

COURT OF APPEAL

Civil appeals

What is a civil appeal?

Who can appeal?

A civil appeal to the Court of Appeal lies from several courts and tribunals. Some appeals do not lie as of right to the Court of Appeal and first require leave of the Court. Appellants should check to determine whether their appeal is as of right or whether leave of the Court is required by considering the relevant legislation. Common leave applications include:

- Application for leave to appeal pursuant to the [Queensland Civil and Administrative Tribunal Act 2009](#)
- Applications pursuant to s118 [District Courts Act of 1967](#) seeking leave to appeal
- Applications seeking an extension of time within which to file and/or serve an appeal.

If you require leave of the court to appeal, do not file a notice of appeal in the Registry without first obtaining leave of the Court.

- Refer to the [Civil applications](#) information sheet.

Ordinarily, an appeal from a final decision in a proceeding to the Court is an appeal by way of rehearing in which the Court considers the matter only on the evidence used in the primary court. An appeal by way of rehearing is a new determination of the rights and liabilities of the parties. Leave of the Court is needed if new or fresh evidence is to be admitted and will be granted only in cases that satisfy special requirements, including cogency and if the evidence was not reasonably available at the time of the original hearing.

An appeal from a decision, other than a final decision in a proceeding, or an appeal about the amount of damages or compensation awarded by a single judge of the Supreme Court, or an appeal for a new trial, is brought by way of an appeal, unless the Court is satisfied it is in the interests of justice to proceed by way of rehearing. A matter brought by way of an appeal allows the Court to consider only whether the judgment appealed from was correct and usually the Court considers only the law and facts which existed at the time the judgment was given. If the Court is in the position to arrive at a decision on the material it has before it, then the appeal will not proceed by way of rehearing.

- Refer to Rules 745(2) and 765, [Uniform Civil Procedure Rules 1999](#).

Usually, the original judgment from the primary court is allowed to take effect unless or until it is set aside by an appellate court. However, a stay of execution stops the enforcement of an original decision from the time the stay is imposed. Filing a notice of appeal does not stay the enforcement of the decision under appeal, unless the Court of Appeal, a Judge of Appeal or the original court orders it be stayed. Litigants who wish to stay the enforcement of the decision under appeal may apply for a stay of execution.

Refer to:

- [Civil applications](#) information sheet
- [Practice Direction 3 of 2013](#)
- Rule 761, [Uniform Civil Procedure Rules 1999](#).

Who are the parties to an appeal?

An appellant is a party who is appealing the original decision. Appellants are the persons aggrieved by the decision in the primary court. There can be more than one appellant.

A respondent is the other party involved in the appeal hearing. A respondent is a person who is directly affected by the relief sought in the notice of appeal or who is interested in maintaining the decision under appeal. There can be more than one respondent.

- Refer to Rule 749, [Uniform Civil Procedure Rules 1999](#).

The Court may order the inclusion, removal or substitution of a party to an appeal. A person who has not consented in writing, however, cannot be made an appellant.

- Refer to Rule 750, [Uniform Civil Procedure Rules 1999](#).

How to commence an appeal

Notice of appeal

A notice of appeal is required to start an appeal or an application for a new trial. Form 64 must be filed in the Court of Appeal Registry, Brisbane, within 28 days of the date of the original judgment from the primary court or tribunal. If the original proceeding was not started in the Supreme Court Registry, Brisbane, a copy of the notice of appeal must also be filed as soon as practicable in the registry in which the proceeding was started. The heading of the form must include the party's status in the Court of Appeal as well as in the primary court and should be the same as the name of the action in the primary court, even including those parties who are not a party to the appeal.

Refer to:

- [Practice Direction 3 of 2013](#)
- Rules 745 to 748, [Uniform Civil Procedure Rules 1999](#)
- [Form 64, Uniform Civil Procedure Rules 1999](#).

The notice of appeal must state whether the whole or part of the decision is appealed from, briefly and specifically stating the grounds of appeal, and the decision the appellant seeks from the Court.

- Refer to Rule 747(1), [Uniform Civil Procedure Rules 1999](#).

If leave has been granted by the Court to start an appeal, the notice of appeal must set out the order giving leave, a concise statement of the reasons why leave was given, and the specific questions for which leave was given.

- Refer to Rule 747(2), [Uniform Civil Procedure Rules 1999](#).

