



New South Wales

Land and Environment Court Amendment (Fees) Regulation 2000

under the

Land and Environment Court Act 1979

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Land and Environment Court Act 1979*.

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

Attorney General

Explanatory note

The object of this Regulation is to provide (by means of the insertion of a new clause in the *Land and Environment Court Regulation 1994*) for the postponement or waiver of filing fees for documents that initiate proceedings in the Land and Environment Court in certain cases. The waiver or postponement will apply if the person on whose behalf the proceedings are commenced is being represented under a pro bono scheme or is the holder of a card issued by the Commonwealth Government that entitles the holder to Commonwealth health concessions.

Payment of the fees is to be postponed until judgment is given in the proceedings, and the fees are not payable at all if judgment is given against the person concerned or (if judgment is given in the person's favour) costs are not awarded in his or her favour.

This Regulation also makes an amendment by way of law revision to clarify a reference to an Act.

This Regulation is made under section 78 (the general regulation-making power) of the *Land and Environment Court Act 1979*, and, in particular, under section 78 (a).

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Clause 1 Land and Environment Court Amendment (Fees) Regulation 2000

**Land and Environment Court Amendment (Fees)
Regulation 2000**

1 Name of Regulation

This Regulation is the *Land and Environment Court Amendment (Fees) Regulation 2000*.

2 Amendment of Land and Environment Court Regulation 1994

The *Land and Environment Court Regulation 1994* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 2)

[1] Clause 6A

Insert after clause 6:

6A Postponement or waiver of fees in certain cases

- (1) The taking of the fee for filing initiating process to commence proceedings in any Class of the Court's jurisdiction is to be postponed until judgment is given in the proceedings if the process is filed by or on behalf of:
 - (a) a pro bono party to the proceedings, or
 - (b) a pensioner party to the proceedings.
- (2) The fee is not to be taken at all, or if taken must be remitted, if, in relation to the proceedings:
 - (a) judgment is against the party concerned, or
 - (b) judgment is in favour of that party, but costs are not awarded in his or her favour.
- (3) Despite clause 7 (2), a registrar or Clerk of a Local Court must not refuse to file or issue any document, or render a service, relevant to proceedings merely because, in accordance with this clause, a fee has not been taken for the filing of any initiating process on behalf of a pro bono party or a pensioner party to the proceedings concerned.
- (4) For the purposes of this clause:
 - (a) a party to proceedings is a *pro bono party* if he or she is being represented under the pro bono scheme of the Law Society of New South Wales or the pro bono scheme of the New South Wales Bar Association and a legal practitioner acting for the party:
 - (i) certifies in writing to the registrar or Clerk of the Local Court with whom the initiating process is lodged on behalf of the party that the party is being so represented, and

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Schedule 1 Amendments

- (ii) undertakes in writing to the registrar or Clerk to pay the filing fee for that document if, at the conclusion of the proceedings, subclause (2) does not apply, and
- (b) a party to proceedings is a *pensioner party* if he or she is the holder of any card issued by the Commonwealth Government that entitles the holder to Commonwealth health concessions.

[2] Clause 7A Determination of costs if no agreement between prosecutor and defendant

Omit “section 52 of the Act” from clause 7A (1) and (2) wherever occurring.

Insert instead “section 52 of the *Land and Environment Court Act 1979*”.

BY AUTHORITY