



Queensland

# Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Regulation (No. 1) 2009

## Subordinate Legislation 2009 No. 265

made under the

*Animal Management (Cats and Dogs) Act 2008*

*Anti-Discrimination Act 1991*

*Appeal Costs Fund Act 1973*

*Births, Deaths and Marriages Registration Act 2003*

*Body Corporate and Community Management Act 1997*

*Corrective Services Act 2006*

*Crime and Misconduct Act 2001*

*Evidence Act 1977*

*Explosives Act 1999*

*Gaming Machine Act 1991*

*Gas Supply Act 2003*

*Guardianship and Administration Act 2000*

*Health Practitioners (Professional Standards) Act 1999*

*Legal Profession Act 2007*

*Police Service Administration Act 1990*

*Property Agents and Motor Dealers Act 2000*

*Racing Act 2002*

*Retirement Villages Act 1999*

*Supreme Court of Queensland Act 1991*

*Surveyors Act 2003*

*Tow Truck Act 1973*

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## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Regulation (No. 1) 2009*.

### 2 Commencement

This regulation commences on 1 December 2009.

## Part 2 Amendment of Animal Management (Cats and Dogs) Regulation 2009

### 3 Regulation amended

This part amends the *Animal Management (Cats and Dogs) Regulation 2009*.

### 4 Amendment of s 29 (Notice of refusal)

- (1) Section 29(2)(b), ‘a review’—  
*omit, insert—*  
‘an internal review’.
- (2) Section 29(2)(c), ‘review’—  
*omit, insert—*  
‘internal review’.

**5 Amendment of s 30 (Review of chief executive's decision)**

Section 30, editor's note—

*omit, insert—*

*'Editor's note—*

chapter 8 (Reviews) and section 181 (Who may apply for internal review) of the Act'.

**Part 3 Repeal of Anti-Discrimination Regulation 2005**

**6 Repeal**

The Anti-Discrimination Regulation 2005, SL No. 205 is repealed.

**Part 4 Amendment of Appeal Costs Fund Regulation 1999**

**7 Regulation amended**

This part amends the *Appeal Costs Fund Regulation 1999*.

**8 Amendment of s 3 (Definitions)**

Section 3, definitions *minor claim* and *minor debt claim—omit.*

**9 Amendment of s 4 (Additional fees on documents commencing legal proceedings)**

(1) Section 4(2)—



*omit.*

- (2) Section 4(3) to (8)—  
*renumber* as section 4(2) to (7).
- (3) Section 4(7), as renumbered, ‘subsection (6)’—  
*omit, insert*—  
‘subsection (5)’.

## **Part 5**

# **Amendment of Births, Deaths and Marriages Registration Regulation 2003**

### **10 Regulation amended**

This part amends the *Births, Deaths and Marriages Registration Regulation 2003*.

### **11 Amendment of s 7 (Who may be issued with a certificate of a closed entry relating to a person whose sex has been reassigned—Act, s 14)**

- (1) Section 7(1)(e), after ‘Commonwealth’—  
*insert*—  
‘, or an order of QCAT’,
- (2) Section 7(5), after ‘order’—  
*insert*—  
‘or an order of QCAT’.

## **Part 6**                      **Amendment of Body Corporate and Community Management (Accommodation Module) Regulation 2008**

### **12**      **Regulation amended**

This part amends the *Body Corporate and Community Management (Accommodation Module) Regulation 2008*.

### **13**      **Amendment of s 149 (Spending by committee [SM, s 151])**

Section 149(1)(d)—

*insert—*

‘(iv) the order of QCAT.’.

### **14**      **Amendment of s 169 (Body corporate may carry out work required of owners and occupiers—Act, s 161 [SM, s 171])**

Section 169(1)(e), after ‘court’—

*insert—*

‘or QCAT’.

