



Queensland

Queensland Civil and Administrative Tribunal and Other Legislation Amendment Regulation 2022

Subordinate Legislation 2022 No. 155

made under the

Queensland Civil and Administrative Tribunal Act 2009

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Queensland Civil and Administrative Tribunal and Other Legislation Amendment Regulation 2022*.

Part 2 Amendment of Queensland Civil and Administrative Tribunal Regulation 2019

2 Regulation amended

This part amends the *Queensland Civil and Administrative Tribunal Regulation 2019*.

3 Amendment of s 6 (Copying fees for parties)

Section 6(2), ‘photocopy’—
omit, insert—
copy

4 Amendment of sch 1 (Other fees)

- (1) Schedule 1, item 2(a) and (c), after ‘copy’—
insert—
(in electronic or printed form)
- (2) Schedule 1, item 2(b), after ‘copy’—
insert—
(in printed form)

5 Amendment of sch 2 (Enabling Acts and provisions for sections 6, 8 and 9)

Schedule 2, part 2, entry for *Retail Shop Leases Act 1994*—
omit.

Part 3 Amendment of Queensland Civil and Administrative Tribunal Rules 2009

6 Rules amended

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

7 Amendment of r 24 (Filing documents generally)

(1) Rule 24(1)(d)—

omit.

(2) Rule 24—

insert—

(1A) However, this rule does not apply to filing an affidavit under rule 25(2).

(3) Rule 24(1A) and (2)—

renumber as rule 24(2) and (3).

8 Insertion of new r 25

After rule 24—

insert—

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
 - (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.

9 Amendment of r 26 (Filing documents for minor debt claim)

- (1) Rule 26(1), ‘An’—

omit, insert—

Subject to part 10A, an

- (2) Rule 26(1)(a)(ii)—

omit.

- (3) Rule 26(1)(a)(iii)—

renumber as rule 26(1)(a)(ii).

- (4) Rule 26(2) and (3)—

omit.

10 Amendment of r 27 (Responsibility for document electronically filed under r 26)

Rule 27(1), ‘26(1)’—

omit, insert—

26

11 Amendment of r 27A (Signing a document to be electronically filed)

(1) Rule 27A(1), ‘26(1)’—

omit, insert—

26

(2) Rule 27A—

insert—

(1A) However, this rule does not apply to an affidavit filed electronically under rule 25(2)(c).

(3) Rule 27A(1A) and (2)—

renumber as rule 27A(2) and (3).

12 Amendment of r 28 (Only original document required to be filed for particular proceedings)

(1) Rule 28, heading, ‘Only original document’—

omit, insert—

Original documents

(2) Rule 28(2), after ‘a document’—

insert—

, other than an affidavit,

13 Amendment of r 29 (Number of copies to be filed in other proceedings)

Rule 29(1)(a), ‘26(1) or by fax’—

omit, insert—

26

14 Amendment of r 31 (When document is filed)

Rule 31(3), ‘rule 24(1)(c), by fax’—

omit, insert—

rule 24(1)(c)

15 Amendment of r 32 (Refusal to file document)

Rule 32(3), ‘26(1)’—

omit, insert—

26

16 Amendment of r 34 (Keeping etc. electronically filed documents)

(1) Rule 34(1), after ‘filed’—

insert—

under rule 24(1)(c) or 26

(2) Rule 34(2)—

omit.

(3) Rule 34(3)—

renumber as rule 34(2).

17 Omission of r 38 (Giving application for minor debt claim to other persons)

Rule 38—

omit.

18 Amendment of r 39 (Giving other documents to other persons)

- (1) Rule 39, heading, ‘other’, first mention—

omit.

- (2) Rule 39(1), from ‘Subject’ to ‘unless’—

omit, insert—

Unless

- (3) Rule 39(1)(c), ‘faxing’—

omit, insert—

sending

- (4) Rule 39(1)(d), ‘emailing’—

omit, insert—

sending

- (5) Rule 39(1)(e), ‘electronically transmitting’—

omit, insert—

sending

19 Omission of r 61 (Posting decision by default if application filed by post)

Rule 61—

omit.

20 Amendment of r 62 (Application for electronic decision by default for minor debt claim)

- (1) Rule 62(1)(a)—

omit, insert—

-
- (a) an application for a minor debt claim (the ***original application***) has been electronically filed under rule 26; and
- (2) Rule 62(2) and (3)—
omit, insert—
- (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.

21 Amendment of r 63 (Electronic decision by default for minor debt claim)

Rule 63(3), ‘62(3)’—

omit, insert—

62(2) or (3)

22 Amendment of r 80 (Documents or things produced before hearing)

Rule 80(3), ‘photograph, photocopy’—

omit, insert—

copy, photograph

23 Insertion of new pt 10A

After part 10—

insert—

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.

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.
- (4) In this rule—
electronic document see the *Oaths Act 1867*, section 1B.

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.

24 Amendment of r 100A (Approving entity for electronic filing)

Rule 100A, ‘26(1)’—

omit, insert—

26

25 Amendment of schedule (Dictionary)

Schedule—

insert—

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

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

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

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

ENDNOTES

- 1 Made by the Governor in Council on 10 November 2022.
- 2 Notified on the Queensland legislation website on 11 November 2022.
- 3 The administering agency is the Department of Justice and Attorney-General.

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