



Queensland

Uniform Civil Procedure Amendment Rule (No. 4) 2007

Subordinate Legislation 2007 No. 315

made under the

Supreme Court of Queensland Act 1991

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1 Short title

This rule may be cited as the *Uniform Civil Procedure Amendment Rule (No. 4) 2007*.

2 Commencement

- (1) Sections 4, 6 to 15 and section 16(1) and (2) commence on 10 December 2007.
- (2) Sections 5 and 16(3) and (4) commence on 1 January 2008.

3 Rule amended

This rule amends the *Uniform Civil Procedure Rules 1999*.

4 Amendment of r 249 (Costs of production)

Rule 249(3), from ‘chapter’—
omit, insert—
‘chapter 17A.’.

5 Insertion of new ch 13, pt 9, div 2A

Chapter 13, part 9—
insert—

‘Division 2A Employment claims

‘Subdivision 1 Introduction

‘522A Application of div 2A

‘This division applies to employment claims.

‘522B Definitions for div 2A

‘In this division—
conciliation certificate see rule 522E.

employment claim see section 42B of the Act.

registrar means a registrar of a Magistrates Court, and includes a deputy registrar of the court or person other than the registrar who discharges the duties and performs the functions conferred on the registrar under these rules.

the Act means the *Magistrates Courts Act 1921*.

‘Subdivision 2 Filing employment claims

‘522C Filing employment claim

- ‘(1) The plaintiff must file and serve an employment claim in the approved form.
- ‘(2) To remove any doubt, it is declared that chapter 2, part 3 applies to an employment claim.

‘Subdivision 3 Conciliation of employment claims

‘522D Suspension of conciliation process if application to court

‘If a party applies to the court under section 42C of the Act for the court’s decision whether the claim made in the proceeding is or is not an employment claim, the conciliation process is suspended for the period starting on the day the application is filed and ending on the day the court’s decision is made.

‘522E Conciliation certificate

- ‘(1) For section 42L of the Act, a certificate about the conciliation process (a *conciliation certificate*) must be in the approved form.
- ‘(2) The conciliation certificate—
 - (a) must not contain comment about the extent to which a party participated or refused to participate in the conciliation; and
 - (b) may state that a party did not attend the conciliation.

- ‘(3) The conciliator must give a copy of the conciliation certificate to the parties.

‘522F Record of conciliation agreement

- ‘(1) Unless the parties otherwise agree, the conciliator must ensure that an agreement reached in the conciliation process is—
- (a) placed in a sealed container, for example, an envelope; and
 - (b) marked with the court file number; and
 - (c) marked ‘Not to be opened without an order of the court’; and
 - (d) given to the registrar.
- ‘(2) The container may be opened only if the court orders it to be opened.

‘522G Abandonment of conciliation

- ‘(1) The conciliator may abandon the conciliation if the conciliator considers further efforts at conciliation will not lead to the resolution of the dispute or an issue in the dispute.
- ‘(2) Before abandoning the conciliation, the conciliator must—
- (a) inform the parties of the conciliator’s intention; and
 - (b) give them an opportunity to reconsider their positions.

‘Subdivision 4 Hearing of employment claims

‘522H Notice of intention to defend employment claim

- ‘(1) Despite rule 135, a defendant to an employment claim may take the following steps without first filing a notice of intention to defend—
- (a) apply to the court under section 42C of the Act for the court’s decision whether the claim is or is not an employment claim;

- (b) participate in a conciliation process;
 - (c) apply to a court under section 42N of the Act for an order giving effect to an agreement reached in a conciliation process.
- ‘(2) An application made under subsection (1)(a) or (c) must contain an address for service.
- ‘(3) Despite rule 137, a notice of intention to defend an employment claim must be filed within 28 days after a conciliation certificate is filed, if the claim has not been entirely resolved during the conciliation process.
- ‘(4) A notice of intention to defend an employment claim and the defence—
- (a) must be in the approved form; and
 - (b) must include—
 - (i) a response answering the plaintiff’s assertions in the employment claim and stating any amount the defendant admits owing the plaintiff; and
 - (ii) how any amount owing is worked out; and
 - (iii) why the defendant owes the amount.
- ‘(5) To remove any doubt, it is declared that, subject to this rule, chapter 5 applies to a proceeding started by an employment claim.

‘522I Ending employment claim proceedings early

‘Despite rule 281, chapter 9, part 1, division 2 applies if—

- (a) a defendant in a proceeding started by an employment claim has not filed a notice of intention to defend; and
- (b) the time allowed under subrule 522H(3) to file the notice has ended.

‘522J Setting hearing date for employment claim

‘The registrar must, as soon as practicable after a notice of intention to defend an employment claim is filed—

- (a) set a date for the hearing of the proceeding; and
- (b) notify the parties of the time, date and place of the hearing.

‘522K Procedure for hearing of employment claim

- ‘(1) The parties must have all relevant documents available at the hearing of an employment claim.
- ‘(2) The court—
 - (a) may order a party to disclose a document that—
 - (i) is in the possession or under the control of the party; and
 - (ii) is directly relevant to an allegation in issue in the proceeding; and
 - (b) may hear the claim in private; and
 - (c) must make a record of the evidence given; and
 - (d) must record the reasons for its decision and give a copy of the reasons to the parties.

‘522L No cross claim in proceeding for employment claim

- ‘(1) In a proceeding for an employment claim, the defendant may not rely on a cross claim by way of set-off or counterclaim in response to the claim.
- ‘(2) However, the court may, if a defendant has brought a proceeding for a claim against a plaintiff for a matter that, apart from subrule (1) may have been the subject of a cross claim, order that the enforcement of any judgment in the first proceeding be stayed for the time and on the conditions the court considers appropriate.

‘522M Failure to appear in an employment claim

- ‘(1) If neither party appears at the hearing of an employment claim, the court may dismiss the proceeding.

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- ‘(2) If the plaintiff does not appear at the hearing but the defendant does, the court may—
- (a) if the defendant admits part of the claim—give judgment for the plaintiff for the part of the claim the defendant admits; or
 - (b) if the defendant does not admit any part of the claim—dismiss the proceeding.
- ‘(3) If the plaintiff appears at the hearing but the defendant does not, the court may give the judgment or make the order the court considers just without requiring the plaintiff to give any evidence of the plaintiff’s claim, unless it considers the giving of evidence desirable.
- ‘(4) For this rule, a party is taken to have appeared at the hearing if the party—
- (a) files in the court before the date of the hearing an affidavit¹ of the facts in issue with a copy of the documents the party considers relevant to the facts in issue as exhibits to the affidavit; and
 - (b) sends to the other party a copy of the affidavit.
- ‘(5) If the court is satisfied, on application made to it within a reasonable time after a judgment given in the absence of a party came to the notice of the absent party, there was sufficient reason for the party’s absence, the court may set aside the judgment and its enforcement.
- ‘(6) The court must rehear a proceeding set aside under subrule (5) then or at a later time set by the court.
- ‘(7) At any time during the hearing, the court may give the directions for the conduct of the proceeding it considers appropriate and necessary to enable justice to be done between the parties.

