

PRACTICE DIRECTION NUMBER 7 OF 2007

SUPREME COURT OF QUEENSLAND

COSTS ASSESSMENT: INTERIM ARRANGEMENTS

- A. Party and party assessments in the Supreme Court
1. Rule 685(2) of the Uniform Civil Procedure Rules provides that instead of costs assessed (by the Registrar) the court may order a party to pay to another party... “(d) an amount for costs to be decided in the way the court directs”.
 2. The court is moving to establish, by statutory amendment and amendment of the UCPR, a regime for the assessment of costs by accredited costs assessors, in addition to assessment by the Registrar. This Practice Direction is intended to set up a mechanism for the assessment of costs other than by the Registrar pending the establishment of that regime.
 3. It is envisaged these assessments be carried out by members of the legal profession, and acknowledged that it would not be necessary for this purpose that a current practising certificate be held.
 4. When an order is made for the assessment of costs, the parties should endeavour to agree on the identity of the person to carry out that assessment. The parties may agree that the assessment be carried out by an appropriately experienced person admitted to the legal profession.
 5. Where the parties so agree, the court may order that that person carry out the assessment. Where the parties do not reach such agreement, the court may nevertheless appoint such a person to carry out the assessment, and to inform that process, the parties should submit proposed appointees (names and qualifications and rates of charge) to the court.
 6. The UCPR apply to any such assessment. Attention is drawn to Rule 721, “offer to settle costs”. The court may at any time give directions as to the manner in which an assessment is to be carried out.
 7. The costs of such an assessment will, prior to the final determination of the matter, be borne equally between or among the parties, subject to readjustment depending on the costs provision made by the assessor in the final determination.
 8. There are currently, within the Registry, assessments which stand part heard, and assessments where no hearing has yet occurred. Parties to those proceedings are encouraged to invoke the procedure contemplated by this practice direction with a view to bringing those assessments to a conclusion.

- B. Solicitor and client assessment under the *Legal Profession Act 2007*
9. Consequent upon the *Legal Profession Act 2007*, a regime will be established for the assessment of solicitor and client costs by accredited assessors. This practice direction is intended to facilitate the assessment of such costs in the interim.
 10. It is envisaged these assessments be carried out by members of the legal profession, and acknowledged that it would not be necessary for this purpose that a current practising certificate be held.
 11. Rule 743A, a transitional provision inserted into the UCPR by the *Uniform Civil Procedure Amendment Rule (No 2) 2007*, provides that where application is made to a court for a costs assessment under the *Legal Profession Act 2007* (either the Supreme, District or Magistrates Court depending on amount), the court may give directions appropriate for the carrying out of that assessment, and the Chief Justice may by practice direction provide "guidance as to what directions may be appropriate".
 12. The directions given may deal with the following matters:
 - a. the identification of any issues (for example, as to the validity of the retainer, or the entitlement to any costs) which may need to be determined by a court prior to the assessment, and directions as to the manner of that determination;
 - b. the identity of the person to carry out the assessment, upon whom the parties may agree; and failing agreement, the court may appoint an appropriately experienced person admitted to the legal profession for that purpose; and to inform that process of appointment, the court should be apprised of the qualification of any proposed appointee, and his or her hourly rate of charge;
 - c. the identity of any parties upon whom an application for a costs assessment should be served;
 - d. the filing and service of an itemized statement of costs;
 - e. the filing and service of any statement of objection, including the grounds for such objection;
 - f. that the costs assessor is to determine the procedure to be followed on the assessment;
 - g. the determination by the costs assessor of the costs of the assessment; and
 - h. the filing by the costs assessor of a certificate as to the determination made upon the assessment, and as to the entry of judgment in accordance with the certificate.



Paul de Jersey
Chief Justice
28 June 2007