

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

MINOR CIVIL DISPUTES - CHANGES FOR SMALL CLAIMS AND MINOR DEBT MATTERS

What did Small Claims Tribunals previously do?

Small Claims Tribunals previously dealt with a number of different types of disputes, including small claims involving amounts up to \$7,500, as well as residential tenancy applications, dividing fences disputes, and certain disputes under the *Property Agents and Motor Dealers Act 2000*.

Do the *Small Claims Tribunals Act 1973* and the Small Claims Tribunal continue to exist?

No. When QCAT commenced, the *Small Claims Tribunals Act 1973* was repealed and the Small Claims Tribunals ceased to exist.

The matters previously dealt with by Small Claims Tribunals will be dealt with by QCAT.

The *Residential Tenancies and Rooming Accommodation Act 2008* was amended to allow for applications to be made to QCAT rather than a Small Claims Tribunal.

The role of the Residential Tenancies Authority has not changed. The Authority still manages the conciliation process, which, except in the case of an urgent application, must be undertaken before an application is filed in QCAT.

Other relevant pieces of legislation that gave Small Claims Tribunals the power to deal with certain disputes have been amended in the *Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009* to allow QCAT to deal with those matters instead.

What did the Magistrates Court previously do?

The Magistrates Court previously heard minor debt claims using simplified procedures set out in the *Uniform Civil Procedures Rules 1999*.

These matters are now dealt with by QCAT. An applicant still has the option of starting proceedings in a Magistrates Court, but will not be able to use the simplified procedures as is currently the case.

What are “minor civil disputes”?

QCAT’s minor civil dispute jurisdiction combines the matters currently being heard in the Small Claims Tribunal and the minor debt jurisdiction of the Magistrates Courts.

The disputes covered by this jurisdiction include:

- debt disputes - a claim to recover a debt or liquidated demand of money
- consumer and trader disputes - disputes between a consumer and a trader or between two or more traders including claims for repair of a defect in a motor vehicle under the *Property Agents and Motor Dealers Act 2000*
- property damage disputes - claims for payment of an amount for damage to property caused by, or arising out of the use of, a vehicle
- residential tenancy disputes including rooming accommodation disputes
- dividing fence disputes.

The maximum amount of money that can be claimed in QCAT's minor civil dispute jurisdiction will be \$25,000. This is an increase from the Small Claims Tribunal and minor debt monetary jurisdiction of \$7,500.

Which members in QCAT hear these matters?

Adjudicators appointed under the *Queensland Civil and Administrative Tribunal Act 2009* will deal with these matters. These are the equivalent positions to the judicial registrars in the Magistrates Court who previously dealt with these matters. A judicial registrar will continue to deal with these matters on behalf of QCAT, in Townsville.

How does QCAT deal with minor civil disputes?

Within the Civil Disputes Division, minor civil disputes are dealt with in much the same way as they currently are.

QCAT has the power to grant the same types of orders in minor civil dispute matters as the small claims tribunal and the Magistrates Court.

Are minor civil disputes heard in the original or review jurisdiction of the QCAT?

Minor civil disputes are within the original jurisdiction of QCAT.

The original jurisdiction of QCAT means that the tribunal makes a primary decision about the matter. It is the first time that the matter has been decided by an independent body, even if the matter has gone through mediation or conciliation.

Where is the QCAT registry located?

The QCAT registry is located on Level 9, Bank of Queensland Building, 259 Queen Street Brisbane. QCAT also has regional offices which operate through Magistrates Courts throughout Queensland.

How are minor civil disputes appealed?

The *Queensland Civil and Administrative Tribunal Act 2009* sets out the general rights of appeal from decisions of QCAT.

For minor civil disputes, leave of the tribunal must be sought in order to proceed with an appeal to the Appeal Tribunal.

Previously there was no appeal from a decision of a small claims tribunal or from the decision of a magistrate in respect of a minor debt claim.

What has happened to the *Uniform Civil Procedure Rules 1999* and practice directions in respect of minor debt claims?

The Rules Committee, established under the *Queensland Civil and Administrative Tribunal Act 2009* determines the rules for QCAT.

The President has made the practice directions for QCAT.

The *Uniform Civil Procedure Rules 1999* and practice directions of the Magistrates Court were taken into account in the development of the rules and practice directions.