## **Part 7**                      **Amendment of Body Corporate and Community Management (Commercial Module) Regulation 2008**

### **15**      **Regulation amended**

This part amends the *Body Corporate and Community Management (Commercial Module) Regulation 2008*.

### **16**      **Amendment of s 127 (Body corporate may carry out work required of owners and occupiers—Act, s 161 [SM, s 171])**

Section 127(1)(e), after ‘court’—

*insert—*

‘or QCAT’.

## **Part 8**                      **Amendment of Body Corporate and Community Management (Small Schemes Module) Regulation 2008**

### **17**      **Regulation amended**

This part amends the *Body Corporate and Community Management (Small Schemes Module) Regulation 2008*.

### **18**      **Amendment of s 85 (Spending by committee [SM, s 151])**

Section 85(1)(d)—

*insert—*

‘(iv) the order of QCAT; or’.

**19 Amendment of s 105 (Body corporate may carry out work required of owners and occupiers—Act, s 161 [SM, s 171])**

Section 105(1)(e), after ‘court’—

*insert—*

‘or QCAT’.

**Part 9 Amendment of Body Corporate and Community Management (Standard Module) Regulation 2008**

**20 Regulation amended**

This part amends the *Body Corporate and Community Management (Standard Module) Regulation 2008*.

**21 Amendment of s 151 (Spending by committee)**

Section 151(1)(d)—

*insert—*

‘(iv) the order of QCAT.’.

**22 Amendment of s 171 (Body corporate may carry out work required of owners and occupiers—Act, s 161)**

Section 171(1)(e), after ‘court’—

*insert—*  
'or QCAT'.

## **Part 10**                      **Amendment of Corrective Services Regulation 2006**

### **23**      **Regulation amended**

This part amends the *Corrective Services Regulation 2006*.

### **24**      **Amendment of s 18 (Privileged mail)**

(1) Section 18(1)(l) to (p)—

*renumber* as section 18(1)(m) to (q).

(2) Section 18(1)—

*insert—*

'(l) the principal registrar, a registrar or other administrative staff of the Queensland Civil and Administrative Tribunal Registry under the QCAT Act;'.  
'(m) the principal registrar, a registrar or other administrative staff of the Queensland Civil and Administrative Tribunal Registry under the QCAT Act;'.  
'(n) the principal registrar, a registrar or other administrative staff of the Queensland Civil and Administrative Tribunal Registry under the QCAT Act;'.  
'(o) the principal registrar, a registrar or other administrative staff of the Queensland Civil and Administrative Tribunal Registry under the QCAT Act;'.  
'(p) the principal registrar, a registrar or other administrative staff of the Queensland Civil and Administrative Tribunal Registry under the QCAT Act;'.

## **Part 11**                      **Amendment of Crime and Misconduct Regulation 2005**

### **25**      **Regulation amended**

This part amends the *Crime and Misconduct Regulation 2005*.

[s 26]

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**26 Replacement of s 16 (Appointments and units of public administration subject to misconduct tribunal's jurisdiction)**

Section 16—

*omit, insert—*

**'16 Appointments and units of public administration subject to QCAT's jurisdiction**

'For section 50(4) of the Act, definition *prescribed person*, paragraph (b), each appointment or unit of public administration mentioned in schedule 2 is declared to be subject to QCAT's jurisdiction.'

**27 Amendment of sch 2, hdg (Appointments and units of public administration subject to misconduct tribunal's jurisdiction)**

Schedule 2, heading, 'misconduct tribunal's'—

*omit, insert—*

'QCAT's'.

## **Part 12 Amendment of Evidence Regulation 2007**

**28 Regulation amended**

This part amends the *Evidence Regulation 2007*.

**29 Renumbering of ss 4–8**

Sections 4 to 8—

*renumber* as sections 5 to 9.

**30 Insertion of new s 4**

After section 3—

*insert—*

**‘4 Tribunal declared to be a court for Act, pt 3A**

‘For the Act, section 39C, definition *Queensland court*, paragraph (d), QCAT is declared to be a court for part 3A of the Act.’.