¹ See chapter 11 (Evidence), part 7 (Affidavits).

‘Subdivision 5 Miscellaneous

‘522N Particular rules do not apply to employment claims

‘The following provisions do not apply to an employment claim—

- (a) chapter 6;
- (b) chapter 7, part 1;
- (c) chapter 9, parts 2 and 4;
- (d) chapter 13, parts 2 to 6.²’.

6 Replacement of ch 17 and ch 17, pt 1 hdgs

Chapter 17 and chapter 17, part 1 headings—
omit, insert—

‘Chapter 17 Security for costs’.

7 Amendment of r 675 (Setting aside or varying order)

Rule 675, ‘part’—
omit, insert—
‘chapter’.

2 Chapter 6 (Pleadings)
 Chapter 7 (Disclosure), part 1(Disclosure by parties)
 Chapter 9 (Ending proceedings early), parts 2 (Summary judgment) and 4
 (Alternative dispute resolution processes)
 Chapter 13 (Trials and other hearings), parts 2 (Setting trial dates), 3 (Trial), 4
 (Decision without pleadings), 5 (Separate decision on questions) and 6 (Decision on
 papers without oral hearing)

8 Amendment of r 676 (Finalising security)

Rule 676(1), ‘part’—

omit, insert—

‘chapter’.

9 Amendment of r 677 (Counterclaims and third party proceedings)

Rule 677, ‘part’—

omit, insert—

‘chapter’.

10 Replacement of ch 17, pt 2 and ch 17A

Chapter 17, part 2 and ch 17A—

omit, insert—

‘Chapter 17A Costs

‘Part 1 Preliminary

‘678 Application of ch 17A

‘(1) This chapter applies to costs payable or to be assessed under an Act, these rules or an order of the court.

‘(2) However—

(a) part 2 applies to costs payable or to be assessed under the *Legal Profession Act 2007* only if section 319(1)(b) of that Act applies to the costs; and

(b) part 3 does not apply to costs payable or to be assessed under the *Legal Profession Act 2007*; and

(c) part 4 applies only to costs payable or to be assessed under the *Legal Profession Act 2007*.

Note—

The *Legal Profession Act 2007*, section 319(1)(b) applies to costs that are recoverable under the applicable scale of costs, rather than under a costs agreement.

‘679 Definitions

‘In this chapter—

assessed costs means costs and disbursements assessed under this chapter.

assessing registrar means a registrar approved to assess costs by—

- (a) for the Supreme Court—the Chief Justice; or
- (b) for the District Court—the Chief Judge of the District Court; or
- (c) for a Magistrates Court—the Chief Magistrate.

Australian lawyer see the *Legal Profession Act 2007*, section 5(1).

Brisbane registrar means the registrar of the Supreme Court at Brisbane.

certificate of assessment means a certificate under rule 737.

client see the *Legal Profession Act 2007*, section 334.

costs assessment means assessment of a costs statement or itemised bill under this chapter.

costs assessor means—

- (a) a costs assessor appointed under rule 743L; or
- (b) except in parts 4 and 5, an assessing registrar.

costs of the proceeding mean costs of all the issues in the proceeding and includes—

- (a) costs ordered to be costs of the proceeding; and
- (b) costs of complying with the necessary steps before starting the proceeding; and

- (c) costs incurred before or after the start of the proceeding for successful or unsuccessful negotiations for settlement of the dispute.

costs statement means a costs statement mentioned in rule 705.

itemised bill see the *Legal Profession Act 2007*, section 300.

party includes a person not a party to a proceeding by or to whom assessed costs of the proceeding are payable.

trustee includes a personal representative of a deceased individual.

‘Part 2 Costs of a proceeding³

‘Division 1 Costs of a proceeding generally

‘680 Entitlement to recover costs

‘A party to a proceeding can not recover any costs of the proceeding from another party other than under these rules or an order of the court.

‘681 General rule about costs

- ‘(1) Costs of a proceeding, including an application in a proceeding, are in the discretion of the court but follow the event, unless the court orders otherwise.
- ‘(2) Subrule (1) applies unless these rules provide otherwise.

‘682 General provision about costs

- ‘(1) The costs a court may award—

3 This part applies to costs payable or to be assessed under the *Legal Profession Act 2007* only if section 319(1)(b) of that Act applies to the costs—see rule 678(2)(a).

- (a) may be awarded at any stage of a proceeding or after the proceeding ends; and
 - (b) must be decided in accordance with this chapter.
- ‘(2) If the court awards the costs of an application in a proceeding, the court may order that the costs not be assessed until the proceeding ends.

‘683 Costs in proceeding before Magistrates Court

- ‘(1) This rule applies to a proceeding before a Magistrates Court.
- ‘(2) The magistrate may fix the amount of the costs of the proceeding and order payment of the amount.
- ‘(3) However, the magistrate may order that the costs of the proceeding be assessed by a costs assessor if the magistrate considers it appropriate because of the nature and complexity of the proceeding.

‘684 Costs of question or part of proceeding

- ‘(1) The court may make an order for costs in relation to a particular question in, or a particular part of, a proceeding.
- ‘(2) For subrule (1), the court may declare what percentage of the costs of the proceeding is attributable to the question or part of the proceeding to which the order relates.

‘685 Costs if further proceedings become unnecessary

- ‘(1) If, for any reason, it becomes unnecessary to continue a proceeding other than for deciding who is to pay the costs of the proceeding, any party to the proceeding may apply to the court for an order for the costs.
- ‘(2) The court may make the order the court considers just.

‘686 Assessment of costs without order

‘Costs may be assessed without an order for assessment having been made if—

- (a) the court orders a party to pay another party's costs; or
- (b) under these rules, a party must pay another party's costs; or
- (c) under a filed written agreement, a party agrees to pay to another party costs under these rules.

'687 Assessed costs to be paid unless court orders otherwise

- '(1) If, under these rules or an order of the court, a party is entitled to costs, the costs are to be assessed costs.
- '(2) However, instead of assessed costs, the court may order a party to pay to another party—
 - (a) a specified part or percentage of assessed costs; or
 - (b) assessed costs to or from a specified stage of the proceeding; or
 - (c) an amount for costs fixed by the court; or
 - (d) an amount for costs to be decided in the way the court directs.

'688 Costs when proceeding removed to another court

- '(1) This rule applies if a proceeding is removed to the court from another court or tribunal (the *first court*).
- '(2) In relation to the proceeding—
 - (a) if the first court has not made an order for costs, the court may make an order for the costs of the proceeding, including the costs before the removal; and
 - (b) any order for costs made by the first court may be assessed and enforced as if it were an order of the court.
- '(3) Unless the court orders otherwise, the costs up to the time of the removal must be assessed on the scale applying in the first court.

‘689 Costs in an account

‘If the court orders that an account be taken and the account is partly for costs, the court may fix costs or order that a costs assessor assess costs under part 3.

‘690 Lawyer’s delay or neglect

‘The court may order a lawyer to repay to the lawyer’s client all or part of any costs ordered to be paid by the client to another party if the party incurred the costs because of the lawyer’s delay, misconduct or negligence.

