-application

An applicant for a counter-application must pay the prescribed fee, if any, for the counter-application.

5 Fee for an application or counter-application for a minor civil dispute

- (1) The fee for an application under section 38(1) of the Act, or counter-application under section 4A, to hear a minor civil dispute is as follows—
 - (a) if the amount claimed is not more than \$500 or if no amount is claimed—\$26.35;
 - (b) if the amount claimed is more than \$500 but not more than \$1,000—\$67.70;
 - (c) if the amount claimed is more than \$1,000 but not more than \$10,000—\$120.50;
 - (d) if the amount claimed is more than \$10,000—\$338.20.
- (2) However, no fee is payable under subsection (1) by a State-related person.

6 Fee for an application, referral or counter-application

- (1) The fee for an application or referral under section 38(1) of the Act, or counter-application under section 4A, is—
 - (a) if the proceeding is started under an enabling Act or provision of an enabling Act stated in schedule 1—nil; or
 - (b) if the application, referral or counter application is made by a State-related person—nil; or

-
- (c) otherwise—\$338.20.
 - (2) Also, the fee for an application made under the *Prostitution Act 1999*, section 64A or 64B is \$2,686.
 - (3) However, if an application or counter-application mentioned in subsection (1) is an application or counter-application to hear a minor civil dispute, the fee for the application or counter-application is the fee payable under section 5.

7 Fee for an application for a proceeding to be reopened

- (1) This section prescribes, for section 138(2)(c) of the Act, the fee payable by a party to a proceeding for an application to reopen the proceeding.
- (2) The fee is the amount the party would be required to pay under section 5 or 6 to make the application or referral that started the proceeding.
- (3) However, if the fee that would be payable by the party under section 6 is nil because the proceeding was started under an enabling Act or provision of an enabling Act stated in schedule 1, part 1, the fee is \$338.20.

8 Fee for an appeal to the appeal tribunal

- (1) The fee for an appeal to the appeal tribunal against a decision of the tribunal is—
 - (a) for an appeal against a decision of the tribunal on an application or referral made under an enabling Act or provision of an enabling Act—\$676.40; or
 - (b) for an appeal against a decision of the tribunal on an application made under the *Prostitution Act 1999*, section 64A or 64B—\$2,686; or
 - (c) for an appeal against a decision of the tribunal on any other application or referral, other than an application to hear a minor civil dispute—\$676.40.

[s 8A]

- (2) However, if the appeal is against a decision of the tribunal in a proceeding for a minor civil dispute, the fee for the appeal is—
 - (a) if the amount claimed is not more than \$10,000 or no amount is claimed—\$338.20; or
 - (b) otherwise—\$676.40.
- (3) The fee for an appeal to the appeal tribunal against a decision of another entity under an enabling Act is \$338.20.
- (4) A person may apply, in the approved form, to the principal registrar to pay a reduced fee for a fee payable under subsection (1), (2) or (3).
- (5) If the principal registrar is satisfied that payment of the fee for an appeal would cause, or would be likely to cause, the applicant for a reduced fee undue financial hardship, the reduced fee is \$100.
- (6) If leave to appeal against a decision of the tribunal or of another entity under an enabling Act is required under section 142 of the Act or under an enabling Act, the fee mentioned in subsection (1), (2), (3) or (5) for the appeal must accompany the application for leave.

8A Copying fees for parties

- (1) A party to a proceeding may, on payment of the prescribed fee, obtain a copy of—
 - (a) a part of the register relating to the proceeding; or
 - (b) a part of a record kept for the proceeding, filed in the registry.
- (2) If a party obtains a photocopy of a document or other thing under rule 80(3) of the rules, the party must pay a fee for the photocopy.
- (3) However, a party to a proceeding started under an enabling Act mentioned in schedule 1, part 2 may obtain the copy under subsections (1) or (2) without charge.

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- (4) Despite subsection (3), the fee is payable if the adult who is the subject of the proceeding is dead and the proceedings are started under—
- (a) the *Disability Services Act 2006*, section 178(9); or
 - (b) the *Guardianship and Administration Act 2000*; or
 - (c) the *Powers of Attorney Act 1998*.

9 Other fees

Other fees payable under the Act are stated in schedule 2.

10 Waiver of fees

- (1) A person may apply, in the approved form, to the principal registrar for a fee payable under the Act to be waived.
- (2) However, a person can not make an application under this section in relation to a proceeding to which the *Vexatious Proceedings Act 2005*, section 10(2) applies.
- (3) The principal registrar may waive the payment of a fee if the principal registrar is satisfied payment of the fee would cause, or would be likely to cause, the person undue financial hardship.
- (4) This section does not apply to a fee payable under section 8.

10AA Refund of excess fees paid

- (1) This section applies if—
 - (a) the principal registrar waives payment of a fee under section 10(3); and
 - (b) a person has paid the fee.
- (2) The principal registrar must refund the fee to the person.

Part 4 Allowances for witnesses and other persons

10A Application of pt 4

This part does not apply to reviews of reviewable decisions under the following Acts—

- (a) the *Adoption Act 2009*;
- (b) the *Child Protection Act 1999*;
- (c) the *Working with Children (Risk Management and Screening) Act 2000*.

