

QCAT Practice Direction No 4 of 2011

Arrangements for the mediation and determination of minor civil disputes

Effective 1 November 2011

1. This Practice Direction replaces Practice Direction 6 of 2009.
2. This Practice Direction applies to all minor civil disputes (*see definition below*).

Certain minor civil disputes will be listed for hearing

3. Unless otherwise ordered by the tribunal, applications relating to the following will be listed for hearing without first being referred for mediation by the tribunal:
 - a. tenancy matters;
 - b. a claim that is the subject of a dispute under the *Building Act 1975*, chapter 8, part 2A about a dividing fence, or a part of a dividing fence, forming part of a pool barrier;
 - c. an application under sections 38 or 39 of the *Neighbourhood Disputes Resolutions Act 2011* about unauthorised construction or demolition of a dividing fence; and
 - d. any minor civil dispute for an amount up to \$3,000.

All other minor civil disputes will be referred for mediation

4. Unless otherwise ordered by the tribunal, all other applications about minor civil disputes will in the first instance be referred for mediation.
5. The mediation will be conducted by a person appointed by the tribunal or principal registrar, or nominated by the Director of the Alternative Dispute Resolution Branch of the Department of Justice and Attorney General.
6. The mediation may be conducted in person or by telephone or a combination of these.
7. If the dispute is not resolved, then the application will be listed for hearing.

8. Unless otherwise ordered by the Tribunal, the hearing will not be on the same day as the mediation.
9. If a party wants an application to be heard without first being referred for mediation they should send that request in writing to the principal registrar and must state the reason for the request.
10. If the dispute is not resolved, the mediator must help the parties to identify any issues about which they agree and disagree.
11. The mediator must also discuss with the parties whether any thing said or done in the mediation may be admitted into evidence in the hearing.
12. If the parties agree, the mediator may complete a list of issues in dispute and issues not in dispute. The mediator must attach this list to the mediation certificate and file it with the tribunal.
13. If a list of issues is filed, at the hearing the tribunal may hear from the parties and determine the application on the basis of the list of issues.
14. The parties should use the list of issues to prepare for the hearing by considering what they want to say about each issue and by bringing to the hearing any documents about it.

Hearing of all minor civil disputes

15. The following arrangements will apply for the hearing of all minor civil disputes, including the minor civil disputes referred to in paragraph 3 of this Practice Direction.
16. On the day of hearing, unless it is not appropriate to do so, the tribunal will give its decision and oral reasons for the decision. An audio recording of those reasons may be requested at the QCAT Registry (Brisbane) within 14 days after the decision takes effect.

*Justice Alan Wilson
President*

27 October 2011

Definition of minor civil dispute

Minor civil dispute—

- 1 *Minor civil dispute* means—
 - (a) a claim to recover a debt or liquidated demand of money, with or without interest, of up to the prescribed amount; or
 - (b) a claim arising out of a contract between a consumer and trader, or a contract between 2 or more traders, that is—
 - (i) for payment of money of a value not more than the prescribed amount; or
 - (ii) for relief from payment of money of a value not more than the prescribed amount; or
 - (iii) for performance of work of a value not more than the prescribed amount to rectify a defect in goods supplied or services provided; or
 - (iv) for return of goods of a value not more than the prescribed amount; or
 - (v) for a combination of any 2 or more claims mentioned in subparagraphs (i) to (iv) where the total value of the combined claim is not more than the prescribed amount; or
 - (c) a claim for an amount of not more than the prescribed amount for damage to property caused by, or arising out of the use of, a vehicle; or
 - (d) a claim for repair of a defect in a motor vehicle under the *Property Agents and Motor Dealers Act 2000*, section 248 or 324; or
 - (e) a tenancy matter; or
 - (f) a claim that is the subject of a dispute under the *Neighbourhood Disputes Resolution Act 2011*, chapter 2 and is for an amount not more than the prescribed amount.
- 2 However, if an enabling Act confers jurisdiction on the tribunal to deal with a claim (however called) within the meaning of paragraph 1(a), the claim is not a minor civil dispute unless the enabling Act expressly states it is a minor civil dispute.

(Queensland Civil and Administrative Tribunal Act 2009, Schedule 3)

Definition of prescribed amount

Prescribed amount means \$25,000. This prescribed amount does not apply to the following:

- a. a claim for repair of a defect in a motor vehicle under the *Property Agents and Motor Dealers Act 2000*, section 324;
- b. a tenancy matter; or
- c. a claim that is the subject of a dispute under the *Building Act 1975*, chapter 8, part 2A.

(*Queensland Civil and Administrative Tribunal Act 2009*, Schedule 3)