

COURT OF APPEAL

Civil applications

Types of civil applications

The most common types of originating applications heard by the Court of Appeal include:

- originating application for an extension of time to appeal
- originating application for leave to appeal pursuant to the [Queensland Civil and Administrative Tribunal Act 2009](#)
- originating application for leave to appeal pursuant to s118 [District Courts Act of 1967](#)
- The Court can also hear applications relating to existing Court of Appeal matters. For these types of interlocutory applications, the Registrar (Appeals) will ordinarily arrange directly with the parties and direct requirements for the individual circumstances of the case.

The most common types of interlocutory applications heard by the Court of Appeal include:

- application for stay of execution
- application for security for costs
- application to amend a Notice of Appeal
- application for dismissal for want of prosecution
- application for leave to adduce evidence.

How to commence an originating application

To apply to the Court, an application ([Form 69](#)) and a supporting affidavit ([Form 46](#)) must be filed and served. Refer to the attached examples of the forms.

For a new proceeding this must be done within the number of days allowed by the relevant legislation unless the application is for an extension of time. The time allowed can vary and may run from the day on which the judgment was pronounced, or it may run from when a copy of the judgment was received. The relevant legislation must be checked to ensure you are within time or else an extension of time must also be applied for.

The application must also list the affidavits to be relied on by the applicant at the hearing. The applicant must specify in the application the orders or other relief sought in the proceeding. If the application is made under an Act, it must state the name of the Act and section number under which the application is made.

The names in the heading of the application should be the same as in the order you wish to appeal, even including those parties who are not a party to the application in the Court of Appeal. However after each party's name you must add what that party's role is in the Court of Appeal proceedings. Anyone directly affected by the relief sought in the application must be named as a respondent.

Paragraphs 47 and 48 of [Practice Direction 3 of 2013](#), relate to applications for extension of time and leave to appeal. In these cases, at least the following documents must be exhibited to the supporting affidavit:

- a copy of the reasons for judgment
- a copy of the sealed order you wish to appeal
- a copy of the proposed Notice of Appeal ([Form 64](#)).

The affidavit must also set out the reasons why leave to appeal or extension of time ought be given, and in the case of extension of time, also give the reason for the delay, and whether any prejudice might result to a respondent because of the delay. Where this is not done the application will ordinarily be refused for filing.

Pursuant to Rule 29(2) of the *Uniform Civil Procedure Rules 1999*, the respondent may file and serve a notice of address for service using [Form 8](#) of the *Uniform Civil Procedure Rules 1999*. The Court may also require a respondent to file and serve a notice of address for service in Form 8.

Refer to:

- the attached examples of an application, an affidavit and a Notice of Appeal as a guide only.
- Rule 29(2) of the [Uniform Civil Procedure Rules 1999](#)
- [Form 69](#) Application to Court of Appeal of the *Uniform Civil Procedure Rules 1999*
- [Form 64](#) Notice of Appeal of the *Uniform Civil Procedure Rules 1999*
- [Form 46](#) Affidavit of the *Uniform Civil Procedure Rules 1999*
- [Form 8 of the Uniform Civil Procedure Rules 1999](#).

Cost of filing an application

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 application may be reduced by the making of a fee reduction order.

Refer to:

- [Uniform Civil Procedure \(Fees\) Regulation 2019](#)
- [Reduction of civil court fees](#).

Hearing date assigned to the application

Where an applicant has complied with the requirements of [Practice Direction 3 of 2013](#) and any specific direction of the Registrar (Appeals), a hearing date will be fixed by the Registrar (Appeals).

Preparation of material intended to be relied upon at hearing

Pursuant to [Practice Direction 3 of 2013](#), the following steps are required to be taken before an application can be heard. Refer to the [Civil case management process](#).

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



Each respondent must lodge and serve a written outline of argument, list of authorities (list only required, no copies), and a response to an applicant's draft index within 21 days of receiving the applicant's outline and draft Index.

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

The applicant must lodge for approval by the Registrar (Appeals) a record book index which has been agreed to by all parties within 10 weeks of commencing the application.

The applicant must lodge a record book and serve a copy on each other party within 12 weeks of commencing the application.

- Refer to the [Guidelines for preparation of a civil appeal record book](#) information sheet

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 five copies of this **amended** written outline and serve a copy on each other party 14 days after the lodging of the record book.

Parties must lodge four copies of their list of authorities 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. Refer to 'list of authorities' section below.

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](#).

The Deputy Registrar (Appeals), 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 of Appeal which may order that the application be struck out with costs.

- Refer to the [Civil case management process](#) information sheet.

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 of Appeal. The outline should be concise and **no more than 10 pages**. It should briefly explain what the case is about and summarise the reasons of the primary court, so far as they are relevant to the points taken on appeal. The outline should 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. =

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 application. =

A late written outline of argument may not be accepted for filing in the Court of Appeal Registry, without such written explanation. =

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

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



Record book

A record book must be prepared by the Applicant 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.

A list of authorities must be prepared by the Applicant and respondent.

A copy of the list of authorities is to be delivered and served with each copy of the outline of argument. The applicant must lodge three copies of their Part A authorities (or an agreed bundle of authorities), and each respondent must lodge three copies of their Part A authorities that are additional to those of the applicant (no duplication), not less than two clear court days before the hearing.