**31 Amendment of schedule, hdg (Approved machines)**

Schedule, heading, ‘section 4’—

*omit, insert—*

‘section 5’.

## **Part 13 Amendment of Explosives Regulation 2003**

**32 Regulation amended**

This part amends the *Explosives Regulation 2003*.

**33 Amendment of s 110 (Sale of explosive to recover fee for storage)**

(1) Section 110(1)(b), ‘notice’—

*omit, insert—*

‘an information notice’.

(2) Section 110(1)(c)—

*omit, insert—*

- ‘(c) the period allowed for an external review of the decision to sell the explosive has ended or the external review has been decided.’.

## **Part 14**                      **Amendment of Gaming Machine Regulation 2002**

### **34**      **Regulation amended**

This part amends the *Gaming Machine Regulation 2002*.

### **35**      **Omission of pt 3A, div 1, hdg (General matters for operating authorities)**

Part 3A, division 1, heading—

*omit.*

### **36**      **Omission of pt 3A, div 2 (Matters relating to transitional provisions for Gaming Machine and Other Legislation Amendment Act 2003)**

Part 3A, division 2—

*omit.*

### **37**      **Amendment of sch 1 (Prescribed entities)**

Schedule 1, ‘Commercial and Consumer Tribunal established under the *Commercial and Consumer Tribunal Act 2003*’—

*omit, insert—*

‘QCAT’.



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## Part 15                      Amendment of Gas Supply Regulation 2007

### 38            Regulation amended

This part amends the *Gas Supply Regulation 2007*.

### 39            Amendment of s 11 (Deferral of particular reclassifications until appeal expiration day)

(1) Section 11(1) and heading, ‘appeal’—

*omit, insert—*

‘review’.

(2) Section 11(2)—

*omit, insert—*

‘(2) In this section—

*review expiration day*, for a decision, means—

(a) if an application for internal review of the decision is not made within the 20 business days mentioned in section 272(1) of the Act (as applied under section 54) or within any extended period under section 272(2) of the Act—the day the 20 business days or extended period ends; or

(b) if an application for internal review is made—the day all proceedings under chapter 6, part 1 of the Act (as applied under section 54) and any external review proceedings relating to the decision end.’.

### 40            Amendment of s 54 (Review and appeal rights)

(1) Section 54, heading—

*omit, insert—*

### ‘54            Internal and external review rights’.

(2) Section 54, ‘a review’—

*omit, insert—*  
'an internal review'.

## **Part 16**                      **Amendment of Guardianship and Administration Regulation 2000**

### **41**      **Regulation amended**

This part amends the *Guardianship and Administration Regulation 2000*.

### **42**      **Omission of pt 2 (Additional information required in applications)**

Part 2—  
*omit.*

### **43**      **Renumbering of pt 3 (Miscellaneous provisions)**

Part 3—  
*renumber* as part 2.

### **44**      **Renumbering of ss 7 and 8**

Sections 7 and 8—  
*renumber* as sections 3 and 4.

### **45**      **Amendment of sch 1, hdg (Equivalent provisions)**

Schedule 1, heading, 'section 7'—  
*omit, insert—*  
'section 3'.

**46 Amendment of sch 2, hdg (Visitable sites)**

Schedule 2, heading, ‘section 8’—

*omit, insert—*

‘section 4’.

**Part 17 Amendment of Health  
Practitioners (Professional  
Standards) Regulation 2000**

**47 Regulation amended**

This part amends the *Health Practitioners (Professional Standards) Regulation 2000*.

**48 Amendment of s 2 (Witness allowances—Act, ss 150, 193 and 234)**

(1) Section 2, heading, ‘150, 193 and 234’—

*omit, insert—*

**‘150 and 193’.**

(2) Section 2, ‘disciplinary body’—

*omit, insert—*

‘board, disciplinary committee or panel’.

