



New South Wales

Supreme Court (Fees and Percentages) Amendment Regulation 1999

under the

Supreme Court Act 1970

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Supreme Court Act 1970*.

J. W. SHAW., Q.C., M.L.C.,
Attorney General

Explanatory note

The objects of this Regulation are:

- (a) to increase certain court fees set out in the *Supreme Court (Fees and Percentages) Regulation 1993* to be paid to a clerk or a registrar of the Supreme Court or the Sheriff (depending on circumstances) in respect of the business of the Court, and
- (b) to fix new fees in respect of the business of the Court, such as fees for allocating a date for hearing proceedings and the conduct of certain searches, and
- (c) to fix different fees for different categories of persons, and
- (d) to make other amendments of a minor, ancillary or consequential nature.

This Regulation is made under the *Supreme Court Act 1970*, including section 130 (Fees and percentages).

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Clause 1 Supreme Court (Fees and Percentages) Amendment Regulation 1999

Supreme Court (Fees and Percentages) Amendment Regulation 1999

1 Name of Regulation

This Regulation is the *Supreme Court (Fees and Percentages) Amendment Regulation 1999*.

2 Commencement

This Regulation commences on 1 November 1999.

3 Amendment of Supreme Court (Fees and Percentages) Regulation 1993

The *Supreme Court (Fees and Percentages) Regulation 1993* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 2A

Insert after clause 2:

2A Definitions

In this Regulation:

agent of a person includes a legal practitioner acting for the person (other than a barrister who is retained by another legal practitioner).

corporation has the same meaning as in section 57A of the *Corporations Law*.

criminal proceedings means proceedings in the Court that are specified in the Third Schedule to the Act.

hearing allocation fee means a fee referred to in item 3 of Schedule 1.

the Act means the *Supreme Court Act 1970*.

[2] Clause 3A

Insert after clause 3:

3A Fees chargeable in criminal proceedings

Subject to any provision to the contrary in Schedule 1, fees are chargeable under this Regulation in respect of criminal proceedings.

[3] Clause 4 (1A) and (1B)

Insert after clause 4 (1):

- (1A) No hearing allocation fee is chargeable to any of the following parties to proceedings or to agents acting on their behalf in those proceedings:
 - (a) the Government of New South Wales,

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- (b) any New South Wales Government Department,
- (c) any statutory body whose expenditure is paid out of the Consolidated Fund.

(1B) A registrar or clerk may require evidence to be furnished for the purpose of deciding whether a statutory body's expenditure is paid out of the Consolidated Fund.

[4] Clause 4A Pro bono cases

Insert “, or a hearing allocation fee in any such proceedings,” after “to proceedings” in clause 4A (1).

[5] Clause 4A (3A)

Insert after clause 4A (3):

(3A) Despite clause 7A, the Court must not refuse to allocate a date for hearing proceedings merely because, in accordance with this clause, a hearing allocation fee has not been taken on behalf of a pro bono party to those proceedings.

[6] Clause 4A (4) (b)

Insert “, or the hearing allocation fee,” after “document”.

[7] Clause 6 Persons by and to whom fees payable (other than hearing allocation fees)

Insert after clause 6 (3):

(4) A reference in Schedule 1 to a fee payable in the case of a corporation is a reference to a corporation on whose behalf a request is made to file a document or render a service.

(5) This clause:

- (a) does not apply to hearing allocation fees, and
- (b) is subject to any provision to the contrary in Schedule 1.

[8] Clause 6A

Insert after clause 6:

6A Persons by and to whom hearing allocation fees payable

- (1) A hearing allocation fee charged under this Regulation:
 - (a) is payable by the person made liable to pay the fee under item 3 of Schedule 1, and
 - (b) is payable to a registrar.
- (2) If a person is acting as an agent for a party to any proceedings (being a party by whom a hearing allocation fee is payable under Schedule 1), the person and the party are jointly and severally liable for payment of the hearing allocation fee.

