



Queensland

*Queensland Civil and Administrative Tribunal Act 2009*

# Queensland Civil and Administrative Tribunal Rules 2009

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# Queensland Civil and Administrative Tribunal Rules 2009

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# Queensland Civil and Administrative Tribunal Rules 2009

## Part 1 Preliminary

### 1 Short title

These rules may be cited as the *Queensland Civil and Administrative Tribunal Rules 2009*.

### 2 Commencement

These rules commence on 1 December 2009.

### 3 Philosophy

- (1) The purpose of these rules is—
  - (a) to ensure matters before the tribunal are dealt with in a way that is accessible, fair, just, economical, informal and quick; and
  - (b) without limiting paragraph (a), to guide the tribunal and parties to proceedings to resolve disputes consistently, economically and quickly, while allowing flexibility to cater for different needs of particular parties.
- (2) Accordingly, these rules are—
  - (a) to provide for procedures that—
    - (i) are the same for all proceedings, except where special procedures are required for proceedings for a particular class of matters to ensure the proper conduct of the proceedings; and
    - (ii) do not involve unnecessary and burdensome requirements; and
  - (b) to be applied by the tribunal with the objectives of—

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- (i) encouraging the early and economical resolution of disputes before the tribunal, including, if appropriate, through alternative dispute resolution processes; and
- (ii) conducting proceedings in an informal way that minimises costs to parties, and is as quick as is consistent with achieving justice; and
- (iii) recognising, and being responsive to, the diverse needs of persons who use the tribunal; and
- (iv) for exercising its discretion under section 35(6) or (7) or 61 of the Act, recognising that strict compliance with a procedural requirement in these rules may not always be necessary.

*Notes—*

- 1 Under section 35(6) or (7) of the Act, the tribunal may (on application by the principal registrar on his or her own initiative or at the request of the applicant) direct the principal registrar to accept an application or referral on stated conditions or no conditions.
- 2 Under section 61 of the Act the tribunal may (on its own initiative or on application by a party) waive compliance with a procedural requirement under these rules.

## **4 Dictionary**

The dictionary in the schedule defines particular terms used in these rules.

# **Part 2 Provisions about tribunal generally**

## **5 Divisions of tribunal etc.**

- (1) The tribunal is to exercise its functions in divisions.

- (2) For subrule (1), the following divisions of the tribunal are established—
  - (a) the human rights division;
  - (b) the administrative and disciplinary division;
  - (c) the civil disputes division.
- (3) The president may, by a practice direction, establish lists within each division of the tribunal.

## **6 Operation of divisions of tribunal etc.**

The president may make a practice direction about operational and procedural matters for the tribunal's divisions or, if lists are established under rule 5(3), the lists within the tribunal's divisions, including procedures for all or any of the following—

- (a) entering matters on the divisions or lists;
- (b) transferring matters between divisions or lists;
- (c) nominating heads of the divisions or lists;
- (d) allocating members to a division or list.

# **Part 3 Starting proceedings**

## **Division 1 Making application or referral generally**

### **7 Form of application**

- (1) An application to the tribunal to deal with a matter must be made—
  - (a) in the approved form; or

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- (b) if the application is filed electronically under rule 24 and a practice direction prescribes the form to be used—in that form; or
- (c) otherwise—in the way stated in rule 10.

*Note—*

Under section 33 of the Act, the application must state the reasons for the application and be filed.

- (2) The approved form for subrule (1)(a) must provide for the inclusion of the applicant's statement of address for service.

## **8 Filing application for tenancy matters**

An application for a minor civil dispute that is a tenancy matter may be filed only in—

- (a) the registry of the tribunal closest to the relevant residential or rental premises; or
- (b) the registry of the tribunal in Brisbane.

*Note—*

At the commencement of this rule, the registry was at 259 Queen Street, Brisbane.

## **9 Referring matter**

- (1) The referral of a matter to the tribunal must be—
  - (a) made—
    - (i) in the approved form; or
    - (ii) if the referral is filed electronically under rule 24 and a practice direction prescribes the form to be used—in that form; or
    - (iii) otherwise—in the way stated in rule 10; and
  - (b) filed.
- (2) When the referral is made, the applicant must—
  - (a) file a statement of address for service; and

- (b) give a copy of the statement to each person to whom a copy of the application or referral was given under section 37 of the Act.

## **10 Making application or referral if no approved form**

- (1) This rule applies if there is no approved form for—
  - (a) an application to the tribunal to deal with a particular matter; or
  - (b) the referral to the tribunal of a particular matter.
- (2) The application or referral must—
  - (a) be made in writing; and
  - (b) be signed by the applicant; and
  - (c) contain the following—
    - (i) the applicant's name and contact details;  
*Note—*  
See rule 11(3) to (5) for applications or referrals made by joint applicants.
    - (ii) if the applicant is not an individual—the name and contact details of the person who is to appear for the applicant as allowed under part 7, division 1;
    - (iii) if the applicant has a representative—the name and contact details of the representative;
    - (iv) the name of the respondent to the application or referral and the respondent's contact details that are known to the applicant;
    - (v) the type of application or referral being made and the reasons or grounds for it, including the provision of the Act or enabling Act under which it is made;
    - (vi) the tribunal decision or other remedy sought and the reasons for seeking it; and

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- (d) for an application for a minor debt claim—include a statement of—
  - (i) the amount or amounts claimed (including interest and, if the applicant wants to claim it, the filing fee for the application); and
  - (ii) how the amount is worked out and came to be owing; and
- (e) subject to paragraph (f), for an application for recovering a debt or liquidated demand of money 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 50 of the Act; and
- (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
- (g) contain, or be accompanied by, the applicant’s statement of address.

*Note—*

Under section 33 of the Act, the application must state the reasons for the application and be filed.

## **11 Joint applications or referrals**

- (1) Two or more individuals or other entities may make a joint application to the tribunal to deal with a matter arising out of the same or similar facts or circumstances.
- (2) A joint referral of a matter arising out of the same or similar facts or circumstances may be made to the tribunal for 2 or more individuals or other entities.
- (3) If the Act, an enabling Act or these rules require an application or referral to state the name or contact details of an applicant or an applicant's representative (the *relevant details*), a joint application or joint referral must contain the relevant details for each applicant.
- (4) A joint application or joint referral must state the applicant to whom a document is to be given under the Act, an enabling Act or these rules, and a statement of address for service for only that applicant is required for the application or referral.
- (5) A joint application or joint referral must state the name of the applicant who is to appear in the proceeding for the applicants.

*Note—*

See also rule 56.

- (6) A joint application or joint referral must be signed by each applicant.

## **Division 2 Starting proceeding as or against a partnership**

### **12 Proceeding in partnership name**

- (1) Two or more partners may start a proceeding in the partnership name.
- (2) A proceeding against persons alleged to be partners may be brought against the alleged partnership in the partnership name.

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- (3) The partnership name used in a partnership proceeding must be the name of the partnership when the matter the subject of the proceeding arose.
- (4) For a partnership registered under the *Partnership Act 1891*, the name of the partnership when the matter the subject of the proceeding arose is the name in which the partnership was registered when the matter arose.
- (5) Unless the tribunal orders otherwise, a partnership proceeding must continue in the partnership name and not in the name of the individual partners.

### **13 Disclosure of partners' names**

- (1) At any stage of a partnership proceeding, a party may by written notice require the partnership to give the names and places of residence of the persons who were partners in the partnership when the matter the subject of the proceeding arose.
- (2) The notice must state a time of not less than 2 business days after the notice is given to the partnership for compliance with the notice.
- (3) If the partnership does not give the information as required by this rule, the tribunal may make an order it considers appropriate, including the following—
  - (a) an order staying the proceeding until the information is supplied;
  - (b) if the partnership is the applicant for the proceeding—an order dismissing or striking out the proceeding or a part of the proceeding;
  - (c) if the partnership is the respondent for the proceeding—an order striking out the partnership's response to the application or referral for the proceeding.



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## **Division 3                      Starting proceeding against a business**

### **14            Starting proceeding against registered business name**

If a proceeding is brought against an entity in relation to a business carried on by the entity under a name that is registered on the Business Names Register, the proceeding may be started against the business name registered on the Business Names Register.

### **15            Proceeding in business name if unregistered**

- (1) This rule applies if—
  - (a) a proceeding is brought against a person in relation to a business carried on by the person under a name other than the person’s own name; and
  - (b) the name is not registered on the Business Names Register.
- (2) The proceeding may be started against the person in the name under which the person carries on business.
- (3) The name under which the business is carried on is sufficient designation of the person in a document filed in the proceeding.
- (4) An order in the proceeding may be enforced against the person.

*Note—*

See, however, rule 16(4).

### **16            Amendment as to parties if business name unregistered**

- (1) This rule applies if—
  - (a) a proceeding is brought against a person in relation to a business carried on by the person under a name other than the person’s own name; and

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- (b) the name is not registered on the Business Names Register.
- (2) The applicant must, as soon as practicable, take all reasonable steps to find out the name of the persons carrying on the business under the name in question.
- (3) The applicant must also, as far as practicable, amend documents that have been, or are to be, filed in the proceeding so the proceeding is continued against a named respondent and not in the name under which the business was carried on.
- (4) Until the amendments are made, the applicant must not take a step in the proceeding, other than in compliance with section 37 of the Act or this rule, unless the applicant has the tribunal's leave.

*Note—*

Section 37 of the Act requires an applicant for an application or referral to give a copy of the application or referral to particular persons, including each party to the proceeding.

- (5) The applicant must give notice of the amendments to—
  - (a) each party to the proceeding; and
  - (b) each other person to whom the notice of the amendments must be given under an enabling Act; and
  - (c) any person the tribunal directs to be given the notice of amendments.

## **Division 4                      Acceptance or rejection of    application or referral**

### **17            Request for review of principal registrar's decision**

- (1) This rule applies if—
  - (a) under section 35(2) of the Act, the principal registrar—
    - (i) rejects an application or referral; or
    - (ii) accepts an application or referral on conditions; and

- 
- (b) under section 35(4) of the Act, the applicant proposes to request the principal registrar to refer the decision to the tribunal for review.
- (2) The request must be made within 14 days after the applicant is given notice of the ability to make the request under section 35(4)(a) of the Act.

## **18 Conditions that may be imposed**

- (1) For section 35 of the Act, the principal registrar may accept an application or referral on 1 or more of the following conditions—
- (a) that a stated document required to be filed with the application or referral is filed within a stated time;
  - (b) that a document containing stated information required to be included in the application or referral is filed within a stated time;
  - (c) that an application or referral is amended to include stated information required to be included in the application or referral, and the amended application or referral is filed within a stated time.
- (2) In this rule—
- required* means required under the Act, an enabling Act or these rules.

