



Queensland

Queensland Civil and Administrative Tribunal Amendment Rule (No. 2) 2013

Subordinate Legislation 2013 No. 292

made under the

Queensland Civil and Administrative Tribunal Act 2009

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1 Short title

This rule may be cited as the *Queensland Civil and Administrative Tribunal Amendment Rule (No. 2) 2013*.

2 Commencement

This rule commences on 1 January 2014.

3 Rule amended

This rule amends the *Queensland Civil and Administrative Tribunal Rules 2009*.

4 Amendment of r 10 (Making application or referral if no approved form)

(1) Rule 10(2)(e), before ‘for an application’—

insert—

subject to paragraph (f),

(2) Rule 10(2)(e)(i)—

omit, insert—

(i) a response to the application must be made within the period applying to the application under rule 44 or 45; and

(3) Rule 10(2)(f)—

renumber as rule 10(2)(g).

(4) Rule 10(2)—

insert—

(f) for an application claiming recovery of an amount consisting of, or including, unliquidated damages from a person—include a statement telling the respondent—

- (i) a response to the application must be made within the period applying to the application under rule 44 or 45; and
- (ii) that if the respondent does not respond to the application within the period mentioned in subparagraph (i), a decision by default may be made against the respondent under section 50A of the Act; and

5 Amendment of r 44 (General requirement for responses other than minor debt claim)

Rule 44(6), definition *prescribed application*, paragraphs (a) and (b), ‘*Queensland Building Services Authority Act 1991*’—

omit, insert—

Queensland Building and Construction Commission Act 1991

6 Insertion of new r 57A

Part 8, division 1, before rule 58—

insert—

57A Notice of withdrawal if tribunal’s leave not required

- (1) This rule applies if an application or referral may be withdrawn without the leave of the tribunal.

Note—

Section 46(2) of the Act states the applications or referrals that require the tribunal’s leave before they can be withdrawn.

- (2) An applicant may withdraw the applicant’s application or referral by—
 - (a) filing a notice in the approved form; and
 - (b) giving a copy of the notice to—
 - (i) each other party to the proceeding; and

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- (ii) each other person who was given a copy of the application or referral for the proceeding under section 37 of the Act; and
- (iii) any other person directed by the tribunal to be given notice of the withdrawal.

7 Amendment of r 58 (Application for leave to withdraw application or referral)

Rule 58(1) and (2), ‘section 46(1)’—

omit, insert—

section 46(2)

8 Amendment of r 59 (Notice of withdrawal of application or referral)

Rule 59, ‘section 46(1)’—

omit, insert—

section 46(2)

9 Amendment of r 60 (Form of application generally)

Rule 60, heading, ‘generally’—

omit, insert—

for debt or liquidated demand of money

10 Insertion of new r 60A

After rule 60—

insert—

60A Form of application for unliquidated damages

An application for a decision by default claiming recovery of an amount consisting of, or including, unliquidated damages from a person must—

- (a) be in the approved form; and
- (b) have attached to it—
 - (i) an affidavit about how a copy of the original application for the recovery of the unliquidated damages was given to the respondent; and
 - (ii) an affidavit about the unliquidated damages—
 - (A) stating the basis upon which the claim for unliquidated damages is claimed; and
 - (B) including all information necessary to show how the claim has been calculated, including by annexing all supporting material to the affidavit; and
 - (C) if costs or interest is claimed in the application—stating the basis upon which the costs or interest is claimed, including all information necessary to show how the claim has been calculated; and
- (c) be filed.

11 Amendment of r 61 (Posting decision by default if application filed by post)

Rule 61(1)(b), after ‘section 50’—

insert—

or 50A

[s 12]

12 Amendment of r 64 (Claiming particular amounts for decision by default)

Rule 64, ‘section 50(2)(c)’—

omit, insert—

sections 50(2)(c) and 50A(3)(d)

ENDNOTES

- 1 Made by the Minister for Justice and Attorney-General on 19 December 2013.
- 2 Notified on the Queensland legislation website on 20 December 2013.
- 3 The administering agency is the Department of Justice and Attorney-General.

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Authorised by the Parliamentary Counsel