



Queensland

Appeal Costs Fund Act 1973

Appeal Costs Fund Regulation 2010

Current as at 1 July 2016



Queensland

Appeal Costs Fund Regulation 2010

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Appeal Costs Fund Regulation 2010

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Appeal Costs Fund Regulation 2010*.

Part 2 Additional fees on documents

3 Additional fees on documents commencing legal proceedings

The additional fees payable under section 10 of the Act are stated in schedule 1.

4 Person may apply for exemption from fee

- (1) An individual may apply to the proper officer of the Supreme Court or the District Court for an order exempting the individual from payment of a fee stated in schedule 1.
- (2) The proper officer may, by order, exempt the individual from payment of the fee if the proper officer considers that, having regard to the individual's financial position, it is clearly in the interests of justice to make the order.
- (3) The proper officer may decide the application summarily and without extensive investigation.
- (4) In having regard to the individual's financial position, the proper officer must have regard to the following matters—
 - (a) if the individual receives an income-tested pension under the *Social Security Act 1991* (Cwlth), the type and amount of the pension;

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- (b) how much the individual is paying as rent for his or her accommodation;
 - (c) whether a spouse or close relative may be willing to give the individual financial help;
 - (d) any other matter the proper officer considers relevant.
- (5) The individual, if dissatisfied with the proper officer's decision on the individual's application, may apply for a review of the decision to—
- (a) if the court is the Supreme Court, a Supreme Court judge; or
 - (b) if the court is the District Court, a District Court judge.
- (6) On an application for a review of the proper officer's decision, the judge conducting the review may—
- (a) consider the application with or without a hearing; and
 - (b) consider anything the proper officer considered under subsection (4); and
 - (c) make the order the judge considers appropriate.

Part 3 **Claims under indemnity certificates**

5 **How to claim payment out of the fund under an indemnity certificate**

To claim payment out of the fund under an indemnity certificate issued by a court, a claimant must—

- (a) apply, in the approved form, to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) lodge the following documents with the application—
 - (i) the indemnity certificate;

- (ii) a copy of any court order relied on;
- (iii) any order of the registrar stating the amount at which a costs statement has been assessed, for part or all of the costs claimed;
- (iv) an itemised bill of costs for any other costs claimed;
- (v) for an indemnity certificate under section 15 of the Act—a copy of a receipt, or other documents, evidencing any payment of costs, by or on behalf of the respondent, relied on;
- (vi) if payment of an appellant's costs is claimed under section 16(2) of the Act—sworn evidence of the respondent's failure to pay the appellant's costs;
- (vii) for an indemnity certificate granted to a person under section 20B of the Act—a copy of a receipt, or other documents, evidencing any payment of costs, by or on behalf of the person, relied on;
- (viii) for an indemnity certificate granted to a convicted person under section 20D of the Act—a copy of a receipt, or other documents, evidencing any payment of costs, by or on behalf of the convicted person, relied on;
- (ix) sworn evidence of any other facts relied on.

Part 4 **Claims under the Act, section 22 or 23**

6 **How to claim payment out of the fund under the Act, s 22**

To claim payment from the fund under section 22 of the Act, a claimant must—

[s 7]

- (a) apply, in the approved form, to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) lodge the following documents with the application—
 - (i) a copy of any order or transcript evidencing a fact mentioned in section 22(1)(a) of the Act;
 - (ii) a copy of any order, for a new trial, mentioned in section 22(1)(b) of the Act;
 - (iii) if the order does not show it was made on an appeal on a question of law—a copy of any transcript showing that fact;
 - (iv) any certificate granted under section 22(1)(c) of the Act;
 - (v) an itemised bill of costs for all costs relating to the claimant of the original trial and of the new trial that identifies each cost of the original trial thrown away or partly thrown away;
 - (vi) a copy of any order to pay additional costs of a new trial;
 - (vii) a copy of a receipt, or other documents, relied on to show the payment of any additional costs of a new trial;
 - (viii) sworn evidence of any other facts relied on.

7 How to claim payment out of the fund under the Act, s 23

To claim payment from the fund under section 23 of the Act, a claimant must—

- (a) apply, in the approved form, to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) lodge the following documents with the application—
 - (i) a copy of the order for a new trial;

- (ii) if the order does not show the grounds for the order and the claim relates to costs mentioned in section 23(1) of the Act—a copy of any transcript showing the grounds;
- (iii) a copy of any order, for costs, mentioned in section 23(1)(a) of the Act;
- (iv) any order of the registrar stating the amount at which a costs statement has been assessed, for part or all of the costs claimed;
- (v) an itemised bill of costs for all other costs claimed;
- (vi) a copy of a receipt, or other documents, relied on to show the payment of any costs by or on behalf of the respondent;
- (vii) sworn evidence of any other facts relied on.