## **Division 5 Notice of application or referral**

### **19 Period within which notice must be given**

- (1) A copy of an application or referral given to an entity under section 37(2) or (3)(a) of the Act must be given—
- (a) if an enabling Act or another provision of these rules states the period within which the copy must be given—within the stated period; or
  - (b) otherwise—

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- (i) for an application for an order under section 58 or 59 of the Act—as soon as practicable but at least 2 days before the application is to be heard; or
- (ii) for another application or a referral—as soon as practicable but no later than the prescribed period after the application or referral is accepted under section 35 of the Act.

*Note—*

Under section 61 of the Act, the tribunal may (on its own initiative or on application by a party) extend or shorten the period within which the copy must be given.

(2) In this rule—

***prescribed period***, for giving a copy of an application or referral to an entity, means—

- (a) if the copy is of an application for a minor debt claim—90 days; or
- (b) if the copy is not of an application for a minor debt claim and, under an enabling Act or these rules, the copy must be given by delivering it personally to the entity—28 days; or
- (c) otherwise—7 days.

## **20 Notice given by principal registrar for particular proceedings**

- (1) Subrule (2) applies if a proceeding is started for an application or referral made under any of the following—
  - (a) the *Adoption Act 2009*;
  - (b) the *Anti-Discrimination Act 1991*, section 155(4), 164A(3)(a), 166(1) or 167(4)(b) or (5);
  - (c) the *Child Protection Act 1999*;
  - (d) the *Education and Care Services Act 2013*;
  - (e) the Education and Care Services National Law (Queensland);

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- (f) the *Public Guardian Act 2014*, section 133;
  - (g) the *Residential Tenancies and Rooming Accommodation Act 2008*;
  - (h) the *Working with Children (Risk Management and Screening) Act 2000*.
- (2) The principal registrar must, within the period stated in rule 19, give a copy of the application or referral to each relevant entity.

*Note—*

Under section 37(3)(a) of the Act, the applicant is not required to give a copy of the application or referral to a person if the principal registrar has given the copy to the person.

- (3) In this rule—

***relevant entity***, for an application or referral, means each entity to whom a copy of the application or referral must be given under section 37 of the Act.

## **20A Additional notice requirements for proceedings about child protection matters**

- (1) This rule applies if a proceeding is started for an application or referral in relation to a child protection matter.
- (2) The principal registrar must, as soon as practicable after the principal registrar accepts the application or referral, give a copy of the application or referral to the public guardian.
- (3) The principal registrar is not required to give a copy of the application or referral to the public guardian if the public guardian is the applicant for the application or referral.
- (4) The applicant for the application or referral is exempt from the requirement under section 37(2) of the Act to give a copy of the application or referral to the public guardian.
- (5) In this section—

***child protection matter*** means a child protection matter within the meaning of the *Public Guardian Act 2014*.

*public guardian* means the person appointed as the public guardian under the *Public Guardian Act 2014*, section 94.

**21 Alternative notice requirements for proceedings about persons with impaired capacity etc.**

- (1) This rule applies if a proceeding is started for an application or referral made under—
  - (a) the *Disability Services Act 2006*, section 178(9); or
  - (b) the *Guardianship and Administration Act 2000*.
- (2) The applicant for the application or referral is exempt from the requirement under section 37(2) of the Act to give a copy of the application or referral to an entity mentioned in the section.
- (3) The principal registrar must, within the period stated in rule 19—
  - (a) give a copy of the application or referral to the relevant adult, unless subrule (4) applies; and
  - (b) give written notice of the application or referral to each of the following, unless the tribunal orders otherwise—
    - (i) the members of the relevant adult’s family;
    - (ii) any primary carer of the relevant adult;
    - (iii) all current guardians and administrators for the relevant adult;
    - (iv) all attorneys for the relevant adult;
    - (v) for a proceeding under the *Guardianship and Administration Act 2000*, chapter 5B—
      - (A) the chief executive of the department in which the *Disability Services Act 2006* is administered; and
      - (B) a relevant service provider providing disability services to the relevant adult; and

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- (C) if the tribunal is aware the relevant adult is subject to a treatment authority, forensic order or treatment support order under the *Mental Health Act 2016*—the chief psychiatrist appointed under that Act; and
- (D) if the tribunal is aware the relevant adult is a forensic disability client within the meaning of the *Forensic Disability Act 2011*—the director of forensic disability under that Act;
- (vi) anyone else the tribunal considers should be notified of the proceeding.
- (4) The principal registrar is not required to give a copy of the application or referral to the relevant adult if—
- (a) the tribunal considers that notifying the adult of the proceeding might be prejudicial to the physical or mental health or wellbeing of the adult; or
- (b) the tribunal considers the adult may evade the hearing of the proceeding; or
- (c) the adult is—
- (i) temporarily or permanently unconscious; or
- (ii) unable to be located after the principal registrar has made reasonable inquiries into the adult's whereabouts.
- (5) A notice given under subrule (3)(b) must state how the person to whom it is given may request further information about the application or referral from the tribunal.
- (6) If this rule uses a term that is used in the *Guardianship and Administration Act 2000*, the term has the same meaning in this rule as it has in that Act unless a contrary intention appears.
- (7) In this rule—
- attorney** means—
- (a) an attorney under a power of attorney; or

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- (b) an attorney under an advance health directive or similar document under the law of another jurisdiction.

**power of attorney** means—

- (a) a general power of attorney made under the *Powers of Attorney Act 1998*; or
- (b) an enduring power of attorney; or
- (c) a power of attorney made otherwise than under the *Powers of Attorney Act 1998*, whether before or after its commencement; or
- (d) a similar document under the law of another jurisdiction.

**relevant adult** means the adult concerned in the application or referral (whether or not the adult is an adult with impaired capacity).

**relevant service provider** see the *Guardianship and Administration Act 2000*, section 80U.

## 22 Notice not required to be given to referring person

- (1) If a proceeding is started by the referral of a matter under an enabling Act by a person (**referring person**) other than the applicant for the proceeding, the applicant is exempt from the requirement under section 37(2) of the Act to give a copy of the referral to the referring person.
- (2) Subrule (1) applies even if the referring person is a party to the proceeding.

## 23 Notice not required if it would contravene court or tribunal order

- (1) An applicant for a proceeding for an application or referral is exempt from the requirement under section 37(2) of the Act to give a copy of the application or referral to a person if giving the copy to the person would contravene an order of a court or tribunal restricting contact between the applicant and person.



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- (2) If, under subrule (1), an applicant for a proceeding for an application or referral is not required to give a copy of the application or referral to a person, the principal registrar must give a copy of the application or referral to the person.

## Part 4 Filing documents in proceeding

### Division 1 How documents are filed

#### 24 Filing documents generally

- (1) An application, referral or other document in a proceeding may be filed—
- (a) in person; or
  - (b) by post; or
  - (c) electronically, in the way prescribed by a practice direction.
- (2) However, this rule does not apply to filing an affidavit under rule 25(2).
- (3) In this section—  
*electronically* includes by email.

#### 25 Filing affidavits

- (1) Unless the tribunal orders otherwise, an affidavit may be used in a proceeding only if it has been filed under this rule.

*Note—*

See also part 10A.

- (2) An affidavit may be filed—
- (a) in person; or
  - (b) by post; or

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- (c) electronically, by sending the affidavit to the registry in the way prescribed by a practice direction.
- (3) An affidavit may be filed electronically only if the affidavit is in an electronic file format prescribed by a practice direction.  
*Examples of electronic file formats for subrule (3)—*  
pdf, jpg, html
- (4) For an affidavit made in the form of a physical document, the affidavit may be filed electronically only as an imaged document of the physical document.
- (5) If an affidavit is made using counterparts under the *Oaths Act 1867*, all of the counterparts must be filed at the same time.

## **26 Filing documents for minor debt claim**

Subject to part 10A, an application or other document in a proceeding for a minor debt claim may also be electronically filed in a particular office of the registry (*registry office*) if—

- (a) the document is—
  - (i) prepared by an approved entity; and
  - (ii) sent by electronic or computer-based means by a service provider for filing; and
- (b) a practice direction prescribes the document as a document that may be electronically filed; and
- (c) a practice direction prescribes the registry office as a registry office at which documents may be electronically filed.

## **27 Responsibility for document electronically filed under r 26**

- (1) An approved entity that prepares a document that is electronically filed under rule 26 remains responsible for the document.

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- (2) However, the service provider who sends the document to the registry is responsible for payment of any fee prescribed for filing the document.

## **Division 2                    Requirements about filing documents**

### **27A    Signing a document to be electronically filed**

- (1) This rule applies to a document filed electronically under rule 24(1)(c) or 26.
- (2) However, this rule does not apply to an affidavit filed electronically under rule 25(2)(c).
- (3) The document is taken to be signed by a person if the person's name is written at a place on the document indicated to be a place where the document may or must be signed.

### **28       Original documents required to be filed for particular proceedings**

- (1) This rule applies to a proceeding under any of the following—
- (a) the *Adoption Act 2009*;
  - (b) the *Child Protection Act 1999*;
  - (c) the *Disability Services Act 2006*, section 178(9);
  - (d) the *Education and Care Services Act 2013*;
  - (e) the Education and Care Services National Law (Queensland);
  - (f) the *Guardianship and Administration Act 2000*;
  - (g) the *Public Guardian Act 2014*, section 133;
  - (h) the *Working with Children (Risk Management and Screening) Act 2000*.

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- (2) A person required to file a document, other than an affidavit, under the Act, an enabling Act or these rules in the proceeding is required to file only the original document.

## **29 Number of copies to be filed in other proceedings**

- (1) This rule does not apply to filing a document—
  - (a) electronically under rule 24(1)(c) or 26; or
  - (b) in a proceeding to which rule 28 applies.
- (2) A person required to file a document under the Act, an enabling Act or these rules in a proceeding must file—
  - (a) the original document; and
  - (b) the number of copies of the document stated in subrule (3).
- (3) For subrule (2), the number of copies to be filed is—
  - (a) for a proceeding for a minor civil dispute—2 plus an extra copy for each person who the person knows, or ought reasonably to know, is to be given a copy of the document under the Act, an enabling Act or these rules; or
  - (b) for another proceeding—3 plus an extra copy for each person who the person knows, or ought reasonably to know, is to be given a copy of the document under the Act, an enabling Act or these rules.

*Note—*

Under section 61 of the Act the tribunal may (on its own initiative or on application by a party) waive compliance with a procedural requirement under these rules.

## **30 Document filed by post must be accompanied by stamped envelope for return post**

- (1) If a person files a document by post, the person must ensure the document is accompanied by a stamped envelope addressed to the person or the person's representative.

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- (2) This rule does not apply in relation to filing a document in a proceeding to which rule 28 applies.