Dismissing an application by consent before the hearing

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

When the parties agree that the application should be dismissed by consent, a Form 68 must be lodged. When the Registrar (Appeals) stamps the Form 68 with the seal of the Court, it takes effect as an order dismissing the application and providing for costs in the way stated in the form. The attached Form 68 example should be used as a guide only.

Refer to:

- Rule 762(2), [Uniform Civil Procedure Rules 1999](#)
- [Form 68, Uniform Civil Procedure Rules 1999](#).

Consent orders

A consent order which seeks to allow an application will not be sealed by the Registrar (Appeals) 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 application may be listed for hearing to determine the issue of costs.

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

Use of mediation

Mediation is a very useful tool and should be considered by the parties before 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.



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
- [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 8 – Notice of Address for Service

SUPREME/DISTRICT/MAGISTRATES COURT OF QUEENSLAND

REGISTRY:
NUMBER:

Plaintiff: *(Insert Name)*

[First] Defendant: *(Insert Name)*

[Second Defendant:] *(Insert Name)*

NOTICE OF ADDRESS FOR SERVICE

TAKE NOTICE that the *First* Respondent has the address for service set out below.

Filed in the *(place)* Registry on *(date)* :

Registrar: *(registrar to sign and seal)*

PARTICULARS OF THE [FIRST] RESPONDENT:

Name:

Respondent's residential or business address:

Respondent's solicitor's name:

and firm name:

Solicitor's business address:

Address for service *(address / email)*:

Dx *if any* :

Telephone:

Fax:

E-mail address *if any* :

NOTICE OF ADDRESS FOR SERVICE	Name:
Filed on Behalf of the [First] Respondent(s)	Address:
Form 8, Version 2	
Uniform Civil Procedure Rules 1999	Phone No:
Rule 29	Fax No / Email:



[If the respondent has no solicitor:

respondent's address for service (*address / email*):

respondent's telephone number or contact number:

respondent's fax number (*if any*):

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

Signed: *(respondent or solicitor to sign)*

Description: *(of signatory eg. solicitor)*

Dated: *(insert date)*



Form 46 – Affidavit

SUPREME/DISTRICT/MAGISTRATES COURT OF QUEENSLAND

REGISTRY:
NUMBER:

Plaintiff: *(Insert Name)*

AND

[First] Defendant²: *(Insert Name)*

AND

[Second Defendant]: *(Insert Name)*

AFFIDAVIT

(Full name of deponent) of *(residential or business address, or place of employment, occupation or other description)* states on oath *[or: solemnly and sincerely affirms and declares]:*

1. I am *etc*
2. Exhibit *A* to this affidavit is *etc*

If the affidavit extends over more than one page, at the foot of the first and every other page except the last:

Page *1*

Signed: *(deponent/s to sign)*

Taken by: *(person taking the affidavit to sign)*

At the end of the body of the affidavit:

Sworn [or: Affirmed] by *(full name)* on *(date)* at *(place)* in the presence of:

Signed: *(deponent/s to sign)*

(Person taking the affidavit to sign)

Deponent

(Commissioner for Declarations/Solicitor/JP)

AFFIDAVIT
Filed on Behalf of the (party)
Form 46, Version 1
Uniform Civil Procedure Rules 1999
Rule 431

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



[who certifies that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that that person made the affidavit. *(If required: see R. 433(1)).*

[who certifies that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that that person made the affidavit, but was physically incapable of signing it. *(If required: see R. 433(2)).*

¹ For proceedings commenced by Originating Application for "Plaintiff" substitute "Applicant"

² For proceedings commenced by Originating Application for "Defendant" substitute "Respondent"



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)*.

GROUNDS 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:



Form 69 – Application to Court of Appeal

COURT OF APPEAL SUPREME COURT OF QUEENSLAND

CA NUMBER: *(inserted by Court 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)*

APPLICATION TO COURT OF APPEAL

TAKE NOTICE that the *(party applying)* is applying to the Court of Appeal for the following orders:

1. *(Set out the orders sought in numbered paragraphs)*

(1).....
.....
(2).....
.....
(3).....
.....

2. THE DETAILS OF THE JUDGMENT APPEALED AGAINST ARE –

Date of Judgment:

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

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

APPLICATION TO COURT OF APPEAL
Filed on Behalf of the *(party)*
Form 69, Version 4
Uniform Civil Procedure Rules 1999
Rule 779(2)

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



.....as
.....
.....as
.....

and

.....as
.....
.....as
.....

Name of Primary Court Judge:

Location of Primary Court:

(This section to be included ONLY when application is being made for leave to appeal. BRIEFLY set out the reasons justifying the granting of leave to appeal)

3. THE REASONS JUSTIFYING THE GRANTING OF LEAVE ARE-

This application will be heard by the Court of Appeal at Brisbane

on: *(insert date of hearing)*

at: *(insert time of hearing)*

Filing date: *(insert date)*

Registrar: *(registrar to sign and seal)*

If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.

On the hearing of the application the applicant intends to rely on the following affidavits:

Affidavit of ABC sworn *(date)*

Affidavit of DEF to be sworn *(or as the case may be)*.

PARTICULARS OF THE APPLICANT:



Name:
Residential or business address
Applicant'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 applicant has no solicitor:
applicant's address for service:
applicant's telephone number or contact number:
applicant's fax number *(if any)*:
applicant's e-mail address *(if any)*:

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)*:

[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: *(party or solicitor to sign)*

Description: *(of signatory eg. solicitor)*

Dated: *(insert date)*

This application is to be served on: *(insert name of party)*

