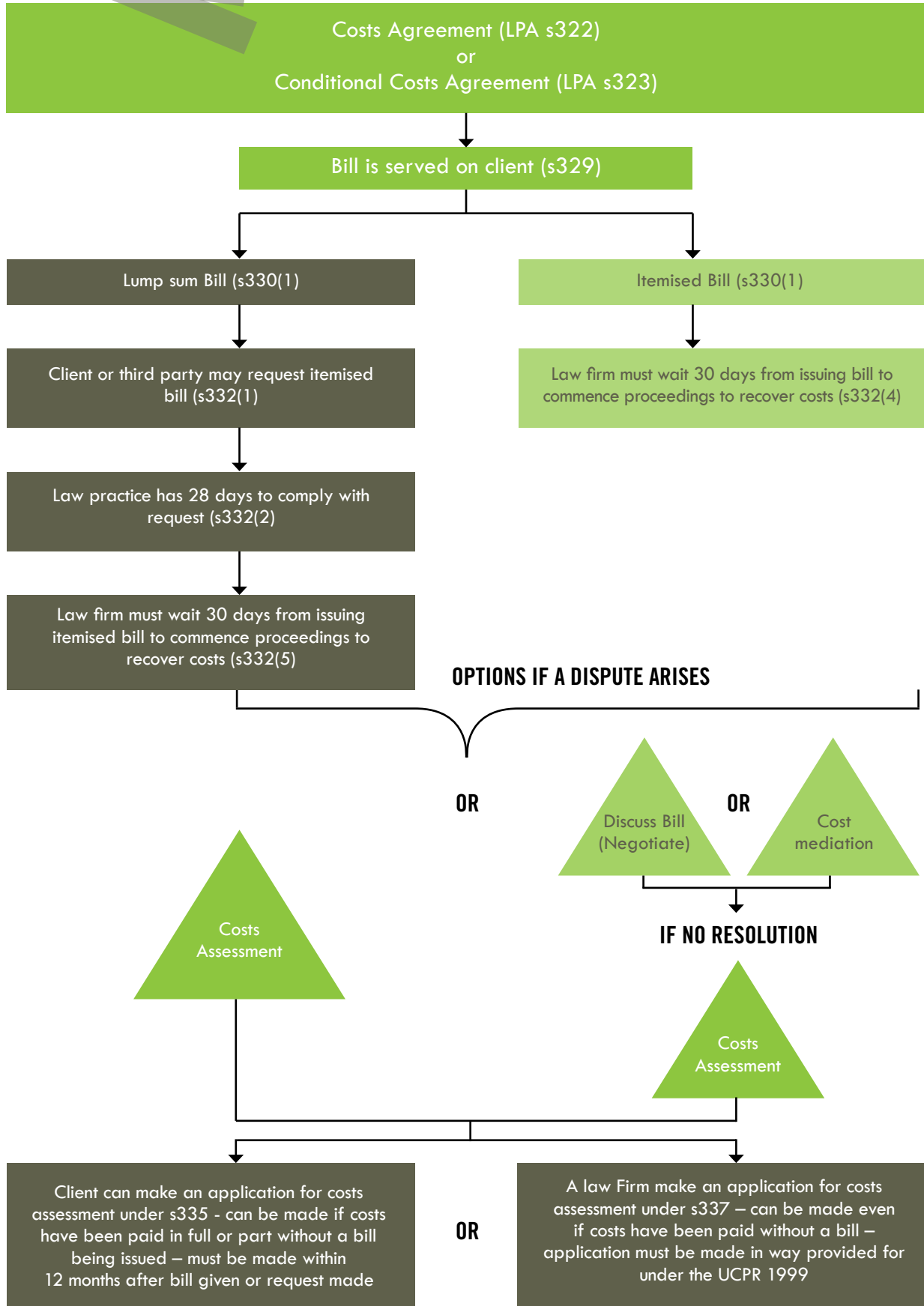


# RECOVERY OF COSTS UNDER A COSTS AGREEMENT

DISPUTE RESOLUTION AND RECOVERY OF COSTS UNDER THE LEGAL PROFESSION ACT 2007 (QLD) - SOLICITOR AND OWN CLIENT COSTS



## PROVEN INDEPENDENT LEGAL COST SOLUTIONS



# APPLICATION FOR COSTS ASSESSMENT

(under the UCPR 1999 in accordance with Legal Profession Act 2007 (Qld))

## File a Form 60

Application for costs assessment (UCPR) to have your legal costs assessed under the *Legal Profession Act 2007*

## File a Form 46

Affidavit in support of the application at the same time

When you file the application, the registry will allocate a date for a directions hearing before a judge or magistrate. A copy of the Application and supporting Affidavit must be served on the other party or their legal representative within **seven days** of filing the application. You may be required to serve the documents on other parties such as a law practice or a third party payer (see *Legal Profession Act 2007*, s339)

## How is the costs assessor chosen?

- A costs assessor approved by the court can perform costs assessments
- If both parties can agree on a costs assessor to perform the assessment, a request for a consent order can be filed with the registry. The request should, if possible, be accompanied by the consent of the costs assessor
- The registrar can make a consent order where appropriate and the directions hearing date will be vacated
- If no agreement can be reached, the judge or magistrate will appoint an assessor at the directions hearing

### If parties agree on Costs Assessor

You should obtain the written consent of the costs assessor before you nominate them to conduct the assessment. The consent should be dated, signed and be included in the application if possible.

### If no agreement on Costs Assessor

The application for a costs assessment will be referred to the court for a directions hearing.

#### What happens at the hearing?

- At the directions hearing the judge or magistrate can:
- Canvass any issues or potential problems
  - make directions to the parties and decide any relevant issues
  - If an itemised bill has not been provided, order that one be prepared; and/or
  - Order that a particular costs assessor be appointed to perform the assessment of costs.

## What happens at the assessment?

The costs assessor will decide on the procedure for the assessment. The cost assessor will consider:

- Whether or not it was reasonable to carry out the work to which the legal costs relate
- Whether or not the work was carried out in a reasonable way
- Relevant costs agreements
- The fairness and reasonableness of the amount of legal costs in relation to the work including:
- compliance with the *Legal Profession Act 2007*

## What happens after assessment?

The costs assessor will file a certificate of assessment with the registry within **14 days after the assessment is completed** and will give a copy of the certificate to the parties involved. The parties or the court can then bring the matter on for a directions hearing. Any matters still in dispute can be resolved by the court, and the court will consider the certificate of the costs assessor when it gives its judgment.

## What can I do if I am unhappy with the costs assessor's assessment?

You can request written reasons within **14 days** of receiving the costs assessor's certificate of assessment. The costs assessor must provide the written reasons within **21 days**. The party requesting the reasons must pay the costs assessors costs for preparing the reasons.

## The court to review the decision of the costs assessor.

An application for review must be filed within:

- 14 days of receiving the written reasons; or
- 14 days of receiving the certificate of the costs assessor, if you did not apply for reasons.