

SUPREME COURT ACT 1970—REGULATION
(Supreme Court (Fees and Percentages) Regulation 1993)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Supreme Court Act 1970, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD, M.L.C.,
Minister for Justice.

Citation

1. This Regulation may be cited as the Supreme Court (Fees and Percentages) Regulation 1993.

Commencement

2. This Regulation commences on 1 September 1993.

Fees chargeable

3. The fees to be taken in respect of the business of the Court (except fees chargeable in the Sheriff's Office) are the fees set out in Schedule 1.

Fees not chargeable to the Crown

4. (1) No fee is chargeable to the Crown or any other person with respect to any document or service filed or provided:

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

(2) This clause does not prevent the recovery from any person by the Crown or by any such statutory body of any such fee that, had it been paid, would have been recoverable from that person.

Actions under the Motor Accidents Act 1988 exempt from certain fees

5. An action to which the Motor Accidents Act 1988 applies is exempt from the fees referred to in items 1 and 16 of Schedule 1.

Persons by and to whom fees payable

6. (1) Any fee charged under this Regulation for any document or service is payable, by the person at whose request the document is filed or the service rendered:

- (a) in the case of an originating process that is filed in an office (other than the registry) of a clerk of the Court—to the clerk; or
- (b) in the case of a fee that is chargeable in the Sheriff's Office—to the Sheriff; or
- (c) in any other case—to the registrar who is requested to file the document or render the service.

(2) If a document is filed or a service rendered at the request of a person acting as an agent for another person, each of those persons is jointly and severally liable for payment of any such fee.

(3) A clerk of the Court who receives a fee under subclause (1) (a) must send to the registrar a copy of the receipt for the fee together with the originating process that is sent to the registrar in accordance with Part 7 rule 6 (4) of the Supreme Court Rules 1970.

Time for payment of fees

7. (1) A fee charged under this Regulation becomes payable when the document concerned is filed or the service concerned is rendered.

(2) However, a registrar who is requested to file a document or render a service:

- (a) may require any fee for the document or service to be paid before the document is filed or the service rendered; or
- (b) may, by order in writing, direct that the whole or my part of any such fee be postponed, waived or remitted, subject to such conditions (if any) as the registrar thinks fit to impose.

Percentage of interest etc. payable to Treasurer

8. The registrar must deduct 2.5 per cent of any amount received by way of interest or dividends on funds that are paid into Court and invested, in accordance with the Supreme Court Rules 1970, and must pay my amount so deducted to the Treasurer for payment into the Consolidated Fund.

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Repeal

9. (1) The Supreme Court (Fees and Percentages) Regulations are repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Supreme Court (Fees and Percentages) Regulations, had effect under those Regulations is taken to have effect under this Regulation.

SCHEDULE 1—COURT FEES

	(Cl. 3)
	\$
1. (a) Filing an initiating process (except in the Commercial and Probate Divisions)	450.00
(b) Filing an initiating process in the Commercial Division	2,050.00
(c) Filing an initiating process by which an application for a grant or resealing under Part 78 of the Supreme Court Rules 1970 is made in respect of an estate the sworn gross value of which:	
(i) does not exceed \$50,000	Nil
(ii) is \$50,000 or more but does not exceed \$250,000.....	400.00
(iii) is \$250,000 or more but does not exceed \$500,000.....	500.00
(iv) is \$500,000 or more but does not exceed \$1,000,000.....	750.00
(v) is \$1,000,000 or more	1,000.00
(d) The fees for filing a cross-claim under Part 6 of the Supreme Court Rules 1970 (Cross-claims) 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 stated case under Part 31 Rule 2 of the Supreme Court Rules 1970; or*
- (c) a petition; or*
- (d) subject to Note 3 and Note 4, a summons commencing proceedings under the Corporations Regulations; or*
- (e) a writ of summons under the Admiralty Rules of the Commonwealth.*

NOTE 2: Where proceedings are transferred to the Commercial Division, 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.

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NOTE 3: This Item does not apply to a summons by which an application for a grant or resealing under Part 78 of the Supreme Court Rules 1970 is made in respect of an estate the sworn gross value of which is less than \$50,000.