Note—

Section 97(3) of the Act provides that if no fees and allowances are prescribed under a regulation in relation to a proceeding, a person required to attend or produce a document or thing to the tribunal is entitled to be paid the fees and allowances decided by the tribunal.

11 Non-professional witness attendance allowance—Act, s 97(3)

- (1) The allowance payable to a non-professional witness who is given a notice under section 97(1)(a) of the Act is—
 - (a) if the witness is under 16 years—\$42.20; or
 - (b) if the witness is 16 years or older—\$84.30;for each day or part of a day of necessary absence from the witness's place of employment, practice or residence to attend a hearing.
- (2) The allowance must be paid to the witness within a reasonable time after the witness attends the hearing as required by the notice mentioned in subsection (1).

**12 Professional or expert witness attendance allowance—
Act, s 97(3)**

- (1) The allowance payable to a professional or expert witness who is given a notice under section 97(1)(a) of the Act is \$261.30 for each day of necessary absence from the witness's place of employment, practice or residence to attend a hearing.
- (2) However, if the period for which a professional or expert witness is necessarily absent is 7 hours or less, the amount of the allowance payable is as follows—
 - (a) for an absence of 3 hours or less—\$98.55;
 - (b) for an absence of more than 3 hours but not more than 4 hours—\$136.60;
 - (c) for an absence of more than 4 hours but not more than 5 hours—\$166.30;
 - (d) for an absence of more than 5 hours but not more than 6 hours—\$196.00;
 - (e) for an absence of more than 6 hours but not more than 7 hours—\$237.60.
- (3) Also, if the witness is a doctor who is employed under the *Hospital and Health Boards Act 2011* as a health service employee at a public sector hospital, the allowance payable for each day or part of a day of necessary absence from the hospital at which the person is employed is \$86.70.
- (4) The allowance must be paid to the witness within a reasonable time after the witness attends the hearing as required by the notice mentioned in subsection (1).
- (5) Travelling time is to be taken into account for deciding the amount of the allowance under this section.

13 Increase if GST payable

If an amount payable under section 12 is for a supply on which GST is payable, the amount payable under the section is to be increased to take account of the GST.

14 Conduct money—Act, s 97(3)

- (1) A person who is given a notice under section 97(1) of the Act is entitled to be paid an allowance, as conduct money, in an amount sufficient to meet the reasonable expenses of complying with the notice.
- (2) If the reasonable expenses involve travel and accommodation expenses, those components of the expenses are to be calculated as stated in sections 15 and 16.
- (3) The conduct money must be paid to the person—
 - (a) at the time the person is given the notice under section 97(1) of the Act; or
 - (b) within a reasonable time before the person is required to comply with the notice.
- (4) Payment of conduct money is in addition to payment of any other amount to which the person is entitled under section 11 or 12.

15 Travel expenses

- (1) For section 14(2), the amount of the travel expenses payable to a person who is given a notice under section 97(1) of the Act is—
 - (a) the amount payable for fares on public transport for return travel between the person's place of employment, practice or residence (whichever is the furthest from the tribunal) and the tribunal; or
 - (b) if there is no public transport available—the amount calculated at the rate per kilometre payable under the *Public Service Act 2008* to a public service employee required to use the employee's private motor vehicle for official purposes, taken to the nearest whole cent.
- (2) If it is reasonable for the person to travel to and from the tribunal by air, the amount of the travel expenses to be paid is the amount payable for economy class air travel by the person to and from the tribunal.

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- (3) For calculating travel expenses, in deciding whether public transport is available, regard is to be had to whether a public transport system operates by which a person could conveniently—
- (a) travel to the tribunal in reasonable time before the person is required to attend a hearing or produce a document or other thing; and
 - (b) return to the person's place of employment, practice or residence (whichever is the furthest from the tribunal) after the person has attended the hearing or produced the document or other thing.
- (4) In this section—

public transport means any form of passenger transport that is available for use by the public on payment of a fare.

16 Accommodation expenses

For section 14(2), the amount of the accommodation expenses payable to a person who is given a notice under section 97(1) of the Act is the amount calculated at the rate payable under the *Public Service Act 2008* to a public service officer.

Part 5 QCAT justices of the peace

17 Prescribed location for tribunal constituted by QCAT justices of the peace—Act, s 206E

For section 206E of the Act, the following locations are prescribed—

- (a) Brisbane;
- (b) Ipswich;
- (c) Maroochydore;
- (d) Southport;
- (e) Townsville.

[s 18]

**18 Daily sitting fee payable to QCAT justices of the peace—
Act, s 206R**

For section 206R(2) of the Act, the prescribed daily sitting fee is \$100.