## **Part 18**                      **Amendment of Legal Profession Regulation 2007**

### **49**      **Regulation amended**

This part amends the *Legal Profession Regulation 2007*.

### **50**      **Amendment of s 6 (Prescription of legal practice relating to prohibition on engaging in legal practice when not entitled)**

Section 6, ‘24(2)(f)’—

*omit, insert—*

‘24(2)(e)’.

### **51**      **Amendment of s 66 (Approved forms to be used in carrying out external examination)**

Section 66, ‘for the Act’—

*omit, insert—*

‘of the Act’.

### **52**      **Insertion of new pt 4.9**

After section 89—

*insert—*

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## **‘Part 4.9 Proceedings in disciplinary body**

### **‘Division 1 Preliminary matters for discipline application**

#### **‘89A How to make a discipline application**

- ‘(1) A discipline application must be made in the approved form and filed with the secretariat of the committee.
- ‘(2) A discipline application may relate to more than 1 complaint or investigation matter.
- ‘(3) A discipline application must state—
  - (a) for an application for an order against an Australian lawyer or former Australian lawyer—particulars of the lawyer’s alleged unsatisfactory professional conduct or professional misconduct; or
  - (b) for an application for an order against a law practice employee or former law practice employee—particulars of the employee’s alleged misconduct in relation to the relevant practice.

*Note—*

See sections 417 and 425 of the Act.

- ‘(4) A discipline application must also state—
  - (a) the commissioner’s address for service; and
  - (b) the commissioner’s telephone number, fax number and email address.

#### **‘89B Commissioner to serve copy of discipline application**

‘The commissioner must serve a copy of a discipline application personally on each respondent to the discipline application.

**‘89C Respondent to file and serve notice of address for service**

- ‘(1) Within 14 days after a respondent is served with a discipline application, the respondent must—
- (a) file with the secretariat of the committee a notice of address for service, in the approved form; and
  - (b) serve a copy of the notice on the commissioner; and
  - (c) serve a copy of the notice personally on each of the other parties to the discipline application.
- ‘(2) The notice of address for service must state the respondent’s contact details.

**‘Division 2 Other matters for discipline application**

**‘89D Substituted service**

‘The committee may make an order substituting another way of serving a document required to be served under this part.

**‘89E Address for service**

- ‘(1) Subject to subsection (3), the commissioner’s address for service is the commissioner’s address for service stated in a discipline application.
- ‘(2) Subject to subsection (3), the address for service of a respondent to a discipline application is—
- (a) for a respondent acting personally—the respondent’s residential or business address stated in the respondent’s notice of address for service; or
  - (b) for a respondent for whom a law practice is appointed to act—the practice’s law practice address stated in the respondent’s notice of address for service.

- 
- ‘(3) A party to a discipline application may change the party’s address for service or any other contact details by—
- (a) filing with the secretariat of the committee a notice of address for service stating the new address for service or contact details; and
  - (b) serving a copy of the notice on each of the other parties to the discipline application.

### **‘89F Directions hearing**

- ‘(1) The committee, the chairperson or deputy chairperson of the committee may set a time, day and place for a directions hearing in a proceeding before the committee.
- ‘(2) The committee must give each party to the proceeding written notice of the time, day and place set for the directions hearing as soon as practicable after it is set.
- ‘(3) The committee may, in writing, require each party, within a stated time—
- (a) to serve each of the other parties to the proceeding with a copy of the directions, if any, the party wants the committee to issue; and
  - (b) to confer with each of the other parties with a view to agreeing, as far as practicable, on the directions the committee should be asked to issue.

### **‘89G Setting down for hearing**

- ‘(1) The committee may set the time, day and place for the hearing of a discipline application.
- ‘(2) The committee must give each party to the discipline application written notice of the time, day and place set for the hearing of the application as soon as practicable after it is set.