‘691 Australian lawyer’s costs

- ‘(1) For assessing costs on the standard basis, an Australian lawyer is entitled to charge and be allowed the costs under the scales of costs for work done for or in a proceeding in the court.
- ‘(2) The scales of costs are in—
 - (a) for the Supreme Court—schedule 1; or
 - (b) for the District Court—schedule 2; or
 - (c) for Magistrates Courts—schedule 3.
- ‘(3) For an assessment for Magistrates Courts on the standard basis, the scale in schedule 3 appropriate for the amount the plaintiff recovers applies.
- ‘(4) For an assessment for Magistrates Courts on the indemnity basis, the scale in schedule 3 appropriate for the amount the plaintiff claims applies.
- ‘(5) If the nature and importance, or the difficulty or urgency, of a proceeding and the justice of the case justify it, the court may allow an increase of not more than 30% of the Australian lawyer’s costs allowable on an assessment under the relevant scale of costs.
- ‘(6) A costs assessor has the same authority as the court under subrule (5).
- ‘(7) The costs under the scales of costs for work done are inclusive of any GST payable in relation to the work.

‘692 Amendment

- ‘(1) This rule does not apply to a party who amends a document because of another party’s amendment or default.
- ‘(2) A party who amends a document must pay the costs of and caused by the amendment, unless the court orders otherwise.

‘693 Application in a proceeding

- ‘(1) The costs of a proceeding do not include the costs of an application in the proceeding, unless the court orders otherwise.
- ‘(2) Subrule (1) applies even if the application is adjourned until the trial of the proceeding in which it is made.

‘694 Default judgment

‘If a default judgment is given with costs under chapter 9, part 1,⁴ the registrar must fix the costs in accordance with the prescribed scale.

‘695 Extending or shortening time

‘A party applying for the extension or shortening of a time set under these rules must pay the costs of the application, unless the court orders otherwise.

‘696 Costs of inquiry to find person

‘The costs of an inquiry to find out who is entitled to a legacy, money, share or other property must be paid out of the property, unless the court orders otherwise.

‘697 Costs of proceeding in wrong court

- ‘(1) Subrule (2) applies if the relief obtained by a plaintiff in a proceeding in the Supreme Court or District Court is a

4 Chapter 9 (Ending proceedings early), part 1 (Default)

judgment that, when the proceeding began, could have been given in a Magistrates Court.

- ‘(2) The costs the plaintiff may recover must be assessed as if the proceeding had been started in the Magistrates Court, unless the court orders otherwise.
- ‘(3) Subrule (4) applies if the only relief obtained by a plaintiff in a proceeding in the Supreme Court is relief that, when the proceeding began, could have been given by the District Court, but not a Magistrates Court.
- ‘(4) The costs the plaintiff may recover must be assessed as if the proceeding had been started in the District Court, unless the court orders otherwise.

‘698 Reserved costs

‘If the court reserves costs of an application in a proceeding, the costs reserved follow the event, unless the court orders otherwise.

‘699 Receiver’s costs

‘The costs of a receiver appointed in a proceeding may be assessed by the registrar on the application of the receiver or another party to the proceeding.

‘700 Trustee

- ‘(1) This rule applies to a party who sues or is sued as trustee.
- ‘(2) Unless the court orders otherwise, the party is entitled to have costs of the proceeding, that are not paid by someone else, paid out of the fund held by the trustee.

‘Division 2 Basis of assessment of costs of a party in a proceeding

‘701 Application of div 2

‘This division applies to costs in a proceeding that, under an Act, these rules or an order of the court, are to be paid to a party to the proceeding by another party or out of a fund.

‘702 Standard basis of assessment

- ‘(1) Unless these rules or an order of the court provides otherwise, a costs assessor must assess costs on the standard basis.

Note—

Costs on the standard basis were previously party and party costs—see rule 743S (Old basis for taxing costs equates to new basis for assessing costs).

- ‘(2) When assessing costs on the standard basis, a costs assessor must allow all costs necessary or proper for the attainment of justice or for enforcing or defending the rights of the party whose costs are being assessed.

‘703 Indemnity basis of assessment

- ‘(1) The court may order costs to be assessed on the indemnity basis.

Note—

Costs on the indemnity basis were previously solicitor and client costs—see rule 743S (Old basis for taxing costs equates to new basis for assessing costs).

- ‘(2) Without limiting subrule (1), the court may order that costs be assessed on the indemnity basis if the court orders the payment of costs—
- (a) out of a fund; or
 - (b) to a party who sues or is sued as a trustee; or
 - (c) of an application in a proceeding brought for noncompliance with an order of the court.

- ‘(3) When assessing costs on the indemnity basis, a costs assessor must allow all costs reasonably incurred and of a reasonable amount, having regard to—
- (a) the scale of fees prescribed for the court; and
 - (b) any costs agreement between the party to whom the costs are payable and the party’s solicitor; and
 - (c) charges ordinarily payable by a client to a solicitor for the work.

‘704 Trustee

‘If a party who sues or is sued as a trustee is entitled to be paid costs out of a fund held by the trustee, a costs assessor must assess the costs on the indemnity basis, unless the court orders otherwise.

‘Part 3 Assessment of costs other than under the Legal Profession Act 2007⁵

‘Division 1 Before application

‘705 Costs statement

‘A party entitled to be paid costs must serve a costs statement in the approved form on the party liable to pay the costs.

‘706 Objection to costs statement

- ‘(1) A party on whom a costs statement is served may, within 21 days after being served, object to any item in the statement by serving a notice of objection on the party serving the statement.

⁵ This part does not apply to costs payable or to be assessed under the *Legal Profession Act 2007*—see rule 678(2)(b).

- ‘(2) The notice of objection must—
 - (a) number each objection; and
 - (b) give the number of each item in the costs statement to which the party objects; and
 - (c) for each objection—concisely state the reasons for the objection identifying any issue of law or fact the objector contends a costs assessor should consider in order to make a decision in favour of the objector.
- ‘(3) The reasons for objection may be in abbreviated note form but must be understandable without further explanation.
- ‘(4) If the same objection applies to consecutive or nearly consecutive items in a costs statement, the notice need not separately state the reasons for objecting to each of the items.
- ‘(5) Also, if there are a number of associated items, the objection may be in the form of an objection to a common issue related to the associated items.

‘707 Consent order

‘If, before the appointment of a costs assessor, the party entitled to costs and the party liable to pay the costs agree on the amount of costs, the parties may apply for a consent order under rule 666.

‘708 Default assessment if no objection to costs statement

- ‘(1) This rule applies if—
 - (a) a party served with a costs statement does not serve a notice of objection under rule 706; and
 - (b) the party who served the costs statement files an application for a costs assessment under rule 710.
- ‘(2) On the filing of the application, the registrar must appoint a costs assessor to assess costs under this rule.
- ‘(3) The costs assessor must, on proof that the costs statement was served on the party liable for the costs—

- (a) assess the costs without considering each item and by allowing the costs claimed in the costs statement; and
 - (b) issue a certificate of assessment.
- ‘(4) However—
- (a) despite subrule (3)(a), the costs of attending the assessment of costs are not allowable; and
 - (b) subrule (3)(a) does not prevent the costs assessor correcting an obvious error in the costs statement.
- ‘(5) Rules 712 and 721 do not apply to an assessment of costs under this rule.