## **Division 3 Provisions about filed documents**

### **31 When document is filed**

- (1) A document is filed when the principal registrar records the document and stamps the tribunal's seal on it.
- (2) After filing a document, the principal registrar must stamp the tribunal's seal on each copy of the document that accompanied it.
- (3) If a document is filed electronically under rule 24(1)(c) or in a proceeding other than for a proceeding to which rule 28 applies, the principal registrar must send a stamped copy of the document to—
- (a) if the entity who filed the document has an electronic service address that is working—the electronic service address for the entity; or
  - (b) otherwise—the service address for the entity.
- (4) A paper copy of an electronic document sent to an entity under subrule (3) is taken for all purposes, including service, to be—
- (a) a copy of the document in the record for the proceeding; and
  - (b) issued by the tribunal; and
  - (c) stamped with the tribunal's seal.
- (5) If a document is filed by post in a proceeding for a minor civil dispute and 1 or more copies accompany the document, the principal registrar must send each copy that is stamped under subrule (2) to the entity filing the document in the envelope accompanying the document under rule 30.
- (6) If a document is filed by post in a proceeding other than for a minor civil dispute and 2 or more copies accompany the

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document, the principal registrar must send all but 1 of the copies stamped under subrule (2) to the entity filing the document in the envelope accompanying the document under rule 30.

(7) In this rule—

*stamp*, for a document that is electronically filed, includes electronically stamp.

### **32 Refusal to file document**

- (1) The principal registrar may refuse to file a document if it does not comply with these rules or can not otherwise be filed.
- (2) If the principal registrar refuses to file a document a person filed by post, the principal registrar must return the document to the person in the envelope accompanying the document under rule 30.
- (3) If the principal registrar refuses to file a document filed electronically under rule 24(1)(c) or 26, the principal registrar must advise the entity who filed the document that the principal registrar has refused to file the document.

### **33 Approved entity must be sent a copy of document electronically filed under r 26**

- (1) After a document prepared by an approved entity is electronically filed by a service provider in a proceeding for a minor debt claim, the service provider must send the approved entity a copy of the document by electronic or computer-based means.
- (2) The copy of the document must include—
  - (a) an image of the tribunal's seal; and
  - (b) the tribunal file number for the relevant proceeding.
- (3) A paper copy of the document sent to the approved entity is taken for all purposes, including service, to be a copy of the document in the record for the proceeding and issued by the tribunal and stamped with the tribunal's seal.

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**34 Keeping etc. electronically filed documents**

- (1) A document that is electronically filed under rule 24(1)(c) or 26—
  - (a) must be retained in electronic form by the registry; and
  - (b) is taken for all purposes to be a document in a record for the proceeding.
- (2) If, under section 230 of the Act, a person asks to inspect a document that was electronically filed, the principal registrar may decide whether the document is to be inspected in electronic or paper form.

**35 Copy of filed document to be given to other parties etc.**

- (1) This rule applies if—
  - (a) the Act, an enabling Act, a practice direction or these rules require a party to a proceeding to file a document; and
  - (b) these rules do not otherwise provide for a copy of the document to be given to each party to the proceeding or another person mentioned in subrule (3).
- (2) However, this rule does not apply in relation to a proceeding to which rule 28 applies.
- (3) The party must, at or about the same time the document is filed, give a copy of the document to—
  - (a) each party to the proceeding; and
  - (b) each other person to whom a copy of the document is required to be given under an enabling Act; and
  - (c) any other person the tribunal directs to be given a copy of the document.





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### **37 Amending statement of address for service**

If a party to a proceeding wishes to change all or a part of the party's statement of address for service, the party must notify the following persons of the change—

- (a) the principal registrar;
- (b) for an applicant—each person to whom the applicant's application or referral was given under section 37 of the Act;
- (c) for a respondent who files a response—each person to whom the response was given under part 6, division 1;
- (d) for a party other than the applicant—each person to whom the party's statement of address for service was given under rule 36;
- (e) any other person the tribunal directs to be given notice of the change.

## **Division 2 Provisions about giving documents**

### **39 Giving documents to other persons**

- (1) Unless an enabling Act provides otherwise, a document required to be given to an entity in a proceeding may be given to the entity in 1 of the following ways—
  - (a) by delivering it personally to the entity in the way provided in the service practice direction;
  - (b) by sending it by post to the relevant address;
  - (c) if the entity has an address for service that includes a fax number—by sending it to the entity at that number;
  - (d) if the entity has an address for service that includes an email address—by sending it to the entity at that address;
  - (e) if the entity has an address for service that includes a non-fax or email electronic address—by sending it to the entity at that address;

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- (f) by leaving it with someone who—
    - (i) is at the relevant address; and
    - (ii) is apparently an adult and apparently residing or employed there;
  - (g) in another way provided for in the service practice direction;
  - (h) in any other way directed by the tribunal.
- (2) In this rule—

***relevant address***, for giving a document to an entity, means—

- (a) the service address in the entity’s address for service; or
- (b) if the entity does not have an address for service—
  - (i) for posting the document to the entity—the address provided for in the service practice direction to which documents may be posted to the entity if the entity does not have an address for service; or
  - (ii) for leaving a document with someone—the address provided for in the service practice direction at which documents may be left with someone for the purpose of giving the documents to the entity if the entity does not have an address for service.

*Examples of addresses for paragraph (b)—*

- the entity’s usual or last known residential or business address
- the address of the entity’s representative or associate

## **40 Substituted service**

- (1) If, for any reason, it is impracticable to give a document in a way provided under an enabling Act or these rules, the tribunal may make an order substituting another way of giving the document.
- (2) The tribunal may, in the order, state the steps to be taken for bringing the document to the attention of the entity to be given the document.

- (3) The tribunal may, in the order, state that the document is to be taken to have been given on the happening of a stated event or at the end of a stated time.
- (4) The tribunal may make an order under this rule even though the entity to be given the document is not in Queensland or was not in Queensland when the proceeding started.

#### **41 Informal service**

- (1) This rule applies if—
  - (a) for any reason, a document is not given in a way provided in an enabling Act or these rules but the document or a copy of it came into the possession of the entity who was to be given the document; and
  - (b) the tribunal is satisfied on evidence before it that the document came into the entity's possession on or before a particular day.
- (2) The tribunal may, by order, decide that, for the Act, an enabling Act and these rules, the entity is taken to have been given the document on the day it came into the entity's possession or a later day stated in the order.

#### **42 Affidavit proving document was given**

- (1) This rule applies if proof of the giving of a document required to be given under the Act, an enabling Act or these rules is required—
  - (a) under a provision of the Act, an enabling Act or these rules; or
  - (b) by the tribunal.

*Example of provision requiring proof of the giving of a document—*  
section 50(5) of the Act
- (2) The proof must be given by affidavit.
- (3) If the affidavit is about giving a document by personal delivery, the affidavit must—

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- (a) be made by the person who personally delivered the document; and
  - (b) include the following—
    - (i) the person's full name;
    - (ii) the time, day and date the document was personally delivered;
    - (iii) the place where the document was personally delivered;
    - (iv) the name of the person to whom the document was personally delivered and how the person was identified.
- (4) If the affidavit is about giving a document other than by personal delivery, the affidavit—
- (a) must state the relevant dates and the facts showing the document has been given; and
  - (b) may be made on information given to, or the belief of, the person giving the document; and
  - (c) if made on information given to the person giving the document—must state the source of the information.
- (5) Also, the affidavit must—
- (a) have the document filed with it as an exhibit or be written on the document; or
  - (b) if the document has been filed—mention the document in a way sufficient to enable the document to be identified.

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## **Part 6                      Responding to application or referral and counter-applications**

### **Division 1                  Responses generally**

#### **43            No responses for particular minor civil disputes**

- (1) A party to a proceeding for a minor civil dispute other than a minor debt claim can not respond to the application for the proceeding.
- (2) Subrule (1) does not prevent the party from—
  - (a) making a counter-application; or
  - (b) giving the tribunal evidence in writing, or making written submissions to the tribunal, in a way allowed by the tribunal under section 95 of the Act.

#### **44            General requirement for responses other than minor debt claim**

- (1) This rule applies if a respondent to an application other than for a minor debt claim, or a referral, wishes to respond to the application or referral, whether because of a requirement under an enabling Act or otherwise.
- (2) The response must—
  - (a) be made within—
    - (i) for a prescribed application—14 days after the respondent is given a copy of the application; or
    - (ii) for another application or a referral—28 days after the respondent is given a copy of the application or referral; and
  - (b) be made in the approved form; and

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- (c) comply with any requirements about the response stated in an enabling Act or a practice direction; and
  - (d) be filed.
- (3) However, if the *Service and Execution of Process Act 1992* (Cwlth) applies, the response must be made within the time limited by that Act.
- (4) The respondent must give a copy of the response to—
- (a) the applicant; and
  - (b) each person to whom a copy of the application or referral was given under section 37 of the Act; and
  - (c) any person the tribunal directs to be given notice of the response.
- (5) The approved form for subrule (2)(b) must provide for the inclusion of the respondent’s statement of address for service.
- (6) In this rule—
- prescribed application*** means an application—
- (a) for a building dispute under the *Queensland Building and Construction Commission Act 1991*; or
  - (b) for the recovery of a debt under the *Queensland Building and Construction Commission Act 1991*, section 71; or
  - (c) made under the *Domestic Building Contracts Act 2000*, section 18, 55, 60 or 84; or
  - (d) made under the *Body Corporate and Community Management Act 1997*, section 47AA, 47B, 48, 133, 149A, 149B, 178, 304, 385, 387, 389, 405, 412 or 414.

#### **45 General requirement for response for minor debt claim**

- (1) This rule applies if a respondent to an application for a minor debt claim wishes to respond to the application.
- (2) The response must—
  - (a) be made—

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- (i) within 28 days after the respondent is given a copy of the application; and
  - (ii) in the approved form; and
  - (b) have attached to it a statement—
    - (i) answering the applicant’s assertions in the application; and
    - (ii) stating any amount the respondent claims to owe the applicant, how any amount owing is worked out, and why the respondent claims to owe that amount; and
  - (c) comply with any requirements about the response stated in a practice direction; and
  - (d) be filed.
  - (3) The respondent must give a copy of the response to—
    - (a) the applicant; and
    - (b) each person to whom a copy of the application was given under section 37 of the Act; and
    - (c) any person the tribunal directs to be given notice of the response.
  - (4) The approved form for subrule (2)(a)(ii) must provide for the inclusion of the respondent’s statement of address for service.

#### **46 Response to application or referral if proceeding against partnership**

If a proceeding is started against a partnership, a response to the application or referral for the proceeding must be in the partnership name.