### **‘89H List of documents**

- ‘(1) A party to a proceeding for a discipline application must—

- (a) at least 14 days before the hearing day for the discipline application, serve a list of documents the party intends to rely on at the hearing on each of the other parties to the proceeding, unless the committee orders otherwise; and
  - (b) make the documents mentioned in the list available for inspection by each of the other parties at least 7 days before the hearing day; and
  - (c) if asked by another party for a copy of a document mentioned in the list, and on payment of the appropriate amount, give the other party a copy of the document.
- ‘(2) The *appropriate amount* is the amount worked out on the total number of pages copied at the rate set for copying a document under the *Uniform Civil Procedure Rules 1999*, schedule 1, item 7.
- ‘(3) Subsection (1)(c) does not prevent a party recovering the cost of copies as part of the costs of the proceeding.

## ‘89I Affidavits

- ‘(1) A party to a proceeding for a discipline application must—
- (a) file with the secretariat of the committee each affidavit the party intends to rely on at the hearing of the discipline application; and
  - (b) serve a copy of the affidavit on each of the other parties to the proceeding.
- ‘(2) A party must comply with subsection (1) as soon as practicable, but no later than 5 days, before the hearing day.
- ‘(3) Subsection (4) applies if a party requires someone who has sworn an affidavit for another party to attend the hearing to give evidence or for cross-examination.
- ‘(4) The party must, at least 3 days before the hearing day, file with the secretariat of the committee, and serve on each of the other parties, a list of the persons the party requires to attend the hearing to give evidence or for cross-examination.



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## **‘Division 3                    General**

### **‘89J    Extending and shortening time**

- ‘(1) The committee may—
  - (a) at any time—extend a time set under this part; or
  - (b) if a time set under this part, including a time for service, has not ended—shorten the time; or
  - (c) make any other appropriate order in relation to the extending or shortening of time.
- ‘(2) For subsection (1), the committee must observe the rules of procedural fairness.

### **‘89K    Effect of noncompliance with part**

- ‘(1) Noncompliance with this part by a respondent to a proceeding does not invalidate the proceeding, unless the committee directs otherwise.
- ‘(2) If this part has not been complied with by a respondent to a proceeding, the committee may—
  - (a) waive the noncompliance; or
  - (b) by order, set aside part or all of the proceeding; or
  - (c) make any other appropriate order.
- ‘(3) If the committee makes an order under section 651 of the Act in relation to noncompliance with this part by the commissioner, the committee may also make any other appropriate order.
- ‘(4) If the commissioner has not complied with this part and the committee is not satisfied it should make an order under section 651 of the Act in relation to the noncompliance, the committee may—
  - (a) by order, set aside part or all of the proceeding; or
  - (b) make any other appropriate order.’.

[s 53]

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**53 Insertion of new pt 9, div 1, hdg and replacement of s 92, hdg**

(1) Before section 92—

*insert—*

**‘Division 1 Transitional provision for Justice and Other Legislation (Fees) Amendment Regulation (No. 1) 2007’.**

(2) Section 92, heading—

*omit, insert—*

**‘92 Fee payable for board’s consideration of application for admission’.**

**54 Insertion of new pt 9, div 2**

Part 9—

*insert—*

**‘Division 2 Transitional provisions for Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Regulation (No. 1) 2009**

**‘93 Definitions for div 2**

‘In this division—

*commencement* means commencement of this section.

*repealed rule* means the repealed *Legal Profession (Tribunal and Committee) Rule 2007*.

**‘94 Undecided discipline application made under repealed rule**

‘(1) This section applies if—

- 
- (a) before the commencement, the commissioner made a discipline application under the repealed rule; and
  - (b) the discipline application has not been decided.
- ‘(2) The committee must hear, or continue to hear, and decide the application under the repealed rule as if the repealed rule had not been repealed.

### ‘95 References to repealed rule

‘A reference in an Act or other document to the repealed rule may, if the context permits, be taken to be a reference to this regulation.’