‘709 Setting aside default assessment

- ‘(1) If a costs assessor is appointed under rule 708 to assess costs, the court may, on the application of the party liable for the costs, by order, set aside or vary a decision of the costs assessor or any order made under rule 740.
- ‘(2) The application must be supported by—
- (a) an affidavit explaining—
 - (i) the party’s failure to file a notice of objection to the costs statement; and
 - (ii) any delay; and
 - (b) a notice of objection in accordance with rule 706(2) to (5), as an exhibit to the affidavit.
- ‘(3) Rule 722 applies to any reassessment of costs on an application made under this rule.

‘Division 2 Application

‘710 Application for costs assessment

- ‘(1) A person who has served a costs statement under rule 705 may, not less than 21 days after service of the costs statement, apply for a costs assessment.

- ‘(2) The application must—
- (a) be in the approved form; and
 - (b) be accompanied by—
 - (i) the costs statement; and
 - (ii) either—
 - (A) if a notice of objection has been served on the applicant—the notice of objection; or
 - (B) otherwise—an affidavit of service of the costs statement; and
 - (c) if practicable—
 - (i) nominate a particular costs assessor for the assessment; and
 - (ii) for a costs assessor other than an assessing registrar, state the applicable hourly rate of the nominated costs assessor; and
 - (d) if applicable, be accompanied by the nominated costs assessor’s consent to appointment to carry out the costs assessment and confirmation that, if appointed, there would be no conflict of interest.
- ‘(3) The application is returnable before the registrar.

‘711 Service of application

‘Within 7 days after filing an application for a costs assessment, the applicant must serve a copy of the application and all accompanying documents (other than the costs statement and any notice of objection) on the party liable to pay the costs.

‘712 Agreed costs assessor

- ‘(1) This rule applies if the parties agree that a costs assessment be carried out by a particular costs assessor.

- ‘(2) The parties may apply for a consent order under rule 666 that the particular costs assessor be appointed to carry out the costs assessment.
- ‘(3) The particular costs assessor’s consent to appointment to carry out the costs assessment and confirmation that, if appointed, there would be no conflict of interest must be filed with the consent under rule 666.

‘713 Costs assessor if no agreement

- ‘(1) This rule applies if the parties do not agree that a costs assessment be carried out by a particular costs assessor.
- ‘(2) A party may either—
 - (a) apply to the registrar for appointment of a costs assessor for the costs assessment; or
 - (b) apply to the court for directions.
- ‘(3) If an application is made under subrule (2)(a), the registrar may order the appointment of a particular costs assessor to carry out the costs assessment.

‘Division 3 Assessment

‘714 Powers of an assessing registrar

‘For assessing costs, an assessing registrar may do any of the following—

- (a) administer an oath or receive an affirmation;
- (b) examine witnesses;
- (c) if satisfied there is or may be a conflict of interest between the solicitor and the party—require the party to be represented by another solicitor;
- (d) unless the court orders otherwise—extend or shorten the time for taking any step in the assessment;
- (e) direct or require a party to produce documents;

- (f) give directions about the conduct of the assessment process;
- (g) anything else the court directs.

‘715 Powers of a costs assessor

‘The court may, by order, give a costs assessor who is not an assessing registrar a power mentioned in rule 714 in relation to a costs assessment.

‘716 No participation by a party

‘(1) This rule applies if—

- (a) a costs assessor is appointed to carry out a costs assessment; and
- (b) a party to the application for the costs assessment does not participate in the costs assessment in accordance with the procedure decided by the costs assessor.

‘(2) The costs assessor may—

- (a) proceed with the assessment without the party’s participation; or
- (b) refer the application to the court for directions.

‘717 Issue or question arising

‘(1) A costs assessor appointed to carry out a costs assessment may decline to decide any issue or question arising in relation to the assessment that the costs assessor considers should not be decided by the costs assessor.

‘(2) The costs assessor may refer to the court any issue or question arising in relation to the assessment the costs assessor considers should be decided by the court.

‘(3) The court may do either or both of the following—

- (a) decide the issue or question referred under subrule (2);
- (b) refer the issue or question to the costs assessor with or without directions.

'718 Notice of adjournment

- '(1) This rule applies if a directions hearing or a costs assessment is adjourned for any reason.
- '(2) Unless the court or costs assessor directs otherwise, the applicant must give notice of the adjournment to any party served with the application for the costs assessment but not present when the hearing or assessment was adjourned.

'719 Conflict of interest

'If a costs assessor has a direct or indirect interest in a costs assessment that could conflict with the proper performance of the costs assessor's duties, the costs assessor must, after the relevant facts come to the costs assessor's knowledge—

- (a) disclose the nature of the interest to the registrar of the court; and
- (b) not continue with the assessment; and
- (c) refer the application to the court for directions.

'720 Procedure on assessment

- '(1) A costs assessor appointed to carry out a costs assessment is to decide the procedure to be followed on the assessment.
- '(2) However, the procedure must be—
 - (a) appropriate to the scope and nature of the dispute and the amount in dispute; and
 - (b) consistent with the rules of natural justice; and
 - (c) fair and efficient.
- '(3) Also, if the costs are payable out of a fund—
 - (a) the applicant must serve on the person having charge of the fund a notice—
 - (i) identifying the fund; and
 - (ii) stating that the costs in the costs statement to be assessed are payable out of the fund; and

- (iii) stating when the costs are to be assessed; and
 - (iv) containing or attaching any other information the costs assessor requires to be included in or with the notice; and
 - (b) the person having charge of the fund may make submissions to the costs assessor in relation to the assessment.
- ‘(4) Without limiting subrule (1) or (2), the costs assessor may decide to do all or any of the following—
- (a) hear the costs assessment in private;
 - (b) carry out the costs assessment on the papers without an oral hearing;
 - (c) not be bound by laws of evidence or procedure applying to a proceeding in the court;
 - (d) be informed of the facts in any way the costs assessor considers appropriate;
 - (e) not make a record of the evidence given.

‘721 Discretion of a costs assessor

‘In assessing costs, a costs assessor must consider the following—

- (a) any other fees and allowances payable to the solicitor or counsel for other items in the same proceeding;
- (b) the nature and importance of the proceeding;
- (c) the amount involved;
- (d) the principle involved;
- (e) the interests of the parties;
- (f) the person who is to pay the costs, or the fund or estate out of which the costs are to be paid;
- (g) the general conduct and cost of the proceeding;
- (h) any other relevant circumstances.

‘722 Assessment must be limited

‘If a notice of objection relates only to a particular issue or a particular item, a costs assessor must limit the assessment to the resolution of the matters raised in the notice of objection in relation to the issue or item and otherwise assess the costs under rule 708.

‘723 Disbursement or fee not paid

- ‘(1) If a party’s costs statement includes an account that has not been paid, the party may claim the amount as a disbursement.
- ‘(2) A costs assessor may allow the amount as a disbursement only if it is paid before the costs assessor signs the certificate of assessment.
- ‘(3) Subrule (2) does not apply to an amount for lawyers’ or experts’ fees.