[9] Clause 7 Time for payment of fees

Insert “(other than a hearing allocation fee)” after “Regulation” in clause 7 (1).

[10] Clause 7 (1A)

Insert after clause 7 (1):

- (1A) A hearing allocation fee charged under this Regulation becomes payable:
 - (a) immediately after a date is allocated for hearing the proceedings, or
 - (b) when the Court or a registrar notifies the parties in writing of the Court’s intention to allocate a date for hearing the proceedings,

whichever first occurs.

[11] Clause 7 (2AA)

Insert after clause 7 (2):

- (2AA) A registrar in relation to any proceedings for which a hearing allocation fee is chargeable may, by order in writing, direct that the whole or any part of any such fee be postponed, waived or remitted, subject to such conditions (if any) as the registrar thinks fit to impose.

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[12] Clause 7A

Insert after clause 7:

7A Action available if hearing allocation fee not paid

If a hearing allocation fee is not paid by the due date for its payment, the Court may refuse to hear or continue to hear the proceedings concerned until the fee is paid.

[13] Clause 8 Percentage of interest etc payable to Treasurer

Omit “The Registrar”. Insert instead “A registrar”.

[14] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Court fees

(Clause 3)

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1 (1) Filing an initiating process (other than an initiating process referred to in paragraph (b) or (c) or filed in the Court of Appeal)	1,062 (in the case of corporation) or 531 (in any other case)
(2) Filing an initiating process in the Equity Division for entry in the Commercial List, the Construction List or the Admiralty List	2,420
(3) Filing an initiating process by which an application for a grant or resealing under Part 78 (Probate) of the <i>Supreme Court Rules 1970</i> is made in respect of an estate the sworn gross value of which:	
(a) does not exceed \$50,000	Nil
(b) is \$50,000 or more but does not exceed \$250,000	469

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(c) is \$250,000 or more but does not exceed \$500,000	590
(d) is \$500,000 or more but does not exceed \$1,000,000	887
(e) is \$1,000,000 or more	1,183
(4) The fees for filing a cross-claim under Part 6 (Cross-claims) of the <i>Supreme Court Rules 1970</i> in any Division of the Court are to be the same fees as are from time to time payable in respect of the filing of an initiating process in that Division.	

NOTE 1: In this item, “initiating process” means:

- (a) *an originating process under the Supreme Court Rules 1970 (other than a notice of appeal to the Court of Appeal and a summons for leave to appeal to the Court of Appeal), or*
- (b) *a notice of appeal under Part 5 of the Justices Act 1902, or*
- (c) *a petition, or*
- (d) *subject to Note 3, a summons commencing proceedings under the Corporations Law, or*
- (e) *a writ of summons under the Admiralty Rules of the Commonwealth.*

NOTE 2: Where proceedings are entered in the Commercial List, the Construction List or the Admiralty List:

- (a) *the fee payable is the difference between the fee referred to in paragraph (b) of item 1 and any fee paid under paragraph (a) or (c) of that item, and*
- (b) *the fee is payable:*
 - (i) *if the proceedings are entered pursuant to an order of the Court—by the party requesting the making of the order, or*
 - (ii) *if the proceedings are entered by the consent of the parties—by the parties to the proceedings in equal proportions.*

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NOTE 3: This item does not apply to:

- (a) *a summons by which an application for a grant or resealing under Part 78 (Probate) of the Supreme Court Rules 1970 is made in respect of an estate the sworn gross value of which is less than \$50,000, or*
- (b) *a summons by which an application is made in the course of a winding up by the Court under the Corporations Law, unless it is a summons claiming relief under section 1321 of the Corporations Law or regulation 5.6.26 (3) or 5.6.54 (2) of the Corporations Regulations, or*
- (c) *a summons to pass accounts which is filed pursuant to section 85 (1AA) of the Wills, Probate and Administration Act 1898.*

NOTE 4: No fee is payable:

- (a) *in respect of a summons issued under Part 58 (Taking Evidence for Foreign and Australian Courts and Tribunals) of the Supreme Court Rules 1970, or*
- (b) *for an initiating process which relates to the issue of a subpoena to be served outside the State under the Service and Execution of Process Act 1992 of the Commonwealth.*