The notice of appeal must be served on all parties to the appeal as soon as practicable after it is filed in the Registry; on the day or within a few days of filing the notice in the Registry. The Court also has the power to direct the appellant to serve the notice on another person. The notice may be served on a party at the party's address for service in the proceeding in which the decision was given.

- Refer to Rules 748(b), 752(1), 752(2), [Uniform Civil Procedure Rules 1999](#).



A notice of appeal may be amended without leave of the Court when it is amended within the time limited for starting the appeal. If an appellant wants to amend a notice of appeal outside the 28-day appeal period, leave of the Court is required.

- Refer to Rule 751, [Uniform Civil Procedure Rules 1999](#).

Once a notice of appeal is filed in the Registry, a file is created by the Registry and a timetable letter (prepared in accordance with the relevant practice direction) is issued to the parties, advising of due dates for lodgment of outlines and other documents. The instructions given to the litigants are directions from the Court and must be strictly followed. The Registrar may issue other directions to the parties. Failure to comply with these directions may result in the matter being listed before the Court, with the non-compliant party being at risk of an order for costs against them.

- Refer to the attached example of Form 64 notice of appeal as a guide only.

Cost of filing an appeal

To obtain the up-to-date cost of filing an appeal for an individual or a company, refer to the [Uniform Civil Procedure \(Fees\) Regulation 2019](#).

The Registry will only accept payment by bank cheques, solicitor's trust account cheques, cash or credit. Cheques should be made payable to the Department of Justice.

In cases of financial hardship the payment of the filing fee on an appeal may be reduced by the making of a fee reduction order.

- Refer to the [Reduction of civil court fees](#).

Notice of cross appeals

A cross appeal is filed in circumstances where a respondent claims that the decision appealed from should be varied or set aside.

The respondent must file a notice of cross appeal in Form 65, stating the claim, and serve it on any other party who may be affected. It must state the part of the decision to which the cross appeal relates, and briefly and specifically the grounds of the cross appeal, and decision the respondent seeks. The notice of cross appeal must be filed within 14 days after the service of the notice of appeal on the respondent. The notice of cross appeal must then be served, as soon as practicable, on all other parties to the appeal. A notice of cross appeal may be amended with leave of the Court.

Refer to:

- the attached example of Form 65 notice of cross appeal as a guide only
- Rules 754, 755, 756, [Uniform Civil Procedure Rules 1999](#)
- [Form 65, Uniform Civil Procedure Rules 1999](#).

Notice of contention

If a respondent claims a decision should be affirmed on a basis other than a basis relied on by the court that made the decision, the respondent must file a notice of contention in Form 66, specifying briefly the grounds of contention.

The notice of contention must be filed by the respondent within 14 days after the day of service of the notice of appeal on the respondent. The respondent must serve a copy of the notice of contention on all other parties to the appeal as soon as practicable.



Refer to:

- the attached example of Form 66 notice of contention as a guide only
- Rule 757, [Uniform Civil Procedure Rules 1999](#)
- [Form 66, Uniform Civil Procedure Rules 1999](#).

Preparation of material intended to be relied upon at hearing

Pursuant to [Practice Direction 3 of 2013](#), the following steps must be taken before an appeal can be heard:

The appellant must lodge and serve a written outline of argument and draft index to the record book within 28 days of the filing of the appeal.

Each respondent must lodge and serve a written outline of argument, list of authorities (list only required, no copies), and a response to an appellant's draft Index within 21 days of receiving the appellant's outline and draft Index. Five copies of each party's outline of argument and list of authorities must be lodged with the Registry.

The appellant may lodge and serve a brief written reply within seven days of receiving the respondent's outline.

The appellant must lodge for approval by the Registrar a record book index which has been agreed to by all parties within 10 weeks of commencing the appeal. The appellant must lodge a record book and serve a copy on each other party within 12 weeks of commencing the appeal.

- Refer to the [Guidelines for preparation of civil record books](#).

Once the record book is lodged, each party must amend its written outline, but only to include accurate and comprehensive record book page number references. Parties must lodge in the Registry four copies of the amended written outline and serve a copy on each other party 14 days after the lodging of the record book.

The Deputy Registrar, or another person authorised by the President or a Judge of Appeal, may for good reason amend the timeframes.