‘724 Professional charges and disbursements

- ‘(1) If a costs statement includes a charge for work done by a lawyer practising in Queensland and acting as agent for a party’s lawyer, the charge must be shown as a professional charge, not as a disbursement.
- ‘(2) A costs assessor may assess and allow a charge mentioned in subrule (1) even if it is not paid before the assessment.
- ‘(3) If a costs statement includes a charge for work done by a lawyer practising outside Queensland, the charge may be shown as a disbursement or as a professional charge.
- ‘(4) If a costs assessor allows a charge mentioned in subrule (3) when assessing costs, the amount the costs assessor allows must, so far as practicable, be an amount appropriate in the place where the lawyer practises.

‘725 Parties with same lawyer

‘If the same lawyer represents 2 or more parties and the lawyer does work for 1 or some of them separately that could

have been done for some or all of them together, the costs assessor may disallow costs for the unnecessary work.

‘726 Counsel’s advice and settling documents

‘Costs of a proceeding may include costs incurred for—

- (a) the advice of counsel on pleadings, evidence or other matters in a proceeding; and
- (b) counsel drawing or settling any pleading or other document in a proceeding that is appropriate for counsel to draw or settle.

‘727 Evidence

- ‘(1) Costs of a proceeding may include costs incurred in procuring evidence and the attendance of witnesses.
- ‘(2) For subrule (1), the attendance of a witness includes an attendance at any necessary conference with counsel before the trial or hearing and, if the witness is an expert, qualifying to give evidence as an expert.

‘728 Solicitor advocate

- ‘(1) This rule applies if a solicitor appears on a trial or hearing alone or instructed by a partner or employee.
- ‘(2) A costs assessor must not allow the solicitor or partner a fee for preparing a brief.
- ‘(3) A costs assessor may allow 1 fee for preparing for the trial or hearing.

‘729 Premature brief

‘A costs assessor must not allow costs for the preparation and delivery of a brief to counsel on a trial or hearing that did not take place, if the costs were incurred prematurely.

‘730 Retainer of counsel

‘When assessing costs on the standard basis, a costs assessor must not allow a fee paid to counsel as a retainer.

‘731 Refresher fees

- ‘(1) If a trial or hearing occupies more than 1 day, when assessing costs on the standard basis, a costs assessor may allow fees for counsel at a reasonable amount for each day or part of a day of the trial or hearing after the first day.
- ‘(2) If the start or resumption of a trial or hearing is delayed and, because of the delay, counsel or a solicitor were not able to undertake other work, a costs assessor may include waiting time as part of any period under subrule (1).

‘Division 4 Costs of assessment and offers to settle

‘732 Costs of assessment

‘A costs assessor must decide the costs of a costs assessment.

‘733 Offer to settle costs

- ‘(1) A party liable to pay costs may serve on the party entitled to the costs a written offer to settle the costs.
- ‘(2) An offer to settle costs—
- (a) must state it is made under this rule; and
 - (b) must be for all of the person’s liability for costs to the party to whom it is made; and
 - (c) may be served at any time after the day liability for the costs accrues.
- ‘(3) An offer to settle costs—
- (a) can not be withdrawn without the leave of the court; and

- (b) does not lapse because the party to whom it is made rejects or fails to accept it; and
 - (c) ends when the assessment of the costs statement to which it relates starts.
- ‘(4) Other than for rule 734, a party must not disclose to a costs assessor the amount of an offer to settle until the costs assessor has assessed all items in the costs statement, and decided all questions, other than the cost of the assessment.

‘734 Acceptance of offer to settle costs

- ‘(1) An acceptance of an offer to settle must be in writing.
- ‘(2) If a party gives to a costs assessor a copy of the offer and the acceptance of the offer, the costs must be certified by the costs assessor under rule 737 in the amount of the offer.
- ‘(3) If—
 - (a) a party does not accept an offer to settle; and
 - (b) the amount of the costs statement assessed by the costs assessor, before deciding the costs of the assessment, is equal to, or more than, the amount of the offer;the party liable for the costs must pay the costs of the assessment, unless the costs assessor decides otherwise.
- ‘(4) However, if the amount of the costs assessed by the costs assessor, before deciding the costs of the assessment, is less than the amount of the offer, the party entitled to the costs may not recover the costs of the assessment but must pay the costs of the assessment of the party liable to pay the costs, unless the costs assessor decides otherwise.
- ‘(5) For this rule, the costs of the assessment are the costs that have been, or will be, incurred by the party entitled to the costs, on and from the date of service of the offer to settle, and includes any fee payable to the court for the assessment.

'735 Reduction of more than 15%

- '(1) This rule applies if, on an assessment of costs payable out of a fund, the amount of professional charges and disbursements is reduced by more than 15%.
- '(2) Unless the costs assessor decides otherwise—
 - (a) the party with the benefit of the costs order must pay the costs of the assessment; and
 - (b) the costs payable under the costs order do not include the costs of preparing the costs statement or attending the costs assessment.
- '(3) Subrule (2) applies subject to rules 733, 734 and 736.

'Division 5 Certificate of costs assessor**'736 Agreement as to costs**

'If a party entitled to costs and a party liable for costs agree on the amount of costs, a costs assessor must, on receipt of a written consent signed by the parties or their lawyers, certify the costs under rule 737 in the agreed amount.

'737 Certificate of assessment

- '(1) At the end of a costs assessment, a costs assessor must certify the amount or amounts payable by whom and to whom in relation to the application, having regard to—
 - (a) the amount at which costs were assessed; and
 - (b) the costs of the assessment.
- '(2) The certificate must be filed by the costs assessor in the court within 14 days after the end of the assessment and a copy must be given to each of the parties.

'738 Written reasons for decision

- '(1) Within 14 days after receiving a copy of a cost assessor's certificate of assessment, a party may make a written request

to the costs assessor for reasons for any decision included in the certificate.

- ‘(2) If a costs assessor receives a request under subrule (1), the costs assessor must—
- (a) within 21 days give written reasons for the decision to each of the parties who participated in the costs assessment; and
 - (b) give a copy of the written reasons to the registry of the court in which the certificate was filed.
- ‘(3) A party requesting reasons must pay the costs assessor’s reasonable costs of preparing the reasons and those costs form part of the party’s costs in any subsequent review.
- ‘(4) The court may publish written reasons in the way it considers appropriate.

Example—

The reasons may be published on the Queensland Courts website.

‘Division 6 After assessment

‘739 Application of div 6

‘This division applies if a certificate of assessment is filed in a court.

‘740 Judgment for amount certified

- ‘(1) After a certificate of assessment is filed, the registrar of the court must make the appropriate order having regard to the certificate.
- ‘(2) The order takes effect as a judgment of the court.
- ‘(3) However, the order is not enforceable until at least 14 days after it is made and the court may stay enforcement pending review of the assessment on terms the court considers just.
- ‘(4) Unless the registrar orders otherwise, the costs assessor’s fees—

- (a) are payable to the cost assessor in the first instance by the party who applied for the assessment; and
 - (b) are to be included in that party's costs of the assessment.
- '(5) Amounts paid or payable under the order are charged with payment of the costs assessor's fees.