Part 5 Provisions about the board

8 Board may require additional evidence from claimant

The board may require a person claiming payment out of the fund to give the board any additional evidence it considers reasonably necessary to decide the claim.

9 Certificates of the board

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

- (a) be in the approved form; and
- (b) state the amount the person named in the certificate is entitled to be paid from the fund; and
- (c) state whether the payment is to be made to the person or the person's solicitor; and

Note—

See section 25 (Payment to solicitor) of the Act.

- (d) authorise payment of the amount out of the fund; and
- (e) be signed by the chairperson of the board or by a board member authorised by the board to sign certificates issued under section 14 of the Act.

10 Duties of secretary

The duties of the secretary of the board (the *secretary*) include—

- (a) keeping a register of all applications made to the board for payment out of the fund; and
- (b) keeping minutes of meetings of the board; and
- (c) ensuring that accounts about claims on the fund are prepared as directed by the board; and
- (d) conducting correspondence and other business as directed by the board.

11 Registrars to produce documents to board on request

- (1) For the purposes of the Act, the board may request a court's registrar to produce, or send, to the board a stated file or document.
- (2) The request must be signed by the secretary or someone else authorised by the board to make a request under this section.
- (3) The registrar must comply with the request (subject to any present need of the court for the file or document first being satisfied).
- (4) The board must return the file or document to the registrar when the board is finished with it.
- (5) In this section—
registrar includes the clerk of a Magistrates Court.

12 Fees payable to board members—Act, s 6(6)

- (1) The fees payable to members of the board are in schedule 2.
- (2) However, a board member who is a public service officer is not entitled to a fee.
- (3) If a fee payable is for a supply on which GST is payable, the fee is to be increased to take account of the GST.

Part 6 Miscellaneous

14 Prescribed limits on amounts payable

- (1) For section 16(3) of the Act, the prescribed amount is \$15,000.
- (2) For section 18(2) of the Act, the prescribed amount is \$750.
- (3) For section 20C(2) of the Act, the prescribed amount is \$15,000.
- (4) For section 20E(2) of the Act, the prescribed amount is \$15,000.
- (5) For section 23(2)(c) of the Act, the prescribed amount is \$15,000.
- (6) For section 24(2)(c) of the Act, the prescribed amount is \$15,000.

15 Repeal

The Appeal Costs Fund Regulation 1999, SL No. 134 is repealed.

Part 7 Transitional provisions

16 Definitions for pt 7

In this part—

commencement means the commencement of this section.

repealed, of a section, means the section as in force immediately before the commencement.

17 Transitional provision for application for exemption under s 4

If, before the commencement—

- (a) an application has been made for an exemption from payment of a fee under repealed section 4(2); and
- (b) the proper officer has not decided the application under repealed section 4(3) and (4);

the application is taken to have been brought under section 4.

18 Transitional provision for application for payment out of fund under indemnity certificate under repealed s 5

If, before the commencement—

- (a) an application has been made under repealed part 3 or part 4 to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) part or all of the claimed payment has not been made or refused;

the application is taken to have been brought under part 3 or part 4.

19 Transitional provision—references to repealed Appeal Costs Fund Regulation 1999

In a document, a reference to the repealed *Appeal Costs Fund Regulation 1999* may, if the context permits, be taken as a reference to this regulation.

20 Transitional provision—approved forms under repealed Appeal Costs Fund Regulation 1999

- (1) This section applies if, immediately before the commencement of section 13, a form was approved for a purpose under the repealed *Appeal Costs Fund Regulation 1999*.
- (2) The form is taken to have been approved under section 13 for the equivalent purpose under this regulation.
- (3) Subsection (2) applies only until another form is approved under section 13 for the purpose or 1 October 2010, whichever happens first.

