



Queensland

Appeal Costs Fund Act 1973

Appeal Costs Fund Regulation 2024

Current as at 1 July 2024

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Appeal Costs Fund Regulation 2024

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Appeal Costs Fund Regulation 2024

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Appeal Costs Fund Regulation 2024*.

2 Commencement

This regulation commences on 1 July 2024.

Part 2 Claim of payment from fund

3 Form and content of application for certificate for payment from fund

An application made under section 14A of the Act must—

- (a) be in the approved form; and
- (b) be accompanied by—
 - (i) if the application is a claim for a payment authorised by an indemnity certificate—the documents mentioned in section 4; or
 - (ii) if the application is a claim for a payment authorised under section 22 of the Act—the documents mentioned in section 5; or
 - (iii) if the application is a claim for a payment authorised under section 23 of the Act—the documents mentioned in section 6.

4 Documents to accompany claims for payments authorised by indemnity certificates

For section 3(b)(i), the documents are—

- (a) the indemnity certificate; and
- (b) any order relating to costs claimed in the application; and
- (c) an itemised bill of costs for any costs, other than costs to which paragraph (b) applies, claimed in the application; and
- (d) a copy of any court order, other than an order mentioned in paragraph (b), the applicant intends to rely on for the application; and
- (e) a copy of any document evidencing the payment of costs claimed in the application; and
- (f) an affidavit or statutory declaration stating any other information the applicant intends to rely on for the application.

5 Documents to accompany claims for payments authorised by Act, s 22

For section 3(b)(ii), the documents are—

- (a) a copy of any order, transcript or certificate the applicant intends to rely on to establish the existence of a circumstance mentioned in section 22(2) of the Act; and
- (b) an itemised bill of costs, related to a proceeding mentioned in section 22(2) of the Act (the *proceeding*), that—
 - (i) states all of the applicant's costs relating to the proceeding, including, for example, any new trial ordered; and
 - (ii) identifies each cost that was thrown away or partly thrown away; and

- (c) a copy of any costs agreement between the applicant and the applicant's solicitor related to the proceeding; and
- (d) a copy of any disclosure of costs stating the cost incurred by the applicant for retaining a barrister for the proceeding; and
- (e) a copy of any order to pay additional costs of a new trial; and
- (f) a copy of a receipt, or other document, evidencing the payment of the applicant's costs relating to the proceeding, including, for example, any additional costs of a new trial; and
- (g) an affidavit or statutory declaration stating any other information the applicant intends to rely on for the application.

6 Documents to accompany claims for payments authorised by Act, s 23

For section 3(b)(iii), the documents are—

- (a) a copy of the order for a new trial; and
- (b) for a claim for a payment authorised under section 23(1) of the Act—
 - (i) if the order mentioned in paragraph (a) does not state the grounds for the order—a copy of a transcript stating the grounds for the order; and
 - (ii) a copy of any order for costs mentioned in section 23(1)(a) of the Act; and
- (c) any order of the proper officer stating the amount at which costs, for all or part of the costs claimed in the application, have been assessed; and
- (d) an itemised bill of costs for any costs, other than costs to which paragraph (c) applies, claimed in the application; and

[s 7]

- (e) a copy of any costs agreement between the applicant and the applicant's solicitor for a proceeding mentioned in section 23(1) or (3) of the Act (the *proceeding*); and
- (f) a copy of any disclosure of costs stating the cost incurred by the applicant for retaining a barrister for the proceeding; and
- (g) a copy of a receipt, or other document, evidencing the payment of the applicant's costs relating to the proceeding, including, for example, any additional costs of a new trial; and
- (h) if the payment is authorised under section 23(2)(a) of the Act—
 - (i) a copy of any receipt, or other document, evidencing the payment, by or on behalf of the respondent to the motion for the new trial, of the respondent's costs mentioned in section 23(1)(a) of the Act; and
 - (ii) an affidavit or statutory declaration stating how the respondent to the motion for the new trial has failed to pay the applicant's costs; and
- (i) an affidavit or statutory declaration stating any other information the applicant intends to rely on for the application.