*Note—*

Sections 131 and 132 of the Act provide for the enforcement of a decision of the tribunal by a court as if the decision were an order of the court. See the Uniform Civil Procedure Rules, rule 88 in relation to enforcing an order of a court against partners in a partnership name.

#### **47 Response to application or referral if proceeding against business name**

- (1) This rule applies if a proceeding is brought against an entity—
  - (a) in relation to a business carried on by the entity under a name other than the entity's own name; and
  - (b) regardless of whether the name is registered on the Business Names Register or held under business names legislation.
- (2) A response to the application or referral in the proceeding must be in the name of an entity and not in the name mentioned in subrule (1).
- (3) A person who responds to an application or referral in the proceeding must file and give with the response a statement of the names and contact details of all persons who were carrying on business under the name as at the day a copy of the application or referral was given to the person.
- (4) The principal registrar may set aside a person's response to an application or referral if the person does not comply with subrule (3).
- (5) For subrule (1)(b), a name is held under business names legislation only if it is held under—
  - (a) the *Business Names Registration Act 2011* (Cwlth), section 54; or
  - (b) the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (Cwlth), schedule 1, item 5.

## **Division 2 Counter-applications**

#### **48 Respondent may make counter-application except for minor debt claim**

- (1) A respondent to an application or referral for a proceeding may, in response to the application or referral, apply to the



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tribunal for stated orders against another person, who may or may not be a party to the proceeding (a *counter-application*).

- (2) A counter-application may be made instead of making a separate application to the tribunal to deal with the matters in relation to which the orders are sought.
- (3) A counter-application can not be made in response to an application for a minor debt claim.

#### **49 Dealing with counter-application matters for minor debt claim**

- (1) If there are circumstances suggesting that a respondent to an application for a minor debt claim could have, apart from rule 48(3), applied for orders against the applicant by way of a counter-application, the tribunal may—
  - (a) order that the circumstances be dealt with as a separate minor debt claim; and
  - (b) give any directions the tribunal considers appropriate in relation to the matter.
- (2) If a respondent has brought a proceeding for an application against an applicant for a matter that, apart from rule 48(3) may have been the subject of a counter-application to an application for a minor debt claim, the tribunal may—
  - (a) order the enforcement of any final decision in the first proceeding be suspended for the time and on the conditions it considers appropriate; and
  - (b) give any directions the tribunal considers appropriate in relation to the matter.

#### **50 Requirements about counter-application**

- (1) A counter-application to an application or referral must—
  - (a) be made in the approved form; and

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- (b) other than for a minor civil dispute, be included in or attached to the respondent's response to the application or referral.
- (2) If a counter-application for an application other than a minor civil dispute application, or for a referral, is made in relation to a person who is not required to be given a copy of the response to the application or referral under rule 44 or 45, the respondent must give a copy of the response to the person.
- (3) If a counter-application is made for a minor civil dispute application, the respondent must give a copy of the counter-application to—
  - (a) the person in relation to whom the counter-application is made; and
  - (b) each party to the proceeding; and
  - (c) any person the tribunal directs to be given notice of the counter-application.
- (4) In this rule—

*minor civil dispute application* means an application for a minor civil dispute.

## **51 Conduct of proceeding if counter-application made**

- (1) This rule applies if a counter-application is made in a proceeding.
- (2) The counter-application must be dealt with in the proceeding.
- (3) The proceeding so far as it relates to the counter-application must be conducted as if it were a proceeding for an application for the orders the subject of the counter-application and, for that purpose—
  - (a) the respondent who made the counter-application is taken to be the applicant; and
  - (b) the person in relation to whom the counter-application is made is taken to be the respondent.

- (4) The tribunal may, at any time, make the directions the tribunal considers appropriate about the conduct of the proceeding so far as it relates to the counter-application.

## **Part 7**                      **Provisions about parties to a proceeding**

### **Division 1**                **Appearance by party that is not an individual or by a group of applicants**

#### **52**      **Purpose and explanation of div 1**

- (1) This division provides for—
- (a) how a party that is not an individual may appear in a proceeding; and
  - (b) how a group of applicants may appear in a proceeding.
- (2) This division does not provide for how a party may be represented in a proceeding.

*Note—*

See section 43 of the Act in relation to representation of a party in a proceeding, including the limited circumstances in which a party may be represented.

- (3) Nothing in this division requires a party to a proceeding to obtain the tribunal's leave to appear in the proceeding through an Australian legal practitioner if the party is represented in the proceeding by the practitioner under section 43 of the Act.

#### **53**      **State agency**

- (1) A State agency may appear in a proceeding through an employee, officer or member of the agency who is authorised by the agency to act for it in the proceeding.

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- (2) However, the State agency may appear through an Australian legal practitioner or a government legal officer only with the tribunal's leave.
- (3) In this rule—  
*government legal officer* see the *Legal Profession Act 2007*.

## 54 Corporation

- (1) A corporation may appear in a proceeding through an officer of the corporation who is authorised by the corporation to act for it in the proceeding.
- (2) However, the corporation may appear through an Australian legal practitioner only with the tribunal's leave.
- (3) Subrule (2) does not apply if all of the officers of the corporation are Australian legal practitioners.
- (4) If the officer authorised to act for the corporation under subrule (1) is not an Australian legal practitioner, the corporation must give the tribunal a certificate of authority for the authorisation.
- (5) In this rule—  
*officer*, of a corporation, means—
  - (a) an officer within the meaning given by the Corporations Act, section 9 for a corporation; or
  - (b) an employee of the corporation.

## 55 Other entity

- (1) An entity other than a State agency or corporation may appear in a proceeding through an officer of the entity who is authorised by the entity to act for it in the proceeding.  
*Examples of entities for this rule—*  
association, partnership, trust
- (2) However, the entity may appear through an Australian legal practitioner only with the tribunal's leave.

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- (3) Subrule (2) does not apply if all of the officers of the entity are Australian legal practitioners.
  - (4) If the officer authorised to act for the entity under subrule (1) is not an Australian legal practitioner and the tribunal requests it, the entity must give the tribunal a certificate of authority for the authorisation.
  - (5) If an officer is authorised to act for an entity as mentioned in subrule (1), each member of the entity is taken to have agreed to the officer appearing for the entity in the proceeding.
  - (6) In this rule—

**member**, of an entity other than a State agency or corporation, means—

    - (a) generally—a member (however called) of the entity; or
    - (b) for a partnership—a partner of the entity; or
    - (c) for a trust—a trustee or beneficiary of the entity.

**officer**, of an entity other than a State agency or corporation, means—

    - (a) an officer within the meaning given by the Corporations Act, section 9 for an entity that is not a corporation or individual; or
    - (b) an employee of the entity.

## 56 Joint applicants

- (1) The applicants (*joint applicants*) for a joint application or joint referral may appear in a proceeding through 1 of the applicants who is authorised by the joint applicants to act for them in the proceeding.
- (2) However, the joint applicants may appear through an Australian legal practitioner only with the tribunal's leave.
- (3) Subrule (2) does not apply if all of the applicants are Australian legal practitioners.
- (4) If the applicant authorised to act for the joint applicants under subrule (1) is not an Australian legal practitioner and the

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tribunal requests it, the joint applicants must give the tribunal a certificate of authority for the authorisation signed by all of the joint applicants.

## **Division 2                      Persons who are disqualified from representing a party**

### **57            Person who is or was a lawyer**

- (1) A person is disqualified from representing a party to a proceeding if—
  - (a) the person has been the subject of—
    - (i) a discipline application under the *Legal Profession Act 2007*; or
    - (ii) an application equivalent to a discipline application under a corresponding law within the meaning of the *Legal Profession Act 2007*; and
  - (b) the person has been, in the proceeding, found guilty of professional misconduct or unsatisfactory professional conduct; and
  - (c) the president has not made a declaration under subrule (2) about the person.
- (2) The president may declare that a person to whom subrule (1) applies is not disqualified from representing a party in a proceeding if the president is satisfied the conduct of the person constituting the misconduct or conduct mentioned in the subrule is not serious enough to disqualify the person from representing the party in the proceeding.
- (3) In this rule—

***professional misconduct*** see the *Legal Profession Act 2007*.  
***unsatisfactory professional conduct*** see the *Legal Profession Act 2007*.

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## **Part 8 Preliminary dealings with proceedings etc.**

### **Division 1 Withdrawing application or referral**

#### **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
    - (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.

#### **58 Application for leave to withdraw application or referral**

- (1) An application for the tribunal's leave to withdraw an application or referral under section 46(2) of the Act must be—
- (a) made—
    - (i) if the president has made a practice direction stating the way the application is to be made—in the way stated in the practice direction; or
    - (ii) otherwise—in the approved form; and

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- (b) filed.
- (2) A person applying for the tribunal's leave to withdraw an application or referral under section 46(2) of the Act must give notice of the application to—
  - (a) each person to whom a copy of the application or referral was given under section 37 of the Act; and
  - (b) any person the tribunal directs to be given notice of the application.

## **59 Notice of withdrawal of application or referral**

If the tribunal gives an applicant leave to withdraw an application or referral under section 46(2) of the Act, the principal registrar must give notice of the withdrawal to—

- (a) the applicant; and
- (b) each person to whom a copy of the application or referral was given under section 37 of the Act; and
- (c) any person the tribunal directs to be given notice of the withdrawal.

## **Division 2 Decision by default**

### **60 Form of application for debt or liquidated demand of money**

- (1) An application for a decision by default for a debt or liquidated demand of money must be made—
  - (a) in the approved form; or
  - (b) if the application is filed electronically under rule 24(1)(c) and a practice direction prescribes the form to be used—in that form.
- (2) The application must have the following attached—



- (a) an affidavit about how a copy of the original application for the recovery of the debt or liquidated demand of money was given to the respondent;
  - (b) an affidavit about the debt or liquidated demand of money stating—
    - (i) that the whole of the debt or liquidated demand of money is still owing; or
    - (ii) if part of the debt or liquidated demand of money has been paid—when the payment was made, the amount paid and how much is still owing.
- (3) The application must be filed.

#### **60A Form of application for unliquidated damages**

- (1) An application for a decision by default claiming recovery of an amount consisting of, or including, unliquidated damages from a person must be made—
  - (a) in the approved form; or
  - (b) if the application is filed electronically under rule 24(1)(c) and a practice direction prescribes the form to be used—in that form.
- (2) The application must have the following attached—
  - (a) an affidavit about how a copy of the original application for the recovery of the unliquidated damages was given to the respondent;
  - (b) an affidavit about the unliquidated damages—
    - (i) stating the basis on which recovery of the amount of unliquidated damages is claimed; and
    - (ii) including all information necessary to show how the claim has been calculated, including by annexing all supporting material to the affidavit; and
    - (iii) if costs or interest is claimed in the application—stating the basis on which the costs or

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interest is claimed, including all information necessary to show how the claim has been calculated.