'741 Costs may be set off

- '(1) If a party entitled to be paid costs is also liable to pay costs and the costs have been assessed, the registrar may—
- (a) set off 1 amount against the other and, by order, direct by whom any balance is payable; or
 - (b) decline to make an order for costs the party is entitled to be paid until the party has paid the amount the party is liable to pay.
- '(2) Costs may be set off under subrule (1) even though a solicitor for a party has a lien for costs of the proceeding.

'742 Review by court

- '(1) A party dissatisfied with a decision included in a costs assessor's certificate of assessment may apply to the court to review the decision.
- '(2) An application for review must be filed within—
- (a) if reasons are requested under rule 738(1)—14 days after the party receives those reasons; or
 - (b) otherwise—14 days after the party receives the certificate.
- '(3) The application must—
- (a) state specific and concise grounds for objecting to the certificate; and
 - (b) have attached to it a copy of any written reasons for the decision given by the costs assessor; and
 - (c) state any other matter required by a practice direction made in relation to this rule.

- ‘(4) The applicant must serve a copy of the application on all other parties to the assessment within 14 days after the application is filed.
- ‘(5) On a review, unless the court directs otherwise—
- (a) the court may not receive further evidence; and
 - (b) a party may not raise any ground of objection not stated in the application for assessment or a notice of objection or raised before the costs assessor.
- ‘(6) Subject to subrule (5), on the review, the court may do any of the following—
- (a) exercise all the powers of the costs assessor in relation to the assessment;
 - (b) set aside or vary the decision of the costs assessor;
 - (c) set aside or vary an order made under rule 740(1);
 - (d) refer any item to the costs assessor for reconsideration, with or without directions;
 - (e) make any other order or give any other direction the court considers appropriate.
- ‘(7) Unless the court orders otherwise, the application for review does not operate as a stay of the registrar’s order.

‘Part 4 **Assessment of costs under the Legal Profession Act 2007**⁶

‘743 **Definition for pt 4**

‘In this part—

⁶ This part applies only to costs payable or to be assessed under the *Legal Profession Act 2007*—see rule 678(2)(c). Also, a reference in this part to a costs assessor does not include a reference to an assessing registrar—see rule 679, definition *costs assessor*.

relevant court, for an assessment of costs under the *Legal Profession Act 2007*, means the court having the lowest monetary limit to its jurisdiction in a personal action that is not less than the costs claimed.

‘743A Application for costs assessment

- ‘(1) A person applying for a costs assessment must apply to the relevant court.
- ‘(2) The application must—
 - (a) be in the approved form; and
 - (b) state the names of any persons to whom notice must be given under the *Legal Profession Act 2007*, section 339(1); and
 - (c) if practicable—
 - (i) nominate a particular costs assessor for the assessment; and
 - (ii) state the applicable hourly rate of the nominated costs assessor; and
 - (d) be accompanied by the following—
 - (i) an affidavit;
 - (ii) if applicable, the nominated costs assessor’s consent to appointment to carry out the costs assessment and confirmation that, if appointed, there would be no conflict of interest;
 - (iii) the prescribed fee.
- ‘(3) If the applicant has an itemised bill for all of the costs to be assessed under the application, a copy of the itemised bill must be an exhibit to the affidavit.
- ‘(4) If the applicant does not have an itemised bill for all of the costs to be assessed under the application, the best information the applicant has as to the costs to be assessed must be included in the affidavit.
- ‘(5) The affidavit must also—

- (a) state whether the applicant disputes or requires assessment of all or what part of the costs; and
- (b) if the applicant disputes all or part of the costs, state the grounds on which the applicant disputes the amount of the costs or liability to pay them.

‘743B If recovery proceedings started

- ‘(1) If a law practice has started a proceeding in a court to recover costs from any person, any application for assessment of all or part of those costs must be made by application in the proceeding.
- ‘(2) At the directions hearing mentioned in rule 743G, the court may also give directions as to the conduct of the proceeding.
- ‘(3) If no application for assessment is made in the proceeding, the court may, at an appropriate stage of the proceeding—
 - (a) order that any costs be assessed by a costs assessor; and
 - (b) give appropriate directions.

‘743C Court may direct preparation of itemised bill

‘If there is no itemised bill for all of the costs to be assessed under an application, the relevant court may give the directions it considers appropriate for an itemised bill to be prepared, filed and served.

‘743D Notice of application

- ‘(1) Within 7 days after filing an application for a costs assessment, the applicant must serve a copy of the application on any person to whom notice must be given under the *Legal Profession Act 2007*, section 339(1).
- ‘(2) If a person served under subrule (1) knows a third party payer should have been, but was not, served, the person must, within 14 days after being served, give the applicant written notice of that fact and the name and contact details for the third party payer.

- ‘(3) As soon as practicable, but no more than 14 days after receiving a notice under subrule (2), the applicant must serve a copy of the application on the third party payer.
- ‘(4) In this rule—
third party payer see the *Legal Profession Act 2007*, section 301(1).

‘743E Agreed costs assessor

- ‘(1) This rule applies if the parties agree that the costs assessment be carried out by a particular costs assessor.
- ‘(2) The parties may apply for a consent order under rule 666 that the particular costs assessor be appointed to carry out the costs assessment.
- ‘(3) The particular costs assessor’s consent to appointment to carry out the costs assessment and confirmation that, if appointed, there would be no conflict of interest must be filed with the consent under rule 666.
- ‘(4) If the consent order mentioned in subrule (2) is made, the registrar of the relevant court may vacate any directions hearing date previously allocated for the application.

‘743F Costs assessor if no agreement

- ‘(1) This rule applies if the parties do not agree that the costs assessment be carried out by a particular costs assessor.
- ‘(2) A party may either—
 - (a) apply to the registrar for appointment by the registrar of a costs assessor for the costs assessment; or
 - (b) apply to the court for directions.
- ‘(3) If an application is made under subrule (2)(a), the registrar may order the appointment of a particular costs assessor to carry out the costs assessment.

'743G Directions hearing

- '(1) The relevant court may hold a directions hearing in relation to an application for a costs assessment.
- '(2) At a directions hearing, the relevant court may consider the following matters—
 - (a) whether the application has been properly filed and served;
 - (b) whether notice has been given as required under the *Legal Profession Act 2007*, section 339(1);
 - (c) whether it is appropriate to refer the application to mediation;
 - (d) whether it is appropriate for any question to be tried before the costs are assessed, including, for example—
 - (i) whether a person claimed to be liable to pay costs is liable to pay those costs; and
 - (ii) whether any costs agreement relied on by the lawyer concerned is void; and
 - (iii) whether the lawyer concerned was negligent; and
 - (iv) whether the lawyer concerned was in breach of the contract of retainer; and
 - (v) whether the lawyer concerned acted without the instructions of, or contrary to the instructions of, the client;
 - (e) whether anything else should be done before the costs are assessed.
- '(3) Also, the relevant court may—
 - (a) if the grounds of dispute relate only to the amount of costs—order that a particular costs assessor be appointed to carry out the costs assessment; or
 - (b) otherwise—order that the application be heard by the relevant court.