Part 3 Provisions about board

7 Board may request further information

- (1) The board may, by written notice given to the applicant, ask for further information the board reasonably needs to decide an application made under section 14A of the Act.
- (2) The notice—
 - (a) must state—
 - (i) the information required; and

- (ii) the time, no earlier than 20 days after the day the notice is given, by which the information is required to be given to the board; and
 - (iii) the applicant may request the board extend the time mentioned in subparagraph (ii); and
 - (iv) the board may refuse to grant the application if the applicant does not comply with the notice; and
- (b) may state a way in which the information must be given.
- (3) If the notice does not state a way in which the information must be given, the applicant must give the information in writing.
- (4) If the applicant does not comply with the notice, the board may refuse to grant the application.
- (5) The board may, on the board's own initiative or the request of the applicant, extend the period mentioned in subsection (2)(a)(ii) by giving the applicant written notice of the extension.

8 Certificates of board

A certificate of the board, issued under section 14 of the Act, must—

- (a) be in the approved form; and
- (b) be signed by—
 - (i) the chairperson; or
 - (ii) another member of the board authorised by the board to sign the certificate; and
- (c) state—
 - (i) the name of the person to whom the certificate is issued; and
 - (ii) the amount the person is entitled to be paid from the fund; and

- (iii) whether the payment is to be made to the person or the person's solicitor; and

Note—

See section 25 of the Act.

- (iv) the amount is authorised to be paid out of the fund.

9 Board may request proper officer to give documents

- (1) The board may, for the purpose of performing a function of the board, ask a proper officer of a court to give the board a file or document.
- (2) The request must—
 - (a) be in writing; and
 - (b) state the file or document required.
- (3) The proper officer must comply with the request if doing so is unlikely to interfere with a current or pending proceeding before the court.

Part 4 Fees

10 Prescribed fees—Act, s 6(6)

- (1) For section 6(6) of the Act, the fees stated in schedule 1 are prescribed in relation to members of the board who are not public service officers.
- (2) If a fee is payable for a supply on which GST is payable, the fee is to be increased to take account of the GST.

11 Rounding of amounts expressed as numbers of fee units

- (1) This section applies for working out the amount of a fee expressed in this regulation as a number of fee units.
- (2) For the purpose of the *Acts Interpretation Act 1954*, section 48C(3), the amount is to be rounded—

Part 6 Transitional provisions

14 Undecided applications

- (1) This section applies in relation to an application made under section 14A of the Act, but not decided, before the commencement.
- (2) This regulation applies in relation to the application.
- (3) However, the board must not refuse to grant the application merely because the application was not accompanied by a document required under part 2.

15 Additional documents to accompany particular applications

- (1) This section applies in relation to an application, made under section 14A of the Act, that is a claim for a payment authorised, in relation to an appeal, under former section 16 of the Act.

Note—

For the continued application of former section 16 of the Act, see section 33 of the Act.

- (2) The application must be accompanied by the following documents—
 - (a) a copy of any receipt, or other document, evidencing the payment, by or on behalf of the respondent to the appeal, of the respondent's costs relating to the appeal;
 - (b) if the payment is authorised under former section 16(2) of the Act—an affidavit or statutory declaration stating how the respondent to the appeal has failed to pay the applicant's costs.
- (3) In this section—

former, for a provision of the Act, means the provision as in force immediately before the commencement of the *Justice*

and Other Legislation Amendment Act 2023, part 3,
division 1.

16 References to repealed regulation

- (1) In a document, a reference to the repealed regulation may, if the context permits, be taken as a reference to this regulation.
- (2) In this section—

repealed regulation means the repealed *Appeal Costs Fund Regulation 2010*.

Schedule 1 Fees payable to members of board

section 10(1)

	Fee units
For attending a meeting of the board—	
(a) meeting of 2 hours or less—	
• chairperson	76.75
• another member of the board	53.40
(b) meeting of over 2 hours but not over 4 hours—	
• chairperson	115.70
• another member of the board	76.75
(c) meeting of over 4 hours—	
• chairperson	154.70
• another member of the board	102.80