Schedule 1 Additional fees on documents

section 3

	\$
On the issue of a document commencing—	
(a) a cause or matter in the Supreme Court	26.40
(b) a proceeding in the District Court	20.10
(c) a proceeding in a Magistrates Court	3.50

Schedule 2 Fees payable to board members

section 12

	\$
For attending a meeting of the board—	
(a) meeting of 2 hours or less—	
• chairperson	67.65
• other board member	47.05
(b) meeting of over 2 hours but not over 4 hours—	
• chairperson	102.00
• other board member	67.65
(c) meeting of over 4 hours—	
• chairperson	136.40
• other board member	90.65

1 Index to endnotes

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- 5 List of annotations

2 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amd	= amendment	prov	= provision
t			
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
)	
notf	= notified	rv	= revised version
d			
num	= numbered	s	= section

Key	Explanation	Key	Explanation
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum m	= unnumbered
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
1	none	27 August 2010	
1A	2010 Act No. 42	14 October 2010	

Reprint No.	Amendments included	Effective	Notes
1B	2011 Act No. 7	4 April 2011	
1C	2011 SL No. 115	1 July 2011	
1D	2012 SL No. 102	13 July 2012	

Current as at	Amendments included	Notes
1 July 2013	2013 SL No. 122	
29 August 2013	2013 Act No. 35	
1 July 2014	2014 SL No. 128	
1 July 2015	2015 SL No. 53	
1 July 2016	2016 SL No. 85	

4 List of legislation

Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

Appeal Costs Fund Regulation 2010 SL No. 235

made by the Governor in Council on 26 August 2010
 notfd gaz 27 August 2010 pp 1520–4
 commenced on date of notification
exp 1 September 2020 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.
 amending legislation—

Justice and Other Legislation Amendment Act 2010 No. 42 s 1, pt 4

date of assent 14 October 2010
 commenced on date of assent

Criminal Code and Other Legislation Amendment Act 2011 No. 7 s 1, pt 4

date of assent 4 April 2011
commenced on date of assent

Justice (Fees) Amendment Regulation (No. 1) 2011 SL No. 115

notfd gaz 1 July 2011 pp 589–96
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2011 (see s 2)

Justice Legislation (Fees) Amendment Regulation (No. 1) 2012 SL No. 102

notfd gaz 13 July 2012 pp 820–5
ss 1–2 commenced on date of notification
remaining provisions commenced 13 July 2012 (see s 2)

Justice Legislation (Fees) Amendment Regulation (No. 1) 2013 SL No. 122

notfd gaz 28 June 2013 pp 739–47
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2013 immediately after the Uniform Civil Procedure and Another Rule Amendment Rule (No. 1) 2013 (see s 2)

Justice and Other Legislation Amendment Act 2013 No. 35 s 1, pt 6

date of assent 29 August 2013
commenced on date of assent

Justice Legislation (Fees) Amendment and Repeal Regulation (No. 1) 2014 SL No. 128 ss 1–2(1), 3 sch

notfd <www.legislation.qld.gov.au> 27 June 2014
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2014 (see s 2(1))

Justice Legislation (Fees) Amendment Regulation (No. 1) 2015 SL No. 53 pts 1, 3

notfd <www.legislation.qld.gov.au> 26 June 2015
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2015 (see s 2)

Justice Legislation (Fees) Amendment Regulation (No. 1) 2016 SL No. 85 pts 1, 3

notfd <www.legislation.qld.gov.au> 17 June 2016
ss 1–2 commenced on date of notification
pt 3 commenced 1 July 2016 (see s 2)

5 List of annotations

Definition

s 2 om 2010 Act No. 42 s 13

Additional fees on documents commencing legal proceedings

s 3 amd 2011 SL No. 115 s 3 sch

How to claim payment out of the fund under an indemnity certificate

s 5 amd 2011 Act No. 7 s 21

Fees payable to board members—Act, s 6(6)

s 12 amd 2013 Act No. 35 s 21

Approval of forms

s 13 om 2010 Act No. 42 s 14

Prescribed limits on amounts payable

s 14 amd 2011 Act No. 7 s 22

SCHEDULE 1—ADDITIONAL FEES ON DOCUMENTS

sub 2011 SL No. 115 s 3 sch; 2012 SL No. 102 s 3 sch; 2013 SL No. 122 s 3 sch;
2014 SL No. 128 s 3 sch; 2015 SL No. 53 s 6; 2016 SL No. 85 s 6

SCHEDULE 2—FEES PAYABLE TO BOARD MEMBERS

sub 2013 SL No. 122 s 3 sch; 2014 SL No. 128 s 3 sch; 2015 SL No. 53 s 6; 2016 SL
No. 85 s 6

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