



Queensland

Queensland Civil and Administrative Tribunal Amendment Rule 2019

Subordinate Legislation 2019 No. 166

made under the

Queensland Civil and Administrative Tribunal Act 2009

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1 Short title

This rule may be cited as the *Queensland Civil and Administrative Tribunal Amendment Rule 2019*.

2 Commencement

This rule commences on 1 September 2019.

3 Rules amended

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

4 Insertion of new pt 8, div 3A

Part 8—

insert—

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
- (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

[s 4]

- 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 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 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.

5 Amendment of schedule (Dictionary)

Schedule—

insert—

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

ENDNOTES

- 1 Made by the Governor in Council on 29 August 2019.
- 2 Notified on the Queensland legislation website on 30 August 2019.
- 3 The administering agency is the Department of Justice and Attorney-General.

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