Schedule 1 Enabling Acts and provisions for sections 6 and 8A

sections 6 and 8A

Part 1 Acts and provisions for section 6(1)

Associations Incorporation Act 1981, section 106K(2)(b)

Child Protection (International Measures) Act 2003

Education (Accreditation of Non-State Schools) Act 2017

Information Privacy Act 2009, section 173(1)

Retail Shop Leases Act 1994, sections 63 and 64

Part 2 Acts and provisions for sections 6(1) and 8A(3)

Adoption Act 2009

Anti-Discrimination Act 1991

Child Protection Act 1999

Disability Services Act 2006, section 178(9)

Guardianship and Administration Act 2000

Powers of Attorney Act 1998

*Working with Children (Risk Management and Screening) Act
2000*

Schedule 2 Other fees

section 9

\$

Inspection of register or record for a proceeding

- | | | |
|---|--|-------|
| 1 | Fee for inspecting the register (under section 229(4)(a) of the Act) or the record for a proceeding (under section 230(3)(a) of the Act), other than an inspection made by a party to a proceeding of the part of the register relating to the proceeding or the record kept for the proceeding— | |
| | (a) for each hour or part of an hour | 17.80 |
| | (b) maximum fee for a day | 70.05 |
| 2 | Additional fee for inspecting the register or the record for a proceeding (other than an inspection made by a party to a proceeding of the part of the register relating to the proceeding or the record kept for the proceeding) if the register or record, or part of the register or record, must be retrieved from off-site storage, for each box retrieved— | |
| | (a) 1 box | 38.15 |
| | (b) 2 boxes | 42.45 |
| | (c) 3 or more boxes | 47.35 |

Copying of register or record for a proceeding

- | | | |
|---|--|--|
| 3 | Fee for a black and white copy of part of the register (under section 229(4)(b) of the Act or section 8A(1)(a)), part of a record for a proceeding (under section 230(3)(b) of the Act or section 8A(1)(b)) or a document or other thing (under section 8A(2)), other than a plan or drawing, for each page— | |
|---|--|--|

	\$
(a) for less than 20 pages	2.00
(b) for 20 to 50 pages	1.70
(c) for more than 50 pages	1.25
4 Fee for a colour copy of part of the register (under section 229(4)(b) of the Act or section 8A(1)(a)), part of a record for a proceeding (under section 230(3)(b) of the Act or section 8A(1)(b)) or a document or other thing (under section 8A(2)), other than a plan or drawing, for each page—	
(a) for an A4 page	6.20
(b) for an A3 page	6.60
5 Fee for a copy of part of the register (under section 229(4)(b) of the Act or section 8A(1)(a)), part of a record for a proceeding (under section 230(3)(b) of the Act or section 8A(1)(b)) or a document or other thing (under section 8A(2)), that is a plan or drawing, for each page—	
(a) for an A3 page	5.25
(b) for an A2 page	6.75
(c) for an A1 page	8.60
Other	
6 Fee for an application (under section 63(5) of the Act) for an order requiring a person who is not a party to a proceeding to produce a document or thing to the tribunal or a party to a proceeding	20.90
7 Fee for an application (under section 97(2) of the Act) for a notice requiring a person to attend at a stated hearing of a proceeding to give evidence or produce a stated document or other thing to the tribunal	20.90

Schedule 2

	\$
8 Fee for an officer of the tribunal to accompany a record or document at a place out of a registry of the tribunal, for each day or part of a day the officer is necessarily absent from the registry	196.70 plus the officer's reasonable travel and other expenses
9 Fee for supplying a certificate as to the correctness of a matter in the register of proceedings	65.10 in addition to any other fee under items 3–5

Schedule 3 Dictionary

section 3

counter-application see the *Queensland Civil and Administrative Tribunal Rules 2009*, rule 48(1).

expert witness means a witness who attends a hearing to give evidence of an expert nature.

non-professional witness means a witness who attends a hearing to give evidence of a non-professional nature.

prescribed entity means any of the following entities—

- (a) the Board of Architects of Queensland under the *Architects Act 2002*;
- (b) the Board of Professional Engineers of Queensland under the *Professional Engineers Act 2002*;
- (c) the Crime and Corruption Commission;
- (d) the Health Ombudsman under the *Health Ombudsman Act 2013*;
- (e) the Legal Services Commissioner under the *Legal Profession Act 2007*;
- (f) a National Health Practitioner Board under the Health Practitioner Regulation National Law (Queensland);
- (g) the Professional Capacity and Teacher Conduct Committee under the *Education (Queensland College of Teachers) Act 2005*;
- (h) the Queensland Building and Construction Commission under the *Queensland Building and Construction Commission Act 1991*;
- (i) the Queensland College of Teachers under the *Education (Queensland College of Teachers) Act 2005*;
- (j) the Surveyors Board of Queensland under the *Surveyors Act 2003*;

- (k) the Valuers Registration Board of Queensland under the *Valuers Registration Act 1992*;
- (l) the Veterinary Surgeons Board of Queensland under the *Veterinary Surgeons Act 1936*.

professional witness means a witness who attends a hearing to give evidence of a professional nature.

State-related person means—

- (a) the Sovereign; or
- (b) the State or a person acting for the State; or
- (c) an entity whose expenditure is payable, in whole or in part, out of the consolidated fund or person acting for the entity; or
- (d) a prescribed entity.