2 For filing in the Court of Appeal:

(a) a holding summons for leave to appeal or to cross-appeal	208 (in the case of corporation) or 104 (in any other case)
(b) an ordinary summons for leave to appeal or to cross-appeal in respect of an application initiated by a holding summons	970 (in the case of corporation) or 485 (in any other case)

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(c) any other summons	1,178 (in the case of corporation) or 589 (in any other case)
(d) notice of appeal without appointment	470 (in the case of corporation) or 235 (in any other case)
(e) notice of appeal with appointment:	
(i) in proceedings in which a summons has been filed in the Court of Appeal	2,474 (in the case of corporation) or 1,237 (in any other case)
(ii) in proceedings in which a notice of appeal without appointment has been filed	3,182 (in the case of corporation) or 1,591 (in any other case)
(iii) in any other proceedings	3,652 (in the case of corporation) or 1,826 (in any other case)
3 For allocation of a date for hearing of the proceedings by one or more Judges, a Judge and jury or a master	2,022 (in the case of corporation) or 1,011 (in any other case)

NOTE: The fee under item 2 (e) (ii) is payable for the obtaining of an appointment to proceed with a cross-appeal if an appeal has been discontinued before the filing of a notice of appeal with appointment in respect of the discontinued appeal.

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NOTE 1: The fee is payable by the plaintiff or appellant in the proceedings. If the Court or a registrar so orders, the fee is payable by another party to the proceedings or by any parties to the proceedings in the proportions ordered.

NOTE 2: A fee is payable for:

- (a) an application for leave to appeal or cross-appeal if the appeal or cross-appeal has been set down for hearing on the basis that oral argument on the appeal or cross-appeal will proceed concurrently with the application for leave to appeal or cross-appeal, or*
- (b) proceedings allocated a date for hearing after the commencement of the Supreme Court (Fees and Percentages) Amendment Regulation 1999, whether the proceedings were initiated before or after that commencement.*

NOTE 3: No fee is payable:

- (a) in criminal proceedings, or*
- (b) if the proceedings are of an interlocutory nature only.*

NOTE 4: A hearing allocation fee is not payable and, if paid, is to be remitted if:

- (a) the proceedings do not proceed on the allocated date for hearing, and*
- (b) a registrar is satisfied that the adjournment was due to circumstances beyond the control of the parties to the proceedings.*

4 (1) Filing a requisition for civil trial by jury (to be paid by party requesting jury)	1,290 (in the case of corporation) or 645 (in any other case)
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(2)	Daily jury retention fee (to be paid by party requesting jury for each day jury is required after the first day of a civil trial)	588 (in the case of corporation) or 294 (in any other case)
5	Filing an application for an order under section 76B of the Act for referral of an action to arbitration	595
6	Filing notice of motion under Rule 2 of Part 19 of the <i>Supreme Court Rules 1970</i>	248 (in the case of corporation) or 124 (in any other case)
7	To open or keep open the registry or part of the registry or to open or keep open an office of a clerk of the Court elsewhere in the State:	
	(a) on a Saturday, Sunday or public holiday (except the day after Easter Monday)	840 (in the case of corporation) or 420 (in any other case)
	(b) on any other day:	
	(i) before 8.30 am or after 4.30 pm	840 (in the case of corporation) or 420 (in any other case)
	(ii) between 8.30 and 9 am or 4 and 4.30 pm	88 (in the case of corporation) or 44 (in any other case)

NOTE: No fee is payable in criminal proceedings.