NOTE 4: This Item does not apply to 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.

NOTE 5: This Item does not apply to a summons to pass accounts which is filed pursuant to section 85 (1AA) of the Wills, Probate and Administration Act 1898.

NOTE 6: No fee is payable in respect of a summons issued under Part 58 of the Supreme Court Rules 1970 (Taking Evidence for Foreign and Australian Courts and Tribunals).

2.	(a) Summons for leave to appeal	500.00
	(b) Notice of appeal pursuant to leave granted	1,050.00
	(c) Notice of appeal with appointment (as referred to in Part 51 Rule 5 (1) (b) (i) of the Supreme Court Rules 1970).....	1,550.00
	(d) Notice of appeal without appointment (as referred to in Part 51 Rule 5 (1) (b) (ii) of the Supreme Court Rules 1970).....	200.00
	(e) Notice of appeal with appointment filed pursuant to filing of notice of appeal without appointment (as referred to in Part 51 Rule 5 (5) (2) of the Supreme Court Rules 1970).....	1,350.00
3.	To open or keep open the registry or part of the registry or to open or keep open an office elsewhere in the State of a clerk of the Court:	
	(a) on a Saturday, Sunday or other holiday (except the day after Easter Monday)	354.00
	(b) on any other day:	
	(i) before 9 a.m. or after 4.30 p.m.	354.00
	(ii) between 9 and 9.30 a.m. or 4 and 4.30 p.m.	36.00
4.	For an officer of the Court to produce a document at a place other than the Supreme Court Building, Queens Square, Sydney.....	36.00
5.	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	36.00
	<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>	
6.	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	354.00

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7.	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 for service and execution of process of the Court.	
8.	Certificate of the Prothonotary as a signature of a Notary Public	31.00
9.	To prepare a copy of a will, a Certificate of Grant or an Exemplification	31.00
10.	Making a copy of any document, otherwise than as provided for by Item 5 or 9, per page	2.00
	(minimum fee	10.00)
11.	(a) Filing a requisition for civil trial by jury (to be paid by party requesting jury)	545.00
	(b) Daily jury retention fee (to be paid by party requesting jury for each day a jury is required after the first day of a civil trial)	245.00
12.	Filing an application for an order under section 18 (2) of the Arbitration (Civil Actions) Act 1983 for rehearing an action referred for arbitration	310.00
	<i>NOTE: This amount is subject to the Supreme Court Rules 1970 providing for the refund of the whole or any part of the amount.</i>	
13.	To conduct a genealogical search on a probate file (for each file searched)	57.00
14.	To conduct an adoption search (for each file searched)	31.00
	<i>NOTE: This amount also includes a copy of any documents, if approved by a Judge.</i>	
15.	Filing one or more notices of objection under Part 52 Rule 50A of the Supreme Court Rules 1970 with respect to the same bill of costs:	
	(a) for the first \$200, or part of \$200, of the total amount in dispute, as shown in the notice or notices	70.00
	(b) for each subsequent \$200, or part of \$200, of such part of the total amount in dispute, as shown in the notice or notices, as is not more than \$15,000	20.00
	(c) for each subsequent \$200, or part of \$200, of such part of the total amount in dispute, as shown in the notice or notices, as is more than \$15,000	10.00
16.	(a) To issue a subpoena for production	40.00
	(b) To issue a subpoena for production and to give evidence	40.00
	(c) To issue a subpoena to give evidence	20.00

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SCHEDULE 1—COURT FEES

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, without any substantive changes, the Supreme Court (Fees and Percentages) Regulations. The new Regulation makes provision for the following matters:

- (a) the amounts of the fees chargeable with respect to the filing of documents and the provision of other services with respect to the business of the Supreme Court (clause 3);
- (b) the exemption of the Crown from payment of fees (clause 4);
- (c) the exemption of actions to which the Motor Accidents Act 1988 applies from payment of certain fees (clause 5);
- (d) the persons by whom, and the persons to whom, fees are to be paid (clause 6);
- (e) the time when fees become payable (clause 7);
- (f) the payment to the Consolidated Fund of 2.5 per cent of the amount of any income derived from the investment of funds paid into the Supreme Court (clause 8).

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

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