‘743H Application to court for directions after certificate of assessment filed

- ‘(1) This rule applies if a certificate of assessment is filed in the relevant court.
- ‘(2) The court or any party may, on notice to all parties who participated in the assessment, have the application relisted before the court.
- ‘(3) In relation to any issue in dispute between the parties, the court may give directions or decide the issue.
- ‘(4) If there are no issues in dispute, the court may give the judgment it considers appropriate having regard to the certificate.
- ‘(5) The court may delay giving a judgment, or stay the enforcement of a judgment given, pending a review by the court of a decision of the costs assessor.

‘743I Application of other rules

- ‘(1) The following rules also apply to costs assessed under the *Legal Profession Act 2007*—
 - rule 715;
 - rule 716;
 - rule 717;
 - rule 718;
 - rule 719;
 - rule 720;
 - rule 732;
 - rule 737;
 - rule 738;
 - rule 742.
- ‘(2) For the purposes of applying a rule mentioned in subrule (1) that refers to a court or the court, the reference is taken to be a reference to the relevant court.

- (iii) any other matter required by a practice direction to be stated in the affidavit; and
- (c) pay the prescribed fee.
- ‘(2) The Chief Justice may make a practice direction under this rule requiring other matters relevant to appointment as a costs assessor to be stated in the affidavit.

‘743L Appointment

- ‘(1) If a person who is eligible for appointment as a costs assessor applies for appointment under rule 743K, the Brisbane registrar, may appoint, or refuse to appoint, the person as a costs assessor.
- ‘(2) If the Brisbane registrar refuses to appoint the person, the Brisbane registrar must give the person a statement of reasons for the decision.
- ‘(3) A person whose application for appointment is refused may appeal to a single judge of the Supreme Court.

‘743M Ongoing disclosure of adverse matters and updated details

- ‘(1) Subrule (2) applies to—
 - (a) a person who has applied for appointment as a costs assessor but whose application has not yet been decided; or
 - (b) a person who is a costs assessor.
- ‘(2) The person must give written notice to the Brisbane registrar of any matter coming to the person’s knowledge that would, if the person were applying afresh for appointment as a costs assessor, be required in the person’s affidavit under rule 743K(1)(b)(i).
- ‘(3) A costs assessor must also give written notice to the Brisbane registrar of any change in name, contact details or hourly rate or rates for the costs assessor.
- ‘(4) A costs assessor must give any notice required under this rule as soon as practicable.

'743N List of costs assessors

- '(1) The Brisbane registrar must keep and publish a current list of costs assessors.
- '(2) The list must contain—
 - (a) the name, contact details and hourly rate or rates of each costs assessor; and
 - (b) any change notified under rule 743M(3).

'743O Charges for costs assessments

- '(1) The Chief Justice may make a practice direction under this rule setting the maximum hourly rate chargeable by a costs assessor.
- '(2) At any time the hourly rate for a costs assessor may not be more than the maximum hourly rate at that time set by the practice direction.
- '(3) For a costs assessment—
 - (a) the costs assessor is entitled to charge only for the number of hours reasonably spent by the costs assessor on the assessment (which number may be, or include, a fraction); and
 - (b) time spent by the costs assessor reading the application for the costs assessment and any documents filed in the application is taken to be time spent by the costs assessor on the assessment; and
 - (c) the costs assessor's total charge is the number of hours reasonably spent by the costs assessor on the assessment multiplied by the costs assessor's current hourly rate.
- '(4) However, for a particular costs assessment, a costs assessor may agree to charge an hourly rate that is less than the costs assessor's current hourly rate.
- '(5) In this rule—

current hourly rate, of a costs assessor for a costs assessment, means the hourly rate of the costs assessor applicable for the costs assessment that is set out in the list of costs assessors at

the time the costs assessor was appointed to carry out the costs assessment.

‘743P Ending an appointment by request

‘The Brisbane registrar may end the appointment of a person as a costs assessor at the person’s request.

‘743Q Ending an appointment for sufficient reason

‘(1) The Brisbane registrar may end the appointment of a person as a costs assessor for a sufficient reason.

Examples of a sufficient reason—

- 1 the costs assessor becoming a judicial officer
- 2 the costs assessor ceasing to be a fit and proper person to assess costs

‘(2) Before ending a person’s appointment, the Brisbane registrar must give the person—

- (a) reasonable notice of the matters the Brisbane registrar intends to consider in deciding whether there is a sufficient reason to end the appointment; and
- (b) a reasonable opportunity to make a submission in relation to the matters.

‘(3) If the Brisbane registrar ends a person’s appointment, the Brisbane registrar must give the person a statement of reasons for the decision.

‘(4) A person whose appointment is ended may appeal to a single judge of the Supreme Court.

‘743R Effect of ending of appointment or notice about possible ending of appointment

‘(1) If a costs assessor has been given notice under rule 743Q(2), the costs assessor may not be appointed to carry out a costs assessment unless the Brisbane registrar decides not to end the person’s appointment as a costs assessor.

- ‘(2) Unless the court orders otherwise, a costs assessor who has been given notice under rule 743Q(2) or whose appointment ends may complete a costs assessment started before the notice was given or the appointment ended.
- ‘(3) For subrule (2), a costs assessment is taken to have started when the costs assessor is appointed to carry out the costs assessment.
- ‘(4) Unless the court orders otherwise, the ending of a person’s appointment as a costs assessor does not affect the validity of—
 - (a) a costs assessment carried out by the costs assessor before the appointment ended; or
 - (b) a costs assessment completed under subrule (2).

‘Part 6 Transitional rules about costs

‘743S Old basis for taxing costs equates to new basis for assessing costs

‘For the Act, section 133(b)⁸—

- (a) party and party basis equates to standard basis; and
- (b) solicitor and client basis equates to indemnity basis.

‘743T Purpose of rules 743U and 743V

‘Rules 743U and 743V are intended—

- (a) to apply a new system of costs assessment, to the extent practicable, in relation to—
 - (i) transitional costs within the meaning of rule 743U; and
 - (ii) transitional LPA costs within the meaning of rule 743V; and

⁸ *Supreme Court of Queensland Act 1991*, section 133 (References to taxation of costs)

- (b) for that application, to give any necessary retrospective operation, for example, by applying rule 742 to provide a right to apply to a court for a review of a decision even if the decision was made before the commencement of this rule.