Where the requirements of [Practice Direction 3 of 2013](#) or a direction thereunder are not complied with, the matter may be listed for mention before the Court which may order that the appeal be struck out with costs.

- Refer to the [Civil Case Management process](#).

Lodging and serving of written outline of argument

A written outline of argument is a written statement of the contentions and issues in the proceeding which need to be considered by the Court.

The outline should be concise and no more than 10 pages. It should briefly explain what the case is about, summarise the reasons of the primary court so far as they are relevant to the points taken on appeal, and contain precise references to the evidence relied upon in connection with each disputed factual conclusion. When referring to filed material, page references must be provided. The respondent's outline need not necessarily repeat matters set out in the appellant's outline, but should clarify which matters are disputed and which are not disputed.

If a party lodges a written outline of argument outside the designated time period, a written explanation must be provided giving the particular reason as to why it is late and details of when the legal representative (if any) was instructed in the appeal. A late written outline of argument may not be accepted for filing in the Registry without such written explanation.



Five copies of the written outline of argument must be lodged in the Registry by each party. One copy must also be served on each other party.

- Refer to paragraphs 12–19 and 41, [Practice Direction 3 of 2013](#)

Record book

A record book must be prepared by the appellant in accordance with the [Guidelines for preparation of a civil appeal record book](#) information sheet.

List of authorities

A list of authorities is a list of the cases and legislation which each party will rely upon and refer to in the hearing. It is comprised of two parts:

- Part A – a list of all the cases and legislation upon which the party definitely intends to rely
- Part B – all the other authorities to which the party will refer, but upon which they are not intending to rely.

Four copies of the list must be filed by each party in the Court of Appeal Registry no less than two clear court days before the appeal hearing. In addition, each party shall provide to the Court three copies of the authorities listed in Part A. The copies of the Part A authorities and legislative provisions may be printed double-sided but must be legible.

A party may apply to the Registrar, in writing, to waive the provision to supply copies on the basis that they will suffer financial hardship. Upon receipt of such notification, the Registrar will decide whether or not to waive the provision of such copies.

- Refer to paragraph 22, [Practice Direction 3 of 2013](#).

Listing for hearings

The Registrar will generally consult in writing with the parties before listing an appeal for hearing. The parties will usually be asked to provide specific information to the Registrar in writing, including an estimate of time, name/s of counsel briefed and any dates the parties request that the matter not be listed. Parties should respond promptly so that the appeal can be listed at a time convenient to both parties. While every effort is made to assign hearing dates which are convenient to the parties, this is not always possible. Once the hearing date has been allocated, it is usually final.

Dismissing an appeal by consent prior to the hearing

If the parties decide not to continue with the appeal, and they do not wish to appear before the Court, the appeal may be disposed of under Rule 762(2), [Uniform Civil Procedure Rules 1999](#).

When the parties agree that the appeal should be dismissed by consent, a Form 68 must be lodged. When the Registrar stamps the Form 68 with the seal of the Court, it takes effect as an order dismissing the appeal and providing for costs in the way stated in the form.

Refer to:

- the attached Form 68 example as a guide only
- Rule 762(2), [Uniform Civil Procedure Rules 1999](#)
- [Form 68, Uniform Civil Procedure Rules 1999](#).



Consent order

A consent order which seeks to allow an appeal will not be sealed by the Registrar without referring the matter to the Court. If the parties agree as to the substantive orders the Court will be asked to make by consent but are in dispute as to the order for costs, the appeal may be listed for hearing to determine the issue of costs.

- Refer to Rule 764, [Uniform Civil Procedure Rules 1999](#).

Use of mediation prior to hearing

Mediation is a very useful tool and should be considered by the parties prior to the hearing date. Both parties need to consent to mediation before a matter is referred for mediation. The Court also has the power to refer a matter for mediation.

Precedent forms

Forms are available from the [Queensland Courts website](#) and [Uniform Civil Procedure Rules 1999](#).

For more information

- [Practice Direction 3 of 2013](#)
- [Uniform Civil Procedure Rules 1999](#) (particularly Chapter 2 Part 4 and Chapter 18 Part 2)
- [Uniform Civil Procedure \(Fees\) Regulation 2019](#)
- [Supreme Court of Queensland Act 1991](#) and [Civil Proceedings Act 2011](#)
- [Civil case management process](#) information sheet
- [Civil applications](#) information sheet
- [Guidelines for preparation of a civil appeal record book](#) information sheet
- [Queensland Courts website](#).