- (3) The application must be filed.

## **62 Application for electronic decision by default for minor debt claim**

- (1) This rule applies if—
  - (a) an application for a minor debt claim (the *original application*) has been electronically filed under rule 26; and
  - (b) no document in the proceeding has been filed in paper form; and
  - (c) the applicant intends to electronically file an application for a decision by default (*decision by default application*).
- (2) The decision by default application must be prepared in a way that would, if a paper copy were made of the application, result in the application complying with the requirements for an approved form mentioned in rule 60(1)(a).
- (3) The decision by default application must have the following documents attached—
  - (a) an affidavit about how a copy of the original application was given to the respondent;
  - (b) an affidavit about the debt stating—
    - (i) the debt is still owing; or
    - (ii) if some payment has been made, when payment was made—the amount of the payment and how much of the debt is still owing.
- (4) The decision by default application must be filed.

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### **63 Electronic decision by default for minor debt claim**

- (1) This rule applies if—
  - (a) under rule 62, an applicant for a minor debt claim electronically files an application for a decision by default; and
  - (b) the decision by default is made under section 50 of the Act.
- (2) The tribunal's decision by default must be given to the person under section 121(1) of the Act by setting the decision out in an electronic document and sending it by electronic or computer-based means to the service provider who electronically filed the application for the decision.
- (3) Without limiting the grounds on which the tribunal or a court may set aside or amend the decision, or the grounds on which a court may refuse to enforce the decision, the tribunal or court must set aside the decision if rule 62(2) or (3) was not complied with.

### **64 Claiming particular amounts for decision by default**

For sections 50(2)(c) and 50A(3)(d) of the Act, the legal costs must be based on the scale of costs applying in the Magistrates Courts under the Uniform Civil Procedure Rules, rule 691.

*Note—*

The scale of costs applying in the Magistrates Courts are under the Uniform Civil Procedure Rules, schedule 3.

## **Division 3 Settlement and accepted offers to settle**

### **65 Offer must be written and may be open or closed**

- (1) An offer to settle a proceeding—
  - (a) must be made in writing; and

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- (b) may be—
  - (i) an open offer, meaning that any party may mention the offer, or any terms of the offer, at any time during the proceeding; or
  - (ii) a closed offer, meaning that the tribunal should not be told the offer has been made until after it has made its final decision in the proceeding.
- (2) If an offer does not state it is an open offer or closed offer, the offer is taken to be a closed offer.

## **66 Expiry of offer**

- (1) An offer to settle a proceeding may be made at any time before the tribunal makes its final decision in the proceeding.
- (2) An offer to settle a proceeding made before a hearing starts expires on the earlier of the following—
  - (a) the day the hearing of the proceeding starts;
  - (b) the expiry date stated in the offer.
- (3) An offer to settle a proceeding made after a hearing starts expires on the earlier of the following—
  - (a) the day the tribunal makes its final decision in the proceeding;
  - (b) the expiry date stated in the offer.

## **67 Acceptance of offer**

- (1) A party to a proceeding may accept an offer to settle the proceeding by giving written notice of the acceptance, before the offer expires, to the party who made the offer.
- (2) A party to a proceeding may accept an offer even though the party has made a counteroffer.

*Note—*

See rule 86 for a consequence of not accepting an offer.

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## **68 Amendment of order giving effect to settlement**

An application under section 88(2) of the Act for an amendment of an order giving effect to a settlement for a proceeding must be made—

- (a) in the approved form; and
- (b) within 28 days after the order is made; and
- (c) by filing it.

## **Division 3A Conciliation**

### **68A Notice of conciliation**

- (1) This rule applies if, under section 66A of the Act, the tribunal or the principal registrar refers the parties to a proceeding to attend conciliation.
- (2) The written notice of the referral given under section 66A(3) of the Act must—
  - (a) state when and where the conciliation is to be conducted; and
  - (b) be given in the time stated in a practice direction.
- (3) The principal registrar must also give written notice of the referral, as stated in subrule (2), to—
  - (a) a person to whom notice of the conciliation is required to be given under an enabling Act; and
  - (b) the conciliator who is to conduct the conciliation; and
  - (c) any other person the principal registrar reasonably considers should be given notice of the conciliation.

### **68B Parties must assist conciliator**

The parties to a proceeding must—

- (a) act reasonably and genuinely in a conciliation; and

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- (b) help the conciliator to start and finish the conciliation within the time estimated by the conciliator or stated in the written notice of the referral for conciliation.

### **68C General powers of conciliator**

In conducting a conciliation, the conciliator may—

- (a) gather information about the nature and facts of the matter to which the conciliation relates in a way decided by the conciliator; and
- (b) during the conciliation—see the parties with or without their representatives, together or separately.

### **68D Other rules about conduct of conciliation**

- (1) If the parties to a proceeding agree to settle the proceeding, or a part of the proceeding at conciliation, the conciliator must discuss the following with the parties—
  - (a) the terms of the settlement;
  - (b) if the conciliator is a member, an adjudicator or the principal registrar—whether the terms will be recorded in writing under section 85(2) of the Act and the orders the conciliator is to make to give effect to the settlement under that section;
  - (c) if the conciliator is not a member, an adjudicator or the principal registrar—
    - (i) whether the terms will be recorded in writing, signed by the parties and filed under section 85(4) of the Act; and
    - (ii) whether the parties consider tribunal orders are required to give effect to the settlement and, if so, the orders that the parties consider are required; and
    - (iii) the things said or done in the conciliation that the parties agree may be admitted into evidence for the proceeding, including, for example, the tribunal

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orders that the parties consider are required as mentioned in subparagraph (ii);

- (d) anything else the conciliator considers may help the parties give effect to the settlement.
- (2) Subrule (3) applies in relation to a proceeding, or a part of a proceeding, for a matter stated in a practice direction for the subrule.
- (3) If a conciliator has attempted unsuccessfully to settle a proceeding or a part of a proceeding by conciliation, the conciliator must—
- (a) in the way stated in the practice direction, help the parties to identify—
    - (i) the issues that are in dispute in the proceeding or part; and
    - (ii) the issues that are no longer in dispute in the proceeding or part; and
  - (b) discuss with the parties the things said or done in the conciliation that the parties agree may be admitted into evidence for the proceeding, including, for example, the issues identified under paragraph (a).

## **68E Outcome of conciliation**

- (1) As soon as practicable after a conciliation for a proceeding ends, the conciliator must file a certificate in the approved form about the outcome of the conciliation.
- (2) A certificate filed under subrule (1)—
  - (a) must not state anything about the extent to which a party to the proceeding participated or refused to participate in the conciliation; but
  - (b) may state that a stated party to the proceeding did not attend the conciliation.
- (3) A certificate filed under subrule (1) must identify the things said or done in the conciliation that the parties have agreed

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may be admitted into evidence in the proceeding under section 66J(2)(a) of the Act.

- (4) If the conciliator is not the principal registrar and files a certificate under subrule (1), the conciliator is taken to have notified the principal registrar as required under section 66I of the Act.

## **Division 4                    Compulsory conference**

### **69            Notice of conference**

- (1) This rule applies if, under section 67 of the Act, the tribunal or the principal registrar directs the parties to a proceeding to attend a compulsory conference.
- (2) The written notice of the conference given under section 67(2) of the Act must—
  - (a) state when and where the compulsory conference is to be held; and
  - (b) be given in the time stated in a practice direction.

## **Division 5                    Mediation**

### **70            Notice of mediation**

- (1) This rule applies if, under section 75 of the Act, the tribunal or the principal registrar refers the subject matter, or a part of the subject matter, of a proceeding for mediation.
- (2) The written notice of the referral given under section 75(3) of the Act must—
  - (a) state when and where the mediation is to be conducted; and
  - (b) be given in the time stated in a practice direction.
- (3) The principal registrar must also give written notice of the referral, as stated in subrule (2), to—



- (a) a person to whom notice of the mediation is required to be given under an enabling Act; and
- (b) the appointed mediator; and
- (c) any other person the principal registrar reasonably considers should be given notice of the mediation.

## **71 Parties must assist mediator**

The parties to a proceeding must—

- (a) act reasonably and genuinely in a mediation; and
- (b) help the mediator to start and finish the mediation within the time estimated by the mediator or stated in the written notice of the referral for mediation.

## **72 General powers of mediator**

In conducting a mediation, the mediator may—

- (a) gather information about the nature and facts of the matter to which the mediation relates in a way decided by the mediator; and
- (b) during the mediation—see the parties with or without their representatives, together or separately.

## **73 Other rules about conduct of mediation**

- (1) If the parties to a proceeding agree to settle the proceeding, or a part of the proceeding at mediation, the mediator must discuss the following with the parties—
  - (a) the terms of the settlement;
  - (b) if the mediator is a member, an adjudicator or the principal registrar—whether the terms will be recorded in writing under section 85(2) of the Act and the orders the mediator is to make to give effect to the settlement under that section;

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- (c) if the mediator is not a member, an adjudicator or the principal registrar—
  - (i) whether the terms will be recorded in writing, signed by the parties and filed under section 85(4) of the Act; and
  - (ii) whether the parties consider tribunal orders are required to give effect to the settlement and, if so, the orders that the parties consider are required; and
  - (iii) the things said or done in the mediation that the parties agree may be admitted into evidence for the proceeding, including, for example, the tribunal orders that the parties consider are required as mentioned in subparagraph (ii);

*Note—*

Under section 85(5) of the Act, if signed written terms of the settlement are filed, the tribunal may make the orders necessary to give effect to the settlement.

- (d) anything else the mediator considers may help the parties to give effect to the settlement.
- (2) Subrule (3) applies in relation to a proceeding, or a part of a proceeding, for a matter stated in a practice direction for the subrule.
  - (3) If a mediator has attempted unsuccessfully to settle a proceeding or a part of a proceeding by mediation, the mediator must—
    - (a) in the way stated in the practice direction, help the parties to identify—
      - (i) the issues that are in dispute in the proceeding or part; and
      - (ii) the issues that are no longer in dispute in the proceeding or part; and
    - (b) discuss with the parties the things said or done in the mediation that the parties agree may be admitted into

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evidence for the proceeding, including, for example, the issues identified under paragraph (a).

## **74 Outcome of mediation**

- (1) As soon as practicable after a mediation for a proceeding ends, the mediator must file a certificate in the approved form about the outcome of the mediation.

*Note—*

Under section 83 of the Act, evidence of anything said or done during the mediation is not admissible at any stage of the proceeding except in limited circumstances.

