

# SUPREME COURT OF QUEENSLAND

## **AMENDED PRACTICE DIRECTION NUMBER 11 OF 2023**

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### **CONSENT ORDERS OF THE REGISTRAR**

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1. Practice Direction 4 of 2010 is repealed.
2. This Practice Direction provides a streamlined and cost effective procedure for obtaining a consent order from the Registrar under rule 666 of the *Uniform Civil Procedure Rules 1999* (UCPR), and offers guidance as to the types of orders which may be made by the Registrar.
3. The Registrar has jurisdiction, where it otherwise does not exist, pursuant to rule 452(2) UCPR, to hear and determine the applications listed in paragraph 4.
4. Applications where consent orders should ordinarily be sought from the Registrar in the first instance include applications for:
  - (a) the awarding or fixing of costs, including reserved costs;
  - (b) the assessment of costs (an affidavit exhibiting a copy of the order or other authority entitling the party to costs is required);
  - (c) the appointment of an assessor to assess costs;
  - (d) the adjournment of an application with a costs or other simple order;<sup>1</sup>
  - (e) the transfer of a District or Magistrates Court proceeding to the Supreme Court (an affidavit justifying the transfer is required);
  - (f) the transfer of a Supreme Court proceeding from one registry to another;
  - (g) the transfer of a Supreme Court proceeding to the District Court (an affidavit justifying the transfer and demonstrating how the proceeding is one which can be tried within the District Court is required);

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<sup>1</sup> Note: if all the parties to an application consent to an adjournment of the hearing of the application, under rule 30 or rule 31(6) UCPR, and seek no other orders, they may adjourn the application by filing a consent in the approved form (Form 11). The forms approved under the UCPR are published on the Queensland Courts' website: <https://www.courts.qld.gov.au/about/forms>.

- (h) directions as to the conduct of a proceeding not under judicial case management (for example, but not restricted to, judicial review applications);
  - (i) extension of time for steps to be taken prior to, or in the course of, a proceeding (for example, pre-court procedural steps under the *Personal Injuries Proceedings Act 2002*);
  - (j) extension of an injunction made or an undertaking given in a proceeding before a judge;
  - (k) provision of security for costs, or dealing with security held for that purpose (for example, substituting a bank guarantee for money, calling in a guarantee, paying monies out of court);
  - (l) the stay of a judgment or the enforcement of an order pending the determination of an appeal;
  - (m) the setting aside of a judgment entered in default of appearance;
  - (n) leave to discontinue a proceeding;
  - (o) leave to commence a proceeding and other orders under the *Personal Injuries Proceedings Act 2002* (Qld), *Motor Accident Insurance Act 1994* (Qld) or *Workers' Compensation and Rehabilitation Act 2003* (Qld) (save where an alteration to the limitation period is required);
  - (p) orders for mediation or another alternative dispute resolution process;
  - (q) orders under the *Corporations Act 2001* (Cth) or Schedule 1A UCPR exercising powers of the Court prescribed under Schedule 1B UCPR;
  - (r) orders in relation to the filing and service of expert evidence<sup>2</sup> and directions about experts' conferences and joint reports<sup>3</sup>;
  - (s) security for costs of appeal, dismissing an application for leave to appeal or for other procedural directions in relation to the conduct of an appeal.
5. Applications for consent orders of the kind contemplated in paragraph 4 of this Practice Direction, in proceedings allocated to the Caseflow Management List, must be made to the Resolution Registrar.<sup>4</sup>

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<sup>2</sup> Under rule 427(2)(a) UCPR.

<sup>3</sup> Under rule 428 UCPR.

<sup>4</sup> See [Practice Direction 9 of 2023](#).

6. Applications where consent orders are more appropriately made by a judge, and will generally be refused by the Registrar, include applications for:
- (a) orders about expert evidence, other than of a kind referred to in paragraph 4(r) above, including limitations on expert evidence;<sup>5</sup>
  - (b) orders about limitations on evidence;
  - (c) trial by affidavit;
  - (d) directions in matters on the Commercial List, Supervised Case List, Supervised Case List for matters involving Self Represented Parties, and other judicially case managed matters – unless the Court has directed that the particular application be heard in the Applications List;
  - (e) rectification of a will;
  - (f) declaratory relief;
  - (g) a “guillotine” order;
  - (h) the sanctioning of a settlement (for example, for children or persons under a legal disability);
  - (i) an order that an application continue as a claim;
  - (j) consolidation of proceedings or a direction that proceedings be heard together;
  - (k) an order containing an undertaking (other than the extension of an undertaking made or given before a judge);
  - (l) extension of time orders under s 288 of the *Property Law Act 1974* (property adjustment proceedings in relation to de facto relationships);
  - (m) a cross-vesting order;
  - (n) an order seeking dispensation with a procedural requirement under the UCPR (for example, dispensing with the signing or filing of a request for trial date form);
  - (o) an order which a judge would not routinely make without submissions, authorities or detailed evidence or explanation;
  - (p) an order directing the disclosure of information about a third party which is protected by privacy legislation;

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<sup>5</sup> See rule 427(2)(b) to (i) UCPR.

- (q) an order under the *Corporations Act 2001* (Cth) or Schedule 1A UCPR exercising powers of the Court which are not prescribed under Schedule 1B UCPR;
  - (r) the listing or delisting of a matter for trial or hearing in the civil list;
  - (s) an order seeking to vary orders or directions made by a judge about the conduct of the proceeding (unless the Registrar has been directed by the judge that it is appropriate to make the order sought);
  - (t) a final order in a family provision application under part 4 of the *Succession Act 1981* (Qld).
7. The documents lodged when a consent order under rule 666 UCPR is sought must contain sufficient, yet concise information (including copies of relevant statutory provisions), to persuade the Registrar that the order should be made. The Registrar should not need to search out legislation, or material in the court file, to check that pre-requisites for the making of the consent order have been satisfied.
  8. The following documents must be filed together:
    - (a) a *Request for Consent Order of Registrar* (Form 59A) – if respective parties have signed separate Request forms, all forms must be attached together when filed. If the party is legally represented the form must be signed by a solicitor personally and must state the solicitor’s name and the firm name;
    - (b) a copy of the proposed draft order – *Consent Order* (Form 59);
    - (c) an affidavit may be filed if necessary (this must be as concise as possible and not exhibit unnecessary or extensive material).<sup>6</sup>
  9. If the order sought is in relation to a matter listed for hearing in the Applications List, the documents in paragraph 8 above must be filed by no later than 4.00pm the day before the hearing. The Registrar will notify the parties of the result. If the Registrar is not persuaded to make the order sought, the Registrar will inform the parties and refer the matter to the senior judge listed in Applications in the relevant week.
  10. If the proceeding is on the Caseflow Management List, and the Resolution Registrar is not persuaded to make the order sought, the Resolution Registrar will refer the matter to the Caseflow judge in accordance with [Practice Direction 9 of 2023](#).
  11. Paragraph 6(r) (in so far as it relates to listing of matters for trial) and paragraph 8 do not apply to orders made by consent in case management conferences, Caseflow conferences and Caseflow reviews before the Resolution Registrar.

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<sup>6</sup> The documents may be filed electronically, pursuant to [Principal Registrar \(Supreme and District Courts\) – Approval 1 of 2020](#).

12. In light of the philosophy and the overriding obligations on parties under rule 5 UCPR, if a matter under paragraph 4 is in the first instance brought before a judge, or a party takes the position of “neither consenting to nor opposing” the making of orders which are reasonably warranted and could have been made by consent utilising rule 666, the judge may require an affidavit of justification. Adverse cost consequences may follow should the judge consider the matter in that instance could appropriately have been disposed of by consent, utilising rule 666.



**H Bowskill**  
Chief Justice  
20 August 2024

**Revision History:**

2 May 2023 - Practice Direction 11 of 2023 issued  
20 August 2024 - Practice Direction amended and reissued