

SUPREME COURT OF TASMANIA

PRACTICE DIRECTION

No 5 of 2014

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The following Practice Direction is published by direction of the Chief Justice, the Honourable Justice Alan Blow OAM.

APPOINTMENT OF ARBITRATORS FOR BOUNDARY FENCE DISPUTES

- 1 The Court has the power to appoint an arbitrator to decide disputes in relation boundary fences pursuant to s26 of the *Boundary Fences Act* 1908 and s11(3)(b) of the *Commercial Arbitration Act* 2011.
- 2 The parties to a boundary fence dispute may appoint any arbitrator that they agree upon, without contacting the Court. This Practice Direction is intended to govern the procedure of the Court for cases when the parties are unable to agree on the appointment of an arbitrator.
- 3 An application for the appointment of an arbitrator may be made by a letter addressed to the Registrar, Supreme Court of Tasmania, GPO Box 167, Hobart, Tasmania 7001 [or Salamanca Place, Hobart, Tasmania 7000].
- 4 Such applications, and any written material received from the applicant, will be forwarded to the other party or parties by the Registrar. The Registrar will invite submissions within 14 days as to whether an arbitrator should be appointed and, if so, whom.
- 5 After the 14 days have expired, the Registrar will ordinarily refer the matter to the associate judge for a decision. If he is unavailable, paragraph 8 will apply.
- 6 If the associate judge thinks fit, he may appoint an arbitrator without any hearing.

- 7 Alternatively, the associate judge may decide that the request should be dealt with as a contentious matter. In that situation, the applicant will be required to file and serve an originating application, pay the filing fees on that application, and present evidence by means of one or more affidavits. On the filing of the originating application, the matter will be listed before the associate judge for directions.

- 8 If the associate judge is unavailable, the Registrar will refer the matter to any available judge for a decision as to the appointment of an arbitrator, or as to the request being dealt with as a contentious matter in accordance with paragraphs 6 and 7 above.