'743U Costs other than under Legal Profession Act 2007

- '(1) Rules 736 to 742 apply in relation to transitional costs and, for the purpose of applying the rules—
 - (a) the person appointed is a costs assessor; and
 - (b) a certificate filed before the commencement of this rule by the person appointed is a certificate of assessment; and
 - (c) if a certificate was not filed before the commencement of this rule by the person appointed, instead of a certificate having to be filed under rule 737(2) within 14 days after the end of the assessment, a certificate must be filed within 14 days after the later of—
 - (i) the end of the assessment; or
 - (ii) the commencement of this rule; and
 - (d) instead of a party being able to make a written request under rule 738(1) within 14 days after receiving a copy of a certificate of assessment, a party may make the written request within 14 days after the later of—
 - (i) the party receiving the copy; or
 - (ii) the commencement of this rule; and
 - (e) instead of an application for review having to be filed within a period mentioned in rule 742(2), the application must be filed within the later of—
 - (i) the relevant period mentioned in rule 742(2); or
 - (ii) the period of 14 days after the commencement of this rule; and

- (f) on a review under rule 742, instead of the powers mentioned in rule 742(6), the court may, subject to rule 742(5), do any of the following—
- (i) exercise all the powers of an assessing registrar in relation to the assessment;
 - (ii) set aside or vary the decision of the costs assessor;
 - (iii) set aside or vary an order made under rule 740(1);
 - (iv) refer any matter to a costs assessor for reconsideration, with or without directions;
 - (v) make any other order or give any other direction the court considers appropriate.

‘(2) In this rule—

previous rule 685(2) means rule 685(2) as in force at any time before the commencement of this rule.

transitional costs means costs in relation to which, before the commencement of this rule, a court made an order under previous rule 685(2) that an amount for costs be decided by a person appointed by the court to carry out an assessment of costs.

Note—

The following practice directions deal with various matters concerning orders made under previous rule 685(2)—

- (a) for the Supreme Court, see Practice Direction No. 7 of 2007 (Costs Assessment: Interim Arrangements), part A;
- (b) for the District Court, see Practice Direction No. 5 of 2007 (Costs Assessment: Interim Arrangements);
- (c) for the Magistrates Courts, see Practice Direction No. 6 of 2007 (Costs Assessment: Interim Arrangements), part A.

‘743V Costs under Legal Profession Act 2007

- ‘(1) Rules 738 and 742 apply in relation to transitional LPA costs and, for the purpose of applying the rules—
- (a) the person appointed is a costs assessor; and
 - (b) the certificate is a certificate of assessment; and

- (c) instead of a party being able to make a written request under rule 738(1) within 14 days after receiving a copy of a certificate of assessment, a party may make the written request within 14 days after the later of—
 - (i) the party receiving the copy; or
 - (ii) the commencement of this rule; and
- (d) instead of an application for review having to be filed within a period mentioned in rule 742(2), the application must be filed within the later of—
 - (i) the relevant period mentioned in rule 742(2); or
 - (ii) the period of 14 days after the commencement of this rule; and
- (e) on a review under rule 742, instead of the powers mentioned in rule 742(6), the court may, subject to rule 742(5), do any of the following—
 - (i) exercise all the powers of an assessing registrar in relation to the assessment;
 - (ii) set aside or vary the decision of the costs assessor;
 - (iii) set aside or vary an order made under rule 740(1);
 - (iv) refer any matter to a costs assessor for reconsideration, with or without directions;
 - (v) make any other order or give any other direction the court considers appropriate.

‘(2) In this rule—

previous rule 743A means rule 743A as in force at any time before the commencement of this rule.

transitional LPA costs means costs in relation to which—

- (a) before the commencement of this rule, a court made an order under previous rule 743A that—
 - (i) an amount for costs be decided by a person appointed by the court to carry out an assessment of costs; and

- (ii) after deciding the amount for costs on the assessment, the person file a certificate as to the amount for costs; and
- (iii) judgment be given for the amount certified; and
- (b) whether before or after the commencement of this rule, the person, in accordance with the order, filed or files a certificate as to the amount for costs and judgment was or is given for the amount certified.

Note—

The following practice directions deal with various matters concerning orders made under previous rule 743A—

- (a) for the Supreme Court, see Practice Direction No. 7 of 2007 (Costs Assessment: Interim Arrangements), part B;
- (b) for the Magistrates Courts, see Practice Direction No. 6 of 2007 (Costs Assessment: Interim Arrangements), part B.

‘743W Expiry of particular rules

‘Rules 743T to 743V and this rule expire 1 year after the commencement of this rule.’.

11 Amendment of r 807 (Enforcement hearing after order is made)

Rule 807(4)—

omit.

12 Amendment of r 997 (Transitional provision—Uniform Civil Procedure Amendment Rule (No. 1) 2005

Rule 997(1), ‘under chapter 17, part 2’—

omit.

13 Amendment of sch 1 (Scale of costs—Supreme Court)

- (1) Schedule 1, authorising provision—

omit, insert—

‘rule 691(2)(a)’.

- (2) Schedule 1, item 19—
omit.

14 Amendment of sch 2 (Scale of costs—District Court)

- (1) Schedule 2, authorising provision—
omit, insert—
‘rule 691(2)(b)’.
- (2) Schedule 2, item 19—
omit.

15 Amendment of sch 3 (Scale of costs—Magistrates Courts)

- Schedule 3, authorising provision—
omit, insert—
‘rule 691(2)(c)’.

16 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *assessed costs, costs of the proceeding, costs statement, party, registrar and trustee—*
omit.
- (2) Schedule 4—
insert—
‘assessed costs, for chapter 17A, see rule 679.
assessing registrar, for chapter 17A, see rule 679.
Australian lawyer, for chapter 17A, see rule 679.
Brisbane registrar, for chapter 17A, see rule 679.
certificate of assessment, for chapter 17A, see rule 679.
client, for chapter 17A, see rule 679.
costs assessment, for chapter 17A, see rule 679.
costs assessor, for chapter 17A, see rule 679.

costs of the proceeding, for chapter 17A, see rule 679.

costs statement, for chapter 17A, see rule 679.

itemised bill, for chapter 17A, see rule 679.

party, for chapter 17A, see rule 679.

registrar—

- (a) for chapter 9, part 4, see rule 313; and
- (b) for schedules 1 to 3, means—
 - (i) an assessing registrar within the meaning of rule 679; or
 - (ii) a costs assessor appointed under rule 743L; and
- (c) otherwise, for a court, includes a deputy registrar of the court or person other than the registrar who discharges the duties and performs the functions conferred on the registrar under these rules.

relevant court, for chapter 17A, part 4, see rule 743.

trustee, for chapter 17A, see rule 679.’.

- (3) Schedule 4, definition *registrar*—

omit.

- (4) Schedule 4—

insert—

‘conciliation certificate, for chapter 13, part 9, division 2A, see rule 522B.

employment claim, for chapter 13, part 9, division 2A, see rule 522B.

registrar—

- (a) for chapter 9, part 4, see rule 313; and
- (b) for chapter 13, part 9, division 2A, see rule 522B; and
- (c) for schedules 1 to 3, means—
 - (i) an assessing registrar within the meaning of rule 679; or
 - (ii) a costs assessor appointed under rule 743L; and

- (d) otherwise, for a court, includes a deputy registrar of the court or person other than the registrar who discharges the duties and performs the functions conferred on the registrar under these rules.

the Act, for chapter 13, part 9, division 2A, see rule 522B.’.

ENDNOTES

1. Made by the Governor in Council on 6 December 2007.
2. Notified in the gazette on 7 December 2007.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Justice and Attorney-General.