Queensland Government
Department of Justice and Attorney-General

Office of the Commissioner for Body Corporate and Community Management

Practice Direction 21

ADJUDICATOR'S ORDERS

This Practice Direction is issued pursuant to *section 233* of the *Body Corporate and Community Management Act 1997.* Its purpose is to provide further information on the policies and procedures applying to dispute resolution applications lodged with the Commissioner's Office. Nothing in this Practice Direction supersedes or overrides the requirements of the legislation and the Commissioner retains the discretion provided for in the legislation in the case management of dispute resolution applications.

Role of the Commissioner's Office

1. Once a final order is made by an adjudicator to determine a dispute resolution application, the file is closed by the Commissioner's Office. Staff of the Commissioner's Office, including the Commissioner and the adjudicator, have no further role in relation to the dispute.

2. The statement of reasons for the order is the full explanation for and basis of the order made. The Commissioner's Office cannot further explain or interpret adjudicator's orders, as this would amount to the provision of legal advice which is beyond the legislative role of the Office.

3. An adjudicator generally has no capacity to review or amend a final order once it has been issued.

Appeal of orders

4. The Commissioner has no capacity to review an adjudicator's decision.

5. A departmental adjudicator's order can be appealed to the Commercial and Consumer Tribunal by a person [defined in Act, *section 289*] aggrieved by the order.

6. A specialist adjudicator's order can be appealed to the District Court by a person [defined in Act, *section 289*] aggrieved by the order.

7. An appeal must be lodged within six weeks of receiving a copy of the order, unless the appeal body allows the appeal to be started later.

8. Appeals are only heard on a question of law.

9. An appellant can apply to the appeal body for a stay (a stop) on the adjudicator's order pending the outcome of the appeal.

10. There is no right to appeal a consent order.

Enforcement of orders

11. The Commissioner has no role in the enforcement of adjudicator's orders.

12. An adjudicator's order can be enforced in the Magistrates Court as if it were a judgment handed down by a court. Refer to the Factsheet: *Enforcement of adjudicators' orders and penalties* for more details.

13. To enforce an order, the person in whose favour the order is made must file with the registrar of the Magistrates Court:

    a. a copy of the adjudicator's order certified by the Commissioner
    b. a sworn statement stating the amount outstanding under the order, or
    c. a sworn statement stating that the specific action imposed in the order has not been undertaken.

14. Certified copies of orders can be supplied by the Commissioner's Office on request.

15. An application for enforcement by the Magistrates Court is not an appeal or a re-hearing of the merits of the original application.

Contravention of orders

16. The Commissioner has no role in respect to the contravention of adjudicator's orders.

17. A person who contravenes an adjudicator's order (other than an order for the payment of money) commits an offence, which can attract a penalty of up to $40,000.

18. Certain persons related to a dispute [detailed in Act, *section 288*] may commence proceedings for an offence in the Magistrates Court.

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A/COMMISSIONER