- (2) A certificate filed under subrule (1)—
  - (a) must not state anything about the extent to which a party to the proceeding participated or refused to participate in the mediation; but
  - (b) may state that a stated party to the proceeding did not attend the mediation.
- (3) A certificate filed under subrule (1) must identify the things said or done in the mediation that the parties have agreed may be admitted into evidence in the proceeding under section 83(2)(a) of the Act.
- (4) If the mediator is not the principal registrar and files a certificate under subrule (1), the mediator is taken to have notified the principal registrar as required under section 82 of the Act.

## **Division 6 Directions**

### **75 Application for direction**

- (1) A party to a proceeding, or another person who is given a copy of an application or referral for a proceeding under section 37 of the Act, may apply to the tribunal for a direction.



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- (a) by endorsing the time and place for the hearing on the copy of the application or referral for the proceeding that the principal registrar gives to the person under the Act;

*Note—*

The principal registrar may give a copy of an application or referral to parties to a proceeding, or other persons, under section 37(3)(a) of the Act.

- (b) by written notice.

*Notes—*

- 1 See the *Guardianship and Administration Act 2000*, section 118 for giving notices of a hearing of a proceeding under that Act.
- 2 See part 5 about how a notice may be given to an entity.

## **77 When notice of hearing for minor debt claim given**

- (1) This rule applies if a response to an application for a minor debt claim is filed.
- (2) Notice of the hearing of the proceeding for the application given to a person under section 92 of the Act must be given—
  - (a) as soon as practicable after the response is filed; and
  - (b) at least 7 days before the hearing.

## **78 Requiring person to produce document or thing or give information**

- (1) This rule applies if a party to a proceeding applies to the tribunal for—
  - (a) a direction under section 62(3) of the Act requiring another party to the proceeding to produce a document or other thing, or provide information, to the tribunal or the party; or
  - (b) an order under section 63(1) of the Act requiring a person to produce a document or other thing to the tribunal or the party; or

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- (c) a notice under section 97(1)(b) of the Act requiring a person to produce a document or other thing to the tribunal.
- (2) The application must—
- (a) be made in the approved form; and
  - (b) state—
    - (i) the name and address of the person to be required to produce the document or other thing or to provide the information; and
    - (ii) the reasons why the party is requesting the production of the document or other thing or the provision of the information; and
  - (c) be filed.

## **79 Requiring person to attend hearing**

- (1) This rule applies if a party to a proceeding applies to the tribunal for a notice under section 97(1)(a) of the Act requiring a person to attend the hearing of the proceeding.
- (2) The application must—
- (a) be made in the approved form; and
  - (b) state—
    - (i) the name and address of the person to be required to attend the hearing; and
    - (ii) the reasons why the person is to be required to attend the hearing; and
  - (c) be filed.

## **80 Documents or things produced before hearing**

- (1) This rule applies if, for a proceeding—
- (a) a person is required to produce a document or other thing to the tribunal by—

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- (i) an order under section 63(1) of the Act; or
    - (ii) a notice under section 97(1)(b) of the Act; and
  - (b) the person produces the document or other thing to the tribunal before the date stated in the order or notice.
- (2) The person is not required to attend the hearing of the proceeding to which the order or notice relates unless—
    - (a) the tribunal orders otherwise; or
    - (b) the person has been given notice under section 97(1)(a) of the Act requiring the person to attend the hearing.
  - (3) A party to the proceeding may inspect, copy, photograph or otherwise record an image of the document or thing unless the tribunal orders otherwise.

## **81 Limited disclosure for minor debt claim**

- (1) A party to a proceeding for a minor debt claim can not require another party to the proceeding to disclose documents in the possession or under the control of the other party and directly relevant to an allegation in issue in the proceeding, unless the tribunal orders otherwise.
- (2) However, all parties to the proceeding must make all relevant documents available at the hearing of the proceeding.

## **82 Procedure for expedited hearing**

- (1) Before an expedited hearing each party to the hearing must, if directed by the tribunal—
  - (a) file statements of witnesses, expert reports and other documents the party intends to rely on; and
  - (b) exchange these with the other parties within the time limit set by the tribunal.
- (2) At the expedited hearing—
  - (a) the parties must, as directed by the tribunal, arrange for the attendance of witnesses, including expert witnesses

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to clarify or expand on evidence in the documents filed;  
and

- (b) the tribunal may limit the time for the hearing and allocate the time equally between the parties.

*Note—*

Under section 95(2)(c) of the Act, cross-examination and re-examination of witnesses in an expedited hearing is at the discretion of the tribunal.

- (3) In this rule—

*expedited hearing* means an expedited hearing under section 94 of the Act.

## **Division 2                      Costs**

### **83            Costs that may be awarded for minor civil dispute other than minor debt claim**

For section 102 of the Act, the tribunal may award costs against a party to a proceeding for a minor civil dispute other than a minor debt claim—

- (a) only if the party is a respondent against whom the tribunal has made a final decision; and
- (b) only to order the party to pay to the applicant the amount of any prescribed fee paid by the applicant on filing the application for the proceeding.

### **84            Costs that may be awarded for minor debt claim**

- (1) For section 102 of the Act, the tribunal may award costs against a party to a proceeding for a minor debt claim only to order the party to pay an amount for 1 or more of the following—
- (a) the prescribed fee for filing the application for the claim;
- (b) a fee charged by a service provider for electronically filing a document;



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- (c) a service fee and travelling allowance at the rate of the prescribed bailiff fees;
  - (d) a business name or company search fee.
- (2) In this rule—

*prescribed bailiff fees* means the fees prescribed under the *Uniform Civil Procedure (Fees) Regulation 2009*, schedule 2, part 2.

## **85 Additional power to award costs against respondent**

If the tribunal makes an order against a respondent in a proceeding, other than a proceeding for a minor civil dispute, the tribunal may order the respondent to pay to the applicant the amount of any prescribed fee paid by the applicant on filing the application or referral for the proceeding.

## **86 Additional power to award costs if particular offers to settle rejected**

- (1) This rule applies if—
- (a) a party to a proceeding, other than a proceeding for a minor civil dispute, makes another party to the proceeding a written offer to settle the dispute the subject of the proceeding; and
  - (b) the other party does not accept the offer within the time the offer is open; and
  - (c) in the opinion of the tribunal, the decision of the tribunal in the proceeding is not more favourable to the other party than the offer.
- (2) The tribunal may award the party who made the offer all reasonable costs incurred by that party in conducting the proceeding after the offer was made.
- (3) If a proceeding involves more than 2 parties, this rule applies only if the acceptance of the offer would have resulted in the settlement of the matters in dispute between all the parties.

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- (4) In deciding whether a decision is or is not more favourable to a party than an offer, the tribunal must—
  - (a) take into account any costs it would have awarded on the date the offer was given to the other party; and
  - (b) disregard any interest or costs it awarded relating to any period after the date the offer was given to the other party.

## **87 Assessing costs**

- (1) This rule provides for how costs are to be assessed under section 107 of the Act if the tribunal makes a costs order that requires the costs be assessed under the rules.
- (2) The costs must be assessed—
  - (a) by an assessor appointed by the tribunal; and
  - (b) if the tribunal directs the costs be assessed by reference to the scale of costs applying to a court—by reference to the scale of costs directed by the tribunal.
- (3) The assessor is to decide the procedure to be followed on the assessment of the costs.
- (4) However, the procedure must be consistent with the objects of the Act, an enabling Act or these rules.
- (5) Without limiting subrule (3) or (4), the assessor may decide to do all or any of the following—
  - (a) hear the assessment in private;
  - (b) carry out the assessment on the papers without an oral hearing;
  - (c) not be bound by laws of evidence or procedure applying to a proceeding in the tribunal;
  - (d) be informed of the facts in any way the assessor considers appropriate;
  - (e) not make a record of the evidence given.

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## Division 3 Provisions about decisions

### 88 Giving decision

- (1) The tribunal gives a decision in a proceeding either—
  - (a) orally in a hearing of the proceeding; or
  - (b) by setting it out in a document that is signed by the presiding member.
- (2) If the tribunal gives its decision orally, the decision may be reproduced into writing and signed by a member of the tribunal, an adjudicator or the principal registrar.

*Note—*

See chapter 2, part 7, division 2 of the Act for other provisions about the tribunal giving a decision. See also chapter 2, part 7, divisions 3 and 4 of the Act for provisions about the effect of a tribunal decision and the enforcement of a tribunal decision.

### 89 Application for renewal of final decision

An application under section 133 of the Act for a renewal of the tribunal's final decision in a proceeding must be made—

- (a) in the approved form; and
- (b) within 28 days after the relevant day.

*Notes—*

- 1 Under section 133(3) of the Act, the application must state the reason for the application and be filed in the registry.
- 2 See section 61 of the Act for the tribunal's power to extend a time limit, or waive compliance with another procedural requirement, under the Act, an enabling Act or these rules.

### 90 Application for correction

An application under section 135 of the Act to the tribunal to correct a decision in a proceeding must be made—

- (a) in the approved form; and

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- (b) within 28 days after the relevant day; and
- (c) by filing it.

*Note—*

See section 61 of the Act for the tribunal's power to extend a time limit, or waive compliance with another procedural requirement, under the Act, an enabling Act or these rules.

## **91 Principal registrar to give notice of corrected decision**

If the tribunal corrects a decision in a proceeding under section 135 of the Act, the principal registrar must, as soon as practicable, give notice of the correction and a copy of the corrected decision to—

- (a) each party to the proceeding; and
- (b) each other person to whom the notice and corrected decision must be given under an enabling Act; and
- (c) any person the tribunal directs to be given the notice and corrected decision.

## **92 Application to reopen proceeding**

An application under section 138 of the Act for a proceeding to be reopened must be made—

- (a) in the approved form; and
- (b) within 28 days after the relevant day; and
- (c) by filing it.

*Notes—*

- 1 Under section 138(2) of the Act, the application must state the reopening ground on which it is made and be accompanied by the prescribed fee (if any).
- 2 See section 61 of the Act for the tribunal's power to extend a time limit, or waive compliance with another procedural requirement, under the Act, an enabling Act or these rules.

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**93 Submissions for reopened proceeding**

- (1) This rule applies if a party to a proceeding (*applicant party*) applies under section 138 of the Act for the proceeding to be reopened.
- (2) The tribunal must—
  - (a) allow the applicant party at least 7 days after the application is made to make written submissions about the application; and
  - (b) allow each other party to the proceeding at least 7 days after the relevant day to make written submissions about the application.
- (3) In this rule—

*relevant day*, for a party to a proceeding the subject of an application to reopen, means the day the party is given a copy of the application under section 138(3) or (4) of the Act.

## **Part 10 Appeals to appeal tribunal**

**94 Application of pt 10**

This part applies to—

- (a) an application for the appeal tribunal's leave to appeal to the appeal tribunal against a decision of the tribunal or a decision of another entity under an enabling Act; or
- (b) an appeal to the appeal tribunal against—
  - (i) a decision of the tribunal; or
  - (ii) a decision of another entity under an enabling Act.