### 55 Amendment of sch 2 (Dictionary)

Schedule 2—

*insert—*

‘**contact details**, of a party to a discipline application, means—

- (a) if the party intends to act personally, the following details—
  - (i) the residential or business address of the party;
  - (ii) if the party has a telephone number—the telephone number of the party;
  - (iii) if the party does not have a telephone number—a way of contacting the party by telephone;
  - (iv) the fax number and email address, if any, of the party; or
- (b) if a law practice is appointed to act for the party, the following details—
  - (i) the residential or business address of the party;
  - (ii) the name under which the law practice is carried on;

- (iii) either of the following (the *law practice address*)—
  - (A) if the law practice has a place of business in Queensland—the address of the place of business in Queensland of the law practice;
  - (B) otherwise—an address, in Queensland, for service of the party;
- (iv) the telephone number of the law practice;
- (v) the fax number and email address, if any, of the law practice.

*law practice address*, see the definition *contact details*, paragraph (b)(iii).

*secretariat of the committee* means the administrative unit that provides secretariat services to the committee.

*Note—*

Under section 625 of the Act, the commissioner must provide administrative support for the committee, including secretariat support.’.

## Part 19    Amendment of Police Service (Discipline) Regulations 1990

### 56      Regulation amended

This part amends the *Police Service (Discipline) Regulations 1990*.

### 57      Amendment of s 3 (Object)

(1) Section 3, second dot point—

*omit, insert—*

- ‘• ensure the appropriate standards of discipline within the Queensland Police Service are maintained so as—

- (i) to protect the public; and
  - (ii) to uphold ethical standards within the Queensland Police Service; and
  - (iii) to promote and maintain public confidence in the Queensland Police Service.’.
- (2) Section 3, first and second dot points—  
*number* as paragraphs (a) and (b).

## **Part 20**                      **Amendment of Property Agents and Motor Dealers Regulation 2001**

### **58**      **Regulation amended**

This part amends the *Property Agents and Motor Dealers Regulation 2001*.

### **59**      **Amendment of s 5 (Fees)**

Section 5, from ‘, other than’ to ‘tribunal,’—  
*omit*.

## **Part 21**                      **Amendment of Racing Regulation 2003**

### **60**      **Regulation amended**

This part amends the *Racing Regulation 2003*.

**61 Amendment of sch 3 (Fees)**

- (1) Schedule 3, item 5—  
*omit.*
- (2) Schedule 3, items 6 and 7—  
*renumber* as schedule 3, items 5 and 6.

**Part 22 Amendment of Retirement Villages Regulation 2000**

**62 Regulation amended**

This part amends the *Retirement Villages Regulation 2000*.

**63 Omission of s 5 (Allowance to witness)**

Section 5—  
*omit.*

**64 Amendment of s 6 (Fees)**

Section 6, from ‘, other than’ to ‘of the Act,’—  
*omit.*

**Part 23 Amendment of Surveyors Regulation 2004**

**65 Regulation amended**

This part amends the *Surveyors Regulation 2004*.

**66 Amendment of s 7 (Particulars for register)**

Section 7, ‘a disciplinary committee’—

*omit, insert—*

‘QCAT’.

**Part 24 Amendment of Tow Truck  
Regulation 2009**

**67 Regulation amended**

This part amends the *Tow Truck Regulation 2009*.

**68 Amendment of s 14 (Conditions of licence)**

Section 14(6)—

*omit, insert—*

‘(6) If the chief executive decides not to give the exemption—

- (a) sections 28 and 29 of the Act apply to the decision as if the decision were mentioned in schedule 1 of the Act; and
- (b) the notice under subsection (5) must state that the applicant may—
  - (i) under section 28 of the Act, ask the chief executive to review the decision; and
  - (ii) under section 29 of the Act, apply to QCAT for the chief executive’s decision on the review to be reviewed.’.