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8 For an officer of the Court to produce a document at a place other than the Supreme Court Building, Queens Square, Sydney	88 (in the case of corporation) or 44 (in any other case)
9 To furnish a copy of the written opinion or reasons for opinion of any Judge or of any master or other officer of the Court:	
(a) for a printed copy	42
(b) for any other kind of copy	25
<i>NOTE: A party to proceedings before the Court is entitled to one copy of the opinion or reasons for opinion in relation to the proceedings without charge.</i>	
10 To prepare appeal papers—for the first 11 copies, or such other number of copies as is ordered to be printed by the registrar—for each volume of not more than 250 pages	840 (in the case of corporation) or 420 (in any other case)
11 The fees to be paid to the Marshal in Admiralty are to be the same fees as are from time to time taken by the Sheriff or an officer of the Sheriff for service and execution of process of the Court.	
12 Certificate of a registrar as to a signature of a public notary	35
13 To prepare a copy of a will, a Certificate of Grant or an Exemplification	35
14 Making a copy of any document, otherwise than as provided for by item 9 or 13 for each page (minimum fee	2 10)
15 Supply of duplicate tape recording of sound-recorded evidence, for each cassette	30

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16	For each copy of the transcript of any proceedings:
	(a) for each page, where the matter being transcribed is under 3 months old (minimum fee for 1 to 8 pages)
	6.50 66)
	(b) for each page, where the matter being transcribed is 3 months or older (minimum fee for 1 to 8 pages)
	7.50 66)
17	To conduct a genealogical search on a probate file (for each file searched)
	67
18	To conduct an adoption search (for each file searched)
	35
	<i>NOTE: This amount also includes a copy of any document, if approved by the Court.</i>
19	To conduct a search for an application for a grant or resealing under Part 78 (Probate) of the <i>Supreme Court Rules 1970</i> (for each file searched)
	25
20	To lodge a caveat against an application for a grant or resealing under Part 78 (Probate) of the <i>Supreme Court Rules 1970</i>
	50 (in the case of caveat that is corporation) or 25 (in any other case)
21	To lodge a will that is not attached to an initiating process by which an application for a grant or resealing under Part 78 (Probate) of the <i>Supreme Court Rules 1970</i> is made
	25
22 (1)	To issue a subpoena for production
	96 (in the case of corporation) or 48 (in any other case)
(2)	To issue a subpoena for production and to give evidence
	96 (in the case of corporation) or 48 (in any other case)

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(3) To issue a subpoena to give evidence	46 (in the case of corporation) or 23 (in any other case)
23 Notice lodged by a legal practitioner of another State, of a Territory of the Commonwealth or of New Zealand for admission as a legal practitioner of the Court.	(See Note to this item)
24 For storing material over 1 kg in weight that is produced on subpoena (to be paid by the party requesting issue of the subpoena)	92 (in the case of corporation) or 46 (in any other case)

NOTE: This fee is fixed as referred to in section 40 of the Mutual Recognition Act 1992 of the Commonwealth and in section 40 of the Trans-Tasman Mutual Recognition (New South Wales) Act 1996. Under those Acts, such a fee cannot be greater than the fee imposed on persons in New South Wales seeking to be admitted as legal practitioners of the Court.

NOTE 1: No fee is payable if the subpoena was issued before the commencement of the Supreme Court (Fees and Percentages) Amendment Regulation 1999.

NOTE 2: This fee must be remitted under clause 7 if:

- (a) *within 4 weeks of being granted leave to inspect the material, the party requesting the issue of the subpoena:*
 - (i) *notifies the Court in writing of that part of the material that is not required for the purposes of the proceedings, and*
 - (ii) *consents to the return of that part to the person who produced the material, and*
- (b) *the remainder of the material weighs less than 1 kg.*

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25	For storing material produced under a notice to produce (to be paid by the party who issued the notice), but only if the party who produced the material to the Court or the registry does not collect the material within the time specified in a notice issued to that party by a registrar	92 (in the case of corporation) or 46 (in any other case)
26	The fee for a service not otherwise provided for in this Schedule	50 (in the case of corporation) or 25 (in any other case)

NOTE: No fee is payable if the return date for the notice occurs before the commencement of the Supreme Court (Fees and Percentages) Amendment Regulation 1999.

NOTE: This fee is chargeable only with the approval of the Principal Registrar.

BY AUTHORITY