

1994—No. 424

**LAND AND ENVIRONMENT COURT ACT 1979—
REGULATION**

(Land and Environment Court (Fees) Regulation 1994)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Land and Environment Court Act 1979, 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 Land and Environment Court (Fees) Regulation 1994.

Commencement

2. This Regulation commences on 31 August 1994.

Fees generally

3. The fees to be taken in respect of the matters set out in Schedule 1 are the fees specified in that Schedule.

Fees under section 102 of the Environmental Planning and Assessment Act 1979

4. (1) The fee for an application under section 102 of the Environmental Planning and Assessment Act 1979 for the modification of a development consent granted by the Court on appeal is:

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- (a) if the fee for the original development application was less than \$100, 30 per cent of that fee; or
- (b) in any other case, \$100 or 30 per cent of the fee for the original development application, whichever is the greater,

plus an additional amount of \$500 if notice of the application is required to be given under section 102 (2) of that Act.

(2) The amount referred to in subclause (1) (a) or (b) is payable to the Court, and the additional amount is payable to the consent authority required to give notice of the application.

(3) The consent authority required to give notice of the application must refund so much of the additional amount as is not spent in giving the notice.

(4) In this clause:

- (a) a reference to an original development application is a reference to the development application that resulted in the granting of the development consent proposed to be modified; and
- (b) a reference to the fee for the original development application does not include a reference to any fee under clause 99 of the Environmental Planning and Assessment Regulation 1994 that was payable for the giving of notice.

Fees under section 106 of the Local Government Act 1993

5. (1) The fee for an application under section 106 of the Local Government Act 1993 for the amendment of an approval granted by the Court on appeal is:

- (a) if the fee for the original application for the approval was less than \$100, 30 per cent of that fee; or
- (b) in any other case, \$100 or 30 per cent of the fee for the original application for the approval, whichever is the greater.

(2) In this clause, a reference to an original application for an approval is a reference to the application that resulted in the granting of the approval proposed to be amended.

Persons by and to whom fees payable

6. (1) A fee charged under this Regulation for a document or service is payable to the registