

QCAT Practice Direction No 8 of 2009

Personal service of documents

Updated 20 November 2013

This Practice Direction applies when a document is required to or may be given to or served on an entity personally. For other forms of service apart from personal service, see *Queensland Civil and Administrative Tribunal Rules 2009*, rule 39.

Personal service on individuals

1. The procedure for serving a document personally on an individual is set out in this document:
 - (a) generally, at 2.
 - (b) for a child, at 3.
 - (c) for an impaired person, at 4.
 - (d) for a prisoner, at 5.

Personal service on an individual

2. This procedure applies to personal service of a document on an individual in Queensland, generally:
 - (a) The original or a copy of the document must be given to the individual in person.
 - (b) If the individual being served is given a copy of the document, it is not necessary to show them the original.
 - (c) If the individual being served refuses to take the document, it is sufficient if the person serving the document puts it down in the individual's presence and states what the document is.
 - (d) If service under a), b) or c) is not practicable, it may be served by being left with someone who is apparently an adult living at the individual's last known place of business or residence.
 - (e) If the person intended to be served resides or carries on business more than 50km from the nearest Registry of the tribunal the document may be served by posting a copy of it to the person's

residential or business address. The “nearest Registry of the tribunal” means the nearest of either the Brisbane registry of the tribunal, or a Queensland Magistrates Court registry.

This procedure does not apply when a proceeding is started against a person in relation to a business. For service in those circumstances, see paragraph 11 of this Practice Direction.

Personal service on a child

3. (a) This procedure applies to personal service of a document on a child in Queensland unless:
 - (i) the child has entered into an agreement under the *Residential Tenancies and Rooming Accommodation Act 2008*; or
 - (ii) the tribunal orders otherwise.
- (b) Instead of serving the document personally on a child, the document must be served personally on either:
 - (i) the child’s representative for the proceeding to which the document relates; or
 - (ii) the child’s parent or guardian; or
 - (iii) an adult who has the care of the child or with whom the child lives.

Personal service on a person with impaired capacity

4. This procedure applies to personal service of a document on a person in Queensland with impaired capacity. Instead of serving the document personally on the person, the document must be served personally on either:
 - (a) the person’s representative for the proceeding to which the document relates; or
 - (b) if there is no-one under paragraph (a) – a person who has been appointed as a guardian or administrator for the person with impaired capacity, or a person holding an enduring power of attorney for the person with impaired capacity; or
 - (c) if there is no-one under paragraph (a) or (b) – an adult who has the care of the person or with whom the person lives.

“*Impaired capacity*”, for a person for a matter, means the person does not have capacity for the matter.

“*Capacity*”, for a person for a matter, means the person is capable of –

- (a) understanding the nature and effect of decisions about the matter; and
- (b) freely and voluntarily making decisions about the matter; and
- (c) communicating the decisions in some way.

Personal service on a prisoner

5. This procedure applies to personal service of a document on a prisoner in Queensland. Instead of serving the document personally on the prisoner, the document must be served personally on either:
 - (a) if the public trustee is the manager of the prisoner’s estate under the *Public Trustee Act 1978*, part 7 and the proceeding is of a property nature or for the recovery of a debt or damage – the public trustee; or
 - (b) the prisoner’s representative for the proceeding to which the document relates; or
 - (c) if the prisoner is not represented in the proceedings, the person in charge of the prison in which the prisoner is imprisoned, who, in turn, must give the document to the prisoner.

Personal service on an entity in Queensland other than an individual

6. The procedure for serving a document personally on an entity in Queensland other than an individual is set out in this document:
 - (a) for a corporation, at 7
 - (b) for an incorporated association, at 8
 - (c) for an unincorporated association, at 9
 - (d) for a partnership, at 10
 - (e) for a business, at 11.

Personal service on a corporation

7. A document may be served personally on a corporation in Queensland by:
- (a) leaving it at or posting it to the company's registered office;
 - (b) serving it personally on a director of the company who resides in Australia or in an external Territory;
 - (c) if a liquidator of the company has been appointed – leaving it at, or posting it to the address of the liquidator's office in the most recent notice of that address lodged with the Australian Securities & Investments Commission;
 - (d) if an administrator of the company has been appointed – leaving it at, or posting it to, the address of the administrator's office in the most recent notice of that address lodged with the Australian Securities & Investments Commission.

Personal service on an incorporated association

8. A document may be served personally on an incorporated association in Queensland by:
- (a) serving a copy of the document personally on the secretary, president, treasurer or other similar officer of the association; or
 - (b) by leaving it at or posting it to:
 - (i) the nominated address of the association; or
 - (ii) by leaving it at or posting it to the address of the secretary, president or treasurer of the association;

as shown in the records kept under the *Associations Incorporation Act 1981*.

Personal service on an unincorporated association

9. A document may be served personally on an unincorporated association in Queensland by:
- (a) serving a copy of the document personally to the secretary, president, treasurer or other similar officer of the association;

- (b) by leaving it at or posting it to the usual or last known residential or business address of the secretary, president, treasurer or other similar officer of the association.

Personal service on a partnership

10. A document may be served personally on a partnership in Queensland by:
- (a) if the partnership is registered under the *Partnership Act 1981* – leaving it at or posting it to the partnership’s registered office; or
 - (b) serving a copy of the document personally on one or more of the partners; or
 - (c) serving a copy of the document personally on a person at the principal place of business of the partnership in Queensland or who appears to have control or management of the business there.

Service by any of those methods is taken to be service on all partners at the time of service.

Personal service on a business

11. (a) This procedure applies to personal service of a document where:
- (i) a proceeding is started against a business in Queensland; or
 - (ii) a proceeding is started against a person in Queensland in relation to a business in Queensland; and
 - (iii) the business is carried on by the person under a name other than the person’s own name, whether or not the business name is registered on the Business Names Register administered by the Australian Securities & Investments Commission.
- (b) The document may be served by leaving a copy at the place of business with a person who appears to have control or management of the business there.

Personal service in Australia outside Queensland

12. Under section 15 of the *Service and Execution of Process Act 1992* (Cth), a document may be served in another State apart from Queensland. There are special requirements in that Act about how a document must be served in another State. Refer to the *Service and*

Execution of Process Act 1992 for further information about what is required.

Rule 39 – The relevant address for an entity that does not have an address for service

13. For the purpose of either posting a document or leaving a document with someone pursuant to rule 39 (*Giving other documents to other persons*) the *relevant address* where the entity does not have an address for service is:
 - (a) for an individual, their last known residential or business address;
 - (b) for an entity other than an individual:
 - (i) its last known business address; and
 - (ii) the last known residential address of a person apparently in a position of authority in relation to that entity.



*Justice David Thomas
President*

20 November 2013