**95 Appealing or applying for leave to appeal**

An application for leave to appeal, or an appeal, to the appeal tribunal must be made in the approved form.

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## 96 Notice of application or appeal

A party to a proceeding applying for the appeal tribunal's leave to appeal, or appealing to the appeal tribunal, must give a copy of the application or appeal to—

- (a) each other party to the proceeding; and
- (b) each other person to whom notice of the application or appeal is required to be given under an enabling Act; and
- (c) any person the appeal tribunal directs to be given notice of the application or appeal.

## 97 Notice of transfer to Court of Appeal

- (1) This rule applies if the president transfers an appeal against a decision in a proceeding to the Court of Appeal under section 144 of the Act.
- (2) The principal registrar must give notice of the transfer to—
  - (a) each party to the proceeding; and
  - (b) each other person to whom notice of the appeal was given under rule 96; and
  - (c) any person the tribunal directs to be given notice of the transfer.

# Part 10A Affidavits

## 97A Definitions for part

In this part—

*sign*, a document, see the *Oaths Act 1867*, section 1B.

*witness*, a document, see the *Oaths Act 1867*, section 11.

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**97B References to witnesses, signatories and substitute signatories**

In this part—

- (a) a reference to a witness in relation to an affidavit has the same meaning as given to that reference by the *Oaths Act 1867*, section 13; and
- (b) a reference to a signatory in relation to an affidavit has the same meaning as given to that reference by the *Oaths Act 1867*, section 13; and
- (c) a reference to a substitute signatory in relation to an affidavit has the same meaning as given to that reference by the *Oaths Act 1867*, section 13.

**97C Swearing or affirming affidavits**

- (1) The signatory or substitute signatory for an affidavit and the witness for an affidavit must sign each page of the affidavit.
- (2) A statement (the *jurat*) must be placed at the end of the body of an affidavit and must—
  - (a) state the full name of the signatory; and
  - (b) state whether the affidavit was sworn or affirmed; and
  - (c) state the day and the place the signatory made the affidavit; and
  - (d) be signed by the signatory in the presence of the witness, including presence by audio visual link, in accordance with the *Oaths Act 1867*; and
  - (e) be signed in accordance with the *Oaths Act 1867*.

*Note—*

See also the *Oaths Act 1867*, sections 13B and 13E for other matters that must be stated in the jurat or otherwise included on the affidavit.

- (3) For this rule, the *place* a signatory made an affidavit is the place the signatory was located when the affidavit was made.

### **97D Alterations to affidavits**

- (1) This rule applies if there is an interlineation, erasure or other alteration in any part of an affidavit.
- (2) The affidavit may be filed but, unless the tribunal orders otherwise, may be used only if the interlineation, erasure or other alteration—
  - (a) has been initialled by the signatory or substitute signatory for the affidavit in the same way the signatory or substitute signatory signed the affidavit; and
  - (b) has been initialled by the witness for the affidavit in the same way the witness signed the affidavit.
- (3) To remove any doubt, it is declared that an affidavit must not be altered after it has been made, signed and witnessed under the *Oaths Act 1867*, whether the affidavit is in the form of a physical document or an electronic document.

### **97E Retention of affidavits electronically filed as imaged documents**

- (1) This rule applies to an affidavit—
  - (a) made in the form of a physical document; and
  - (b) electronically filed under rule 25(2)(c) in a proceeding.
- (2) The party filing the affidavit must retain, or cause to be retained, the physical document of the affidavit for 7 years from the day the affidavit is filed in the proceeding, unless the tribunal orders otherwise.
- (3) Also, the party must produce the physical document of the affidavit as directed by the tribunal.

### **97F Minimum period for retention of original physical version—Oaths Act 1867, s 31Y**

- (1) This rule applies in relation to an affidavit that—
  - (a) is a document to which the *Oaths Act 1867*, section 31Y applies; and



- (b) is made using an original physical version.
- (2) For the *Oaths Act 1867*, section 31Y(3), the minimum period for which the original physical version is to be kept is 7 years from the day the affidavit is filed in a proceeding.
- (3) In this rule—  
*original physical version*, of a document, see the *Oaths Act 1867*, section 31B.

## Part 11 Other general provisions

### 98 Warrant for witness who does not attend as required

A warrant issued by the tribunal under section 215 of the Act must be in the approved form.

### 99 Punishment for contempt

- (1) For section 219(2) of the Act, this rule prescribes how the Uniform Civil Procedure Rules apply in relation to contempt of the tribunal.
- (2) The Uniform Civil Procedure Rules, chapter 20, part 7 applies with the following changes—
- (a) a reference in the part to a court is taken to be a reference to the tribunal;
  - (b) a reference in the part to a registrar is taken to be a reference to the principal registrar;
  - (c) a reference in the part to an approved form is taken to be a reference to a form approved for use under the Act;
  - (d) a reference in the part to a filed application is taken to be a reference to an application filed in the registry;
  - (e) rule 923 of the part does not apply and instead the tribunal may, pending disposal of a charge of contempt, direct—

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- (i) that the respondent give security to secure the respondent's attendance in person to answer the charge; and
  - (ii) that the security be forfeited if the respondent fails to attend;
- (f) the reference to another court in rule 925(1)(d) of the part is taken to be a reference to a court that transferred a proceeding to the tribunal under section 53 of the Act;
- (g) an application or affidavit mentioned in rule 926 of the part must be in the approved form;
- (h) for rule 929 of the part—
  - (i) a reference to an enforcement officer is taken to be a reference to a police officer; and
  - (ii) the warrant for the arrest or detention of a person must be signed by the judicial member exercising the tribunal's jurisdiction and powers to punish for contempt of the tribunal; and
  - (iii) subrules (3) and (4) do not apply.

## **100 Form and content of register of proceedings**

- (1) The register of proceedings kept under section 229 of the Act—
  - (a) may be kept—
    - (i) in written or electronic form; or
    - (ii) partly in written form and partly in electronic form; and
  - (b) must contain the following information about each proceeding—
    - (i) a number identifying the proceeding;
    - (ii) the names of the parties to the proceeding;
    - (iii) if the proceeding is withdrawn, the date of the withdrawal;

- (iv) if the subject matter of the proceeding or a part of the proceeding is transferred to another tribunal, a court or another entity under section 52(1) of the Act—
    - (A) the date of the transfer; and
    - (B) the tribunal, court or other entity to which it was transferred; and
    - (C) if only the subject matter of a part of the proceeding is transferred—details of the subject matter of the part that is transferred;
  - (v) if all or some matters in a proceeding are transferred to a court, another tribunal or another entity under section 52(2) of the Act—
    - (A) the date of the transfer; and
    - (B) the court, tribunal or other entity to which it was transferred; and
    - (C) if only some matters of the proceeding are transferred—details of the matters transferred;
  - (vi) the tribunal’s final decision in the proceeding.
- (2) If, under section 229(2) or (3) of the Act, a person asks to inspect a part of the register that is in electronic form, the principal registrar may decide whether—
- (a) the part is to be inspected in electronic form; or
  - (b) the part is to be converted to written form and inspected in that form.

## **100A Approving entity for electronic filing**

The principal registrar may approve an entity to prepare documents for electronic filing under rule 26.



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**103 Alternative requirements about statement of address for particular complaints**

- (1) This rule applies in relation to a referral of a complaint under the *Anti-Discrimination Act 1991*, section 155(4), 164A(3)(a), 166(1) or 167(4)(b) or (5).
- (2) Rule 9(2) does not apply to an applicant for the referral if the referral includes the applicant's correct address for service.
- (3) If the referral includes the applicant's address for service and the applicant does not file a statement of address for service under rule 9(2), the part of the referral containing the applicant's address for service is taken to be the applicant's statement of address for service.
- (4) Rule 37 does not require a party to a proceeding for the referral to give a person notice of a change of the party's statement of address for service if the party has given notice of the change to the person under the *Anti-Discrimination Act 1991*, section 263E.

**104 Giving copy of application for order under Anti-Discrimination Act 1991, s 144**

- (1) This rule applies if a person applies to the tribunal for an order under the *Anti-Discrimination Act 1991*, section 144 in relation to a complaint under that Act.
- (2) A copy of the application required to be given to a person under section 37 of the Act must be given at least 2 days before the tribunal hears the application.
- (3) For section 37(2)(b) of the Act, notice of the application must also be given to—
  - (a) if the applicant is the complainant—the human rights commissioner; or
  - (b) if the applicant is the human rights commissioner—the complainant.
- (4) Also, when a copy of the application is given to a person under section 37 of the Act, a copy of any documents filed in support of the application must also be given to the person.

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- (5) If the tribunal is satisfied exceptional circumstances exist in relation to the application, it may hear the application even if the applicant has not complied with section 37 of the Act or subrule (4).

**105 Giving copy of order under Anti-Discrimination Act 1991, s 144**

- (1) If the tribunal makes an order under the *Anti-Discrimination Act 1991*, section 144 in relation to a complaint, the applicant must promptly give a copy of the order to—
- (a) each party to the complaint; and
  - (b) the human rights commissioner, if the applicant is not the human rights commissioner; and
  - (c) any other person the tribunal directs to be given a copy of the order.
- (2) However, the tribunal may order the principal registrar to give a copy of the order to a person mentioned in subrule (1) or may order that the copy be given to the person in a particular way.
- (3) If the tribunal orders the principal registrar to give a copy of the order to a person mentioned in subrule (1), the applicant is exempt from the requirement to give the order to the person under the subrule.

**106 Principal registrar to give copy of reasons for decision to human rights commissioner and parties**

If the tribunal gives a party to a proceeding under the *Anti-Discrimination Act 1991* written reasons for a decision in the proceeding, the tribunal must, as soon as practicable after the reasons are given, give a copy of the reasons to—

- (a) each other party to the proceeding who has not already been given a copy of the reasons; and
- (b) the human rights commissioner, if the commissioner has not already been given a copy of the reasons.

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**107 Notice of appeal to human rights commissioner**

- (1) This rule applies if—
- (a) a party to a proceeding for an application under the *Anti-Discrimination Act 1991*, section 113 appeals against a decision of the tribunal in the proceeding; and
  - (b) the party is not the human rights commissioner.

*Note—*

See the *Anti-Discrimination Act 1991*, section 113A for appeals by persons who are not, but are taken to be, parties to the application.

- (2) The principal registrar must give notice of the appeal to the human rights commissioner.

## **Part 13 Proceedings under Guardianship and Administration Act 2000**

**108 Interpretation of this part**

If this part uses a term that is used in the *Guardianship and Administration Act 2000*, the term has the same meaning in this part as it has in that Act unless a contrary intention appears.