## **Part 25**                      **Amendment of Uniform Civil Procedure (Fees) Regulation 2009**

### **69**      **Regulation amended**

This part amends the *Uniform Civil Procedure (Fees) Regulation 2009*.

### **70**      **Amendment of sch 2 (Magistrates Courts fees)**

- (1) Schedule 2, part 1, item 3—  
*omit.*
- (2) Schedule 2, part 1, items 4 to 14—  
*renumber* as schedule 2, part 1, items 3 to 13.

## **Part 26**                      **Amendment of Uniform Civil Procedure Rules 1999**

### **71**      **Rules amended**

This part amends the *Uniform Civil Procedure Rules 1999*.

### **72**      **Amendment of r 19 (Originating process must be signed)**

Rule 19(2)—  
*omit.*

### **73**      **Amendment of r 136 (Defendant may act by solicitor or in person)**

- (1) Rule 136(3) and (4)—  
*omit.*



- (2) Rule 136(5)—  
*renumber* as rule 136(3).

**74 Amendment of r 336 (Appearances)**

Rule 336(2), from ‘rules’—  
*omit, insert*—  
‘chapter 13, part 9, division 2.’.

**75 Replacement of ch 13, pt 9, div 2 (Simplified procedures for minor claims)**

Chapter 13, part 9, division 2—  
*omit, insert*—

**‘Division 2 Simplified procedures**

**‘514 Application of simplified procedures**

- ‘(1) The simplified procedures apply to minor claims.
- ‘(2) Also, if the parties to a claim that is not a minor claim—
- (a) agree in writing to all or part of the simplified procedures applying to the claim; and
  - (b) file the agreement;
- the simplified procedures apply to the claim to the extent agreed.
- ‘(3) However, subrule (2) does not apply to a claim for a debt or liquidated demand mentioned in the QCAT Act, schedule 3, definition *minor civil dispute*, paragraph 1(a).

*Editor’s note*—

QCAT Act, schedule 3, definition *minor civil dispute*, paragraph 1(a)—

- ‘(a) a claim to recover a debt or liquidated demand of money, with or without interest, of up to the prescribed amount; or’.

## **‘515 Simplified procedures**

- ‘(1) The following procedures are the *simplified procedures*—
- (a) except to the extent necessary to comply with chapter 14, part 2, a party is not required to disclose to another party a document in the possession or under the control of the party and directly relevant to an allegation in issue in a proceeding, unless the court otherwise orders;
  - (b) all parties must have all relevant documents available at the hearing;
  - (c) if ordered by the court, or agreed in writing by the parties, a party must not appear by—
    - (i) a lawyer; or
    - (ii) a person who has a legal qualification under the laws of this or another State; or
    - (iii) a person who is of the nature of a professional advocate;
- Note—*
- See also the *Magistrates Courts Act 1921*, section 18.
- (d) the court—
    - (i) is not bound by laws of evidence or procedure applying to a proceeding in the court; and
    - (ii) may inform itself of the facts in any way it considers appropriate; and
    - (iii) must observe the rules of natural justice; and
    - (iv) must record the reasons for its decision.
- ‘(2) Before making an order mentioned in subrule (1)(c), the court must consider the following matters—
- (a) the difficulty of any question of law or fact raised or likely to be raised in the proceeding;
  - (b) any prejudice likely to be caused to a party by the presence or absence of the representative;

- (c) whether, under a contract of insurance, a party's rights in relation to the claim have been subrogated to an insurer;
  - (d) whether the order is fair and equitable to the parties.
- ‘(3) An agreement mentioned in subrule (1)(c) must be filed.

### ‘516 Hearing and deciding claim

- ‘(1) The court must hear and decide a relevant claim in accordance with the applied procedures, unless the court considers deciding the claim under the applied procedures would be an abuse of process.
- ‘(2) In deciding a minor claim, the court—
- (a) must make the orders it considers fair and equitable to the parties to the proceeding; but
  - (b) may, if the court considers it appropriate, dismiss the claim.

