



Queensland

Uniform Civil Procedure (Referees) Amendment Rule 2019

Subordinate Legislation 2019 No. 135

made under the

Supreme Court of Queensland Act 1991

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1 Short title

This rule may be cited as the *Uniform Civil Procedure (Referees) Amendment Rule 2019*.

2 Commencement

This rule commences on the commencement of the *Queensland Civil and Administrative Tribunal and Other Legislation Amendment Act 2019*, part 6.

3 Rules amended

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

4 Amendment of ch 13, pt 7, hdg (Assessors and special referees)

Chapter 13, part 7, heading, ‘special’—
omit.

5 Replacement of rr 501–505

Rules 501 to 505—
omit, insert—

501 Court may refer question to referee

- (1) The court may, at any stage of a proceeding, make an order referring a question in the proceeding to a referee to—
 - (a) conduct an inquiry into the question; and
 - (b) prepare a report (the *referee’s report*) to the court on the question.
- (2) However, the court may not make an order under subrule (1) in relation to a question that is required to be tried by a jury.
- (3) An order under subrule (1)—

- (a) must appoint a person as the referee for the question; and
 - (b) must state the question for the referee; and
 - (c) must require the referee to decide the question or give the referee's opinion on the question; and
 - (d) may direct the referee to give further information in the referee's report as the court considers appropriate.
- (4) In this rule—
- question* means a question—
- (a) whether of fact or law, or both; and
 - (b) whether identified by the court or raised by pleadings, agreement of the parties or otherwise.

502 Setting aside or varying order

- (1) The court may, on application by the referee or a party or on its own initiative, set aside or vary an order made under rule 501.
- (2) Nothing in this rule affects any other power of the court to set aside or vary an order made under rule 501.

503 Conduct of inquiry before referee

- (1) Subject to a direction given under rule 505, the referee—
 - (a) may conduct the inquiry in a way the referee considers appropriate; and
 - (b) is not bound by the rules of evidence, but may obtain information about a matter in the way the referee considers appropriate; and
 - (c) may conduct a hearing for the inquiry; and

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- (d) may require evidence to be given orally or in writing; and
 - (e) may require evidence to be given on oath; and
 - (f) has the same authority as a judge.
- (2) In conducting the inquiry, the referee must observe the rules of natural justice.
 - (3) Despite subrule (1)(f), the referee may not deal with a person for contempt.

504 Obligations of parties

- (1) Each party must give the referee and each other party a brief statement of the findings of fact and law for which the party contends.
- (2) The statement must be given—
 - (a) if the referee fixes a time for giving the statement—within the time fixed; or
 - (b) otherwise—before the conclusion of evidence on the inquiry.
- (3) Also, the parties must do all things the referee requires to enable the referee to give a just decision or opinion on the question the subject of the inquiry.
- (4) A party must not intentionally cause delay or prevent the referee from giving a decision or opinion on the question the subject of the inquiry.

505 Directions

- (1) The court may, on application by the referee or a party or on its own initiative, give directions about—
 - (a) the conduct of the inquiry; or
 - (b) a matter arising under the inquiry.

- (2) Without limiting subrule (1), directions may be given about—
 - (a) disclosure; or
 - (b) the issue of subpoenas returnable before the referee.

505A Referee may submit question to court

- (1) The referee may submit for the decision of the court a question that arises during the inquiry.
- (2) The referee must comply with the decision of the court given on the question.
- (3) If the court does not consider it appropriate to decide the question, the court must give directions about the future conduct of the inquiry.

505B Referee's report

- (1) The referee's report must—
 - (a) be in writing; and
 - (b) state the referee's decision or opinion on the question the subject of the inquiry and the reasons for the decision or opinion; and
 - (c) if the referee was directed under rule 501(3)(d) to give further information in the referee's report—state the information; and
 - (d) attach copies of all statements given under rule 504(1).
- (2) The referee must file the referee's report in the court.

505C Actions by court

After receiving the referee's report, the court—

- (a) must supply a copy of the report to each party; and

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- (b) may order the referee to provide a further report or provide an explanation of any matter mentioned in the report; and
- (c) may remit the whole or part of the question the subject of the inquiry for further consideration in accordance with the court's directions.

505D Use of referee's report

- (1) The court may do 1 or more of the following—
 - (a) accept, vary or reject all or part of the referee's decision, opinion or findings in the referee's report;
 - (b) decide any matter on the evidence given before the referee, with or without additional evidence;
 - (c) make an order or give a judgment in the proceeding on the basis of the decision, opinion or findings in the referee's report as it considers appropriate.
- (2) An application by a party for an order or judgment under subrule (1) must be made on at least 7 days notice to the other parties.
- (3) Evidence additional to the evidence given before the referee may not be adduced before the court in relation to the question the subject of the inquiry except with the leave of the court.

6 Amendment of r 506 (Remuneration of special referee and assessor)

Rule 506, 'special'—
omit.

7 Amendment of r 536 (Before whom account taken)

Rule 536, ‘special’—

omit.

8 Amendment of r 539 (Reference to court)

Rule 539(1), ‘special’—

omit.

9 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

referee’s report see rule 501(1)(b).

ENDNOTES

- 1 Made by the Governor in Council on 11 July 2019.
- 2 Notified on the Queensland legislation website on 12 July 2019.
- 3 The administering agency is the Department of Justice and Attorney-General.

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