**109 Additional general requirement for making application**

- (1) Unless the tribunal directs otherwise, an application for a proceeding under the *Guardianship and Administration Act 2000* must include the following—
- (a) to the best of the applicant's knowledge, information about the following persons—
    - (i) the applicant;
    - (ii) if the applicant is not the adult concerned in the application—the adult;
    - (iii) the members of the adult's family;

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- (iv) any primary carer of the adult;
  - (v) all current guardians and administrators for the adult;
  - (vi) all attorneys for the adult;
  - (b) anything else stated in rules 110 to 113 for applications of the same type.
- (2) The information required under subrule (1)(a) is to enable the tribunal to give notice of the hearing of the proceeding and must consist of—
- (a) each person's name; and
  - (b) contact details for each person or, if the applicant does not know the contact details of a particular person, a way known to the applicant of contacting that person.

(3) In this rule—

***attorney*** means—

- (a) an attorney under a power of attorney; or
- (b) an attorney under an advance health directive or similar document under the law of another jurisdiction.

***power of attorney*** means—

- (a) a general power of attorney made under the *Powers of Attorney Act 1998*; or
- (b) an enduring power of attorney; or
- (c) a power of attorney made otherwise than under the *Powers of Attorney Act 1998*, whether before or after its commencement; or
- (d) a similar document under the law of another jurisdiction.

## **110 Other additional requirements for application for appointment of guardian or administrator**

- (1) An application under the *Guardianship and Administration Act 2000*, chapter 3 to the tribunal for the appointment of a



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guardian or administrator for an adult for a matter must include—

- (a) the proposed appointee's written agreement to the appointment; and
  - (b) the following information—
    - (i) details of the matter;
    - (ii) a detailed description of the adult's alleged impaired capacity for the matter;
    - (iii) why the appointment is necessary;
    - (iv) details of any enduring document made by the adult;
    - (v) for an application for appointment of a guardian—a summary of the adult's financial position;
    - (vi) for an application for appointment of an administrator—
      - (A) details of the adult's income, living expenses, assets and liabilities; and
      - (B) details of the current arrangements for management of the adult's financial matters;
    - (vii) the name, address and telephone number of the proposed guardian or administrator;
    - (viii) whether the adult has been informed of the application;
    - (ix) a description of how the person communicates and information about the type of assistance, if any, the adult might need at the hearing;
    - (x) if urgent action is required—an explanation of the urgency.
- (2) The application must also include, for example, by attaching a report, information about the adult relevant to the application that is provided by a health provider.

**111 Other additional requirements for application for declaration about capacity**

- (1) An application under the *Guardianship and Administration Act 2000*, section 146 to the tribunal for a declaration about a person's capacity for a matter must include the following information—
  - (a) the name and contact details of the person;
  - (b) details of the matter;
  - (c) a detailed description of the person's alleged impaired capacity for the matter;
  - (d) a description of how the person communicates and information about the type of assistance, if any, the person might need at the hearing;
  - (e) if urgent action is required—an explanation of the urgency.
- (2) The application must also include, for example, by attaching a report, information about the person relevant to the application that is provided by a health provider.

**112 Other additional requirements for application for consent to special health care**

- (1) An application under the *Guardianship and Administration Act 2000*, chapter 5, part 3 to the tribunal for consent to special health care for an adult must include the following information—
  - (a) a detailed description of the adult's alleged impaired capacity for the special health matter concerned;
  - (b) information about the proposed special health care, including—
    - (i) a description of the proposed special health care; and
    - (ii) information about any available alternative forms of health care and an explanation why the proposed

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- special health care is the preferred form of health care; and
- (iii) details of any risks to the adult if the proposed special health care is carried out; and
  - (iv) details of any risks to the adult if the proposed special health care is not carried out; and
  - (v) particulars about when and where the proposed special health care would be carried out;
- (c) whether the adult has been informed of the application;
  - (d) whether the adult objects to the proposed special health care;
  - (e) a description of how the person communicates and information about the type of assistance, if any, the adult might need at the hearing;
  - (f) if urgent action is required—an explanation of the urgency.
- (2) The application must also include, for example, by attaching a report, information about the adult relevant to the application that is provided by a health provider.

### **113 Other additional requirements for application to register a registrable order**

An application under the *Guardianship and Administration Act 2000*, chapter 7, part 9 to the tribunal to register an order about an adult made in another jurisdiction must include the following information—

- (a) a description of the adult’s impaired capacity;
- (b) the name of the jurisdiction in which, and recognised provision under which, the order was made;
- (c) the name, address and telephone number of the adult’s current guardian or administrator;
- (d) the adult’s address in Queensland and whether the adult will be residing in Queensland on a permanent basis;

- (e) if urgent action is required—an explanation of the urgency.

## **Part 14 Proceedings under Legal Profession Act 2007**

### **114 Interpretation of this part**

- (1) Subject to subrule (2), if this part uses a term that is used in the *Legal Profession Act 2007*, the term has the same meaning in this part as it has in that Act unless a contrary intention appears.
- (2) In this part—  
*discipline application* means an application to the tribunal under the *Legal Profession Act 2007*, section 452(1)(a).

### **115 Making a discipline application**

- (1) A discipline application must be made in the approved form.  
*Note—*  
Under section 33 of the Act, the application must state the reasons for the application and be filed.
- (2) A discipline application may relate to more than 1 complaint or investigation matter.
- (3) A discipline application must state particulars of the alleged unsatisfactory professional conduct or professional misconduct of the person to whom the application relates.
- (4) The approved form for subrule (1) must provide for the inclusion of the applicant's statement of address for service.
- (5) This rule applies despite rule 7.

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## 116 Transferring discipline application

- (1) This rule applies if, for a discipline application, the legal practice committee can not be reconstituted under the *Legal Profession Act 2007*, section 641(5).
- (2) The discipline application must be transferred to the tribunal by applying to the tribunal to deal with the matter the subject of the discipline application.
- (3) In this rule—

*legal practice committee* means the Legal Practice Committee continued in existence under the *Legal Profession Act 2007*, section 621.

## Part 15 Public examinations

### 117 Copy of application to be given to all concerned

- (1) This rule applies if—
  - (a) the chief executive under the *Property Occupations Act 2014* applies to the tribunal to conduct a public examination under section 182 of that Act; or
  - (b) the Queensland Building and Construction Commission applies to the tribunal to conduct a public examination under the *Queensland Building and Construction Commission Act 1991*.
- (2) For section 37(2)(b) of the Act, notice of the proceeding for the public examination must be given to each person proposed to be the subject of the public examination.
- (3) The copy of the application given to each person mentioned in subrule (2) must be accompanied by written grounds for the public examination.



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# Schedule Dictionary

## rule 4

***address for service***, of an entity, means the service address or electronic service address stated in the entity's statement of address for service filed in the registry (whether as part of an application, referral or response or under rule 10(2) or 36).

***approved entity*** means an entity that—

- (a) is either—
  - (i) a solicitor or firm of solicitors; or
  - (ii) an entity approved by the principal registrar under rule 100A; and
- (b) has an agreement with a service provider for the service provider to electronically file a document for the entity.

***approved form*** means a form approved under section 241 or 277A of the Act.

***Australian legal practitioner*** see the *Legal Profession Act 2007*, section 6.

***Business Names Register*** means the register established and maintained under the *Business Names Registration Act 2011* (Cwlth), section 22.

***conciliation*** means conciliation conducted under chapter 2, part 6, division 1A of the Act.

***contact details***, for a person, means the following details—

- (a) the person's residential or business address;
- (b) the person's telephone number or, if the person does not have a telephone number, a way of contacting the person by telephone;
- (c) the person's fax number (if any);
- (d) the person's email address (if any);

(e) the person's non-fax or email electronic address (if any).

**counter-application** see rule 48(1).

**electronically file** means file by electronic or computer-based means.

**electronic service address**—

1 An entity's *electronic service address* is any of the following to which a document required to be given to the entity under the Act, an enabling Act or these rules may be sent—

- (a) email address;
- (b) fax number;
- (c) non-fax or email electronic address.

2 The address or number for paragraph 1 may be the entity's address or number or the address or number of someone else the entity has authorised to accept documents on the entity's behalf, including, for example, the entity's representative.

**file** means file in the registry.

**imaged document**, of a physical document, means a document in electronic form made by scanning or otherwise imaging the physical document.

**mediation** means mediation conducted under chapter 2, part 6, division 3 of the Act.

**minor debt claim** means a minor civil dispute that is a claim within the meaning of the Act, schedule 3, definition *minor civil dispute*, paragraph 1(a).

**non-fax or email electronic address**, of an entity, means the address at which the entity receives documents sent by electronic or computer-based means other than fax or email.

**partnership proceeding** means a proceeding started by or against a partnership in the partnership name and includes a proceeding between a partnership and 1 or more of its partners.

**physical document** see the *Oaths Act 1867*, section 1B.



**practice direction** means a practice direction made under section 226 of the Act.

**record**, for a proceeding, means the record for the proceeding kept under section 230 of the Act.

**relevant day**, for an application mentioned in rule 89, 90 or 92 about a decision of the tribunal, means—

- (a) if the party making the application has requested written reasons for the decision under section 122 of the Act—the day the party is given the written reasons; or
- (b) otherwise—the day the party is given notice of the decision.

*Note—*

See sections 121 and 148 of the Act for notice of final decisions.

**representative**, of an entity for a proceeding, means the person who represents the entity in the proceeding under section 43(2)(b) of the Act.

**respondent**, for a proceeding started by an application or referral, means an entity in relation to whom a tribunal decision is sought by the applicant for the proceeding.

**service address**—

- 1 An entity's *service address* is an address in Queensland where a document required to be given to the entity under the Act, an enabling Act or these rules is to be given.
- 2 The address for paragraph 1 may be the entity's address or the address of someone else the entity has authorised to accept documents on the entity's behalf, including, for example, the entity's representative.

**service practice direction** means a practice direction about how documents may be given to an entity under the Act that provides for all or any of the following in relation to an entity of a particular kind—

- (a) how documents are to be delivered personally to the entity;

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- (b) the address to which documents may be posted to the entity if the entity does not have an address for service;
- (c) the address at which documents may be left with someone for the purpose of giving the documents to the entity if the entity does not have an address for service;
- (d) alternative ways for giving documents to the entity.

*Examples of kinds of entities—*

association, business, corporation, individual, partnership

***service provider*** means an entity, approved by a practice direction, to electronically file documents prepared by approved entities.

***sign***, a document, for part 10A, see section 97A.

***statement of address for service***, for an entity, means a document or part of a document stating—

- (a) the entity's service address; and
- (b) the entity's electronic service address (if any).

***Uniform Civil Procedure Rules*** means the *Uniform Civil Procedure Rules 1999*.

***witness***, a document, for part 10A, see section 97A.