*Note—*

The *Magistrates Courts Act 1921*, section 45A provides that if the parties agree in writing, no appeal lies from a judgment in a proceeding dealt with under the simplified procedures.

- ‘(3) Nothing in this division prevents the court—
- (a) attempting to settle a relevant claim; or
  - (b) continuing to hear and decide a relevant claim that can not be settled by mediation or otherwise; or
  - (c) making orders to give effect to an agreement reached by mediation or otherwise.

- ‘(4) In this rule—

***applied procedures***, for a relevant claim, means the simplified procedures applying to the claim under rule 514.

***relevant claim*** means a minor claim, or another claim to which all or part of the simplified procedures apply.’.

**76 Amendment of r 667 (Setting aside)**

Rule 667(3), note—

*omit, insert—*

*‘Note—*

*For a default judgment, see rule 290.’.*

**77 Insertion of new ch 24, pt 1 heading**

Chapter 24, before rule 996—

*insert—*

**‘Part 1 Provision for Uniform Civil  
Procedure Amendment Rule  
(No. 1) 2004’.**

**78 Amendment of r 996 (Transitional—Uniform Civil  
Procedure Amendment Rule (No. 1) 2004)**

Rule 996, heading—

*omit, insert—*

**‘996 Transitional provision’.**

**79 Insertion of new ch 24, pt 2 heading**

Before rule 997—

*insert—*

**‘Part 2 Provision for Uniform Civil  
Procedure Amendment Rule  
(No. 1) 2005’.**

**80 Amendment of r 997 (Transitional provision—Uniform  
Civil Procedure Amendment Rule (No. 1) 2005)**

Rule 997, heading—

*omit, insert—*

**‘997 Transitional provision’.**

**81 Insertion of new ch 24, pt 3**

Chapter 24—

*insert—*

**‘Part 3 Provision for Queensland Civil  
and Administrative Tribunal  
(Jurisdiction Provisions)  
Amendment Regulation (No. 1)  
2009**

**‘998 Proceeding for claim started**

‘(1) This rule applies if, before the commencement, a person started a proceeding for a claim, minor claim or minor debt claim and the proceeding has not been completed before the commencement.

‘(2) Subject to the QCAT Act, section 268(4), the court must hear, or continue to hear, and decide the proceeding under the pre-amended rules as if the *Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Regulation (No. 1) 2009* had not been made.

‘(3) In this rule—

***commencement*** means the commencement of this rule.

***minor claim*** means a claim for an amount, including interest, of not more than \$7500, 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 debt claim as defined under the Act, as in force immediately before 1 December 2009.

*Editor's note—*

The Act, schedule 2, definition *minor debt claim*, as in force immediately before 1 December 2009—

*'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.'

*pre-amended rules* means these rules as in force before the commencement.'

## **82 Amendment of sch 4 (Dictionary)**

- (1) Schedule 4, definitions *minor claim* and *minor debt claim*—  
*omit, insert—*

*'minor claim—*

- (a) means a claim for an amount, including interest, of not more than \$7500, 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; but
- (b) does not include a claim for a liquidated demand mentioned in the QCAT Act, schedule 3, definition *minor civil dispute*, paragraph 1(a).

*Editor's note—*

QCAT Act, schedule 3, definition *minor civil dispute*, paragraph 1(a)—

'(a) a claim to recover a debt or liquidated demand of money, with or without interest, of up to the prescribed amount; or''.

- (2) Schedule 4, definitions *electronically file* and *service provider*, 'and rule 516'—

*omit.*

- (3) Schedule 4, definition *simplified procedures*, '514'—

*omit, insert—*  
'515(1)'.

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#### ENDNOTES

- 1 Made by the Governor in Council on 19 November 2009.
- 2 Notified in the gazette on 20 November 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.

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