Court of Appeal Registry

Business address Ground floor, QEII Courts of Law
415 George Street, Brisbane

Postal address PO Box 15167
City East QLD 4002

Telephone 1800 497 117

Document filing The Registry accepts documents for filing 8.30am–4.30pm, Monday to Friday. Outside of these hours, apply for a late opening via Law Courts Security (07) 3738 7743. Advise Security of your direct contact details and the urgency to file documents after hours. Security will contact the rostered Registrar who will decide whether to allow or disallow the late opening. Fees apply for late openings.

Form 64 – Notice of Appeal

COURT OF APPEAL SUPREME COURT OF QUEENSLAND

CA NUMBER: *(inserted by Court of Appeal)*
NUMBER: *(inserted by Court of Appeal)*

Appellant: *(Insert appellant or respondent, as appropriate)*

AND

[First]Respondent: *(Insert appellant or respondent, as appropriate)*

NOTICE OF APPEAL

To the respondent

And to the Registrar, *(court appealed from)*

TAKE NOTICE that the appellant appeals to the Court of Appeal against *(specify whether the whole or a part, and if a part, which part)* of the order of the *(specify which court)* Court.

1. THE DETAILS OF THE JUDGMENT APPEALED AGAINST ARE –

Date of Judgment: *(insert date)*

Description of Proceedings *(eg: insert number and year)*

Description of parties involved in the proceedings *(including full names and party title eg. plaintiff)*

as

AND

as

Name of Primary Court Judge: *(insert name)*

Location of Primary Court: *(insert location)*

NOTICE OF APPEAL
Filed on Behalf of the (party)
Form 64, Version 4
Uniform Civil Procedure Rules 1999
Rule 747(1)

Name:
Address:
Phone No:
Fax No:
Email:



2. GROUNDS -

(Specify briefly the grounds of the appeal)

3. ORDERS SOUGHT -

(specify the order sought in lieu of that appealed from including any special order as to costs)

LEAVE TO APPEAL

(only complete this section where leave to appeal, being necessary, has been obtained)

4. This appeal is brought pursuant to leave given by *(insert court)* on *(date)*.

5. Leave to appeal was given for the following questions –

(a)

(b)

6. Leave to appeal was given because *(specify why leave to appeal was given)*

7. RECORD PREPARATION

I/We undertake to cause a record to be prepared and lodged, and to include all material required to be included in the record under the rules and practice directions and any order or direction in the proceedings.

PARTICULARS OF THE APPELLANT:

Name:

Residential or business address:

Appellant's solicitor's name:

and firm name:

Solicitor's business address:

Address for service:

DX(if any):

Telephone:

Fax:

E-mail address (if any):

[If the appellant has no solicitor:

appellant's address for service:

appellant's telephone number or contact number:

appellant's fax number (if any):

appellant's e-mail address (if any):]

PARTICULARS OF THE RESPONDENT:

NOTICE OF APPEAL

Filed on Behalf of the (party)

Form 64, Version 4

Uniform Civil Procedure Rules 1999

Rule 747(1)

Name:

Address:

Phone No:

Fax No:

Email:



Name:
Residential or business address:
Respondent's solicitor's name:
and firm name:
Solicitor's business address:
Address for service:
DX (if any):
Telephone:
Fax:
E-mail address (if any):

[If the respondent has no solicitor:
respondent's address for service:
respondent's telephone number or contact number:
respondent's fax number (if any):
respondent's e-mail address (if any):]

Signed: *(appellant or solicitor)*

Description: *(of signatory eg. solicitor)*

Dated: *(insert date)*

This Notice of Appeal is to be served on: *(insert respondent's name)*

NOTICE OF APPEAL
Filed on Behalf of the (party)
Form 64, Version 4
Uniform Civil Procedure Rules 1999
Rule 747(1)

Name:
Address:
Phone No:
Fax No:
Email:



Form 65 – Notice of Cross Appeal

COURT OF APPEAL SUPREME COURT OF QUEENSLAND

CA NUMBER: *(inserted by Court of Appeal)*

NUMBER: *(inserted by Court of Appeal)*

Appellant: *(Insert appellant or respondent, as appropriate)*

AND

[First] Respondent: *(Insert appellant or respondent, as appropriate)*

NOTICE OF CROSS APPEAL

To the appellant.

1. The respondent cross appeals from *(state the part of the decision to which the cross appeal relates)*

GROUND(S)

2. *(specify briefly the grounds of the cross appeal)*

ORDER SOUGHT

3. *(specify the order the respondent seeks)*

PARTICULARS OF THE RESPONDENT

Name:

Residential or business address

Respondent's solicitor's name:
and firm name:

Solicitor's business address:

Address for service:

Dx *(if any)*:

NOTICE OF CROSS APPEAL

Filed on Behalf of the *(party)*

Form 65, Version 1

Uniform Civil Procedure Rules 1999

Rule 755(1)

Name:

Address:

Phone No:

Fax No:

Email:



Telephone:
Fax:
E-mail address *(if any)*:

[If the respondent has no solicitor:
respondent's address for service:
respondent's telephone number or contact number:
respondent's fax number *(if any)*
respondent's e-mail address *(if any)*:]

Signed: *(respondent or solicitor)*

Description: *(of signatory eg. solicitor)*

Dated: *(insert date)*

This Notice of Cross Appeal is to be served on: *(insert appellant's name)*

NOTICE OF CROSS APPEAL
Filed on Behalf of the *(party)*
Form 65, Version 1
Uniform Civil Procedure Rules 1999
Rule 755(1)

Name:
Address:
Phone No:
Fax No:
Email:



Form 66 – Notice of Contention

COURT OF APPEAL SUPREME COURT OF QUEENSLAND

CA NUMBER: *(inserted by Court
of Appeal)*
NUMBER: *(inserted by
Court of Appeal)*

Appellant: *(Insert appellant or respondent, as
appropriate)*

AND

[First] Respondent: *(Insert appellant or respondent, as
appropriate)*

NOTICE OF CONTENTION

To the appellant

1. On the hearing of the appeal the respondent will contend that the decision of *(specify court)* should be affirmed on a ground other than a ground relied on by the *(specify court)*.

GROUND(S) OF CONTENTION

2. *(specify briefly the ground/s contended for)*

PARTICULARS OF THE RESPONDENT

Name:
Residential or business address
Respondent's solicitor's name:
and firm name:
Solicitor's business address:
Address for service:
Dx *(if any)*:
Telephone:
Fax:
E-mail address *(if any)*:

NOTICE OF CONTENTION
Filed on Behalf of the *(party)*
Form 66, Version 1
Uniform Civil Procedure Rules 1999
Rule 757(2)

Name:
Address:
Phone No:
Fax No:
Email:



[If the respondent has no solicitor:

respondent's address for service:

respondent's telephone number or contact number:

respondent's fax number *(if any)*

respondent's e-mail address *(if any):]*


Signed: *(respondent or solicitor to sign)*

Description: *(of signatory eg. solicitor)*

Dated: *(insert date)*

NOTICE OF CONTENTION
Filed on Behalf of the *(party)*
Form 66, Version 1
Uniform Civil Procedure Rules 1999
Rule 757(2)

Name:
Address:
Phone No:
Fax No:
Email:



Form 68 – Memorandum of Agreement to Dismiss an Appeal

COURT OF APPEAL/DISTRICT COURT* **SUPREME COURT OF QUEENSLAND**

APPEAL (inserted by Court
NUMBER: of Appeal)
NUMBER: (insert number of
court from which
appeal is
brought)

Appellant: (Insert appellant or respondent, as appropriate)

AND

[First] Respondent: (Insert appellant or respondent, as appropriate)

MEMORANDUM OF AGREEMENT TO DISMISSAL OF APPEAL

The appellant and respondent agree -

- (1) that this appeal should be dismissed by consent;
- (2) (specify 1 or more of the matters in R.762(3) as appropriate)

Signed: (appellant or solicitor to sign)

Description: (of signatory eg. solicitor)

Date: (insert date)

Signed: (respondent or solicitor to sign)

Description: (of signatory eg. solicitor)

Date: (insert date)

*[For District Court appeals, refer to District Court Practice Direction 5 of 2016]

MEMORANDUM OF AGREEMENT TO DISMISSAL OF APPEAL
Filed on Behalf of the (party)
Form 68, Version 2
Uniform Civil Procedure Rules 1999
Rule 762(2)

Name:
Address:
Phone No:
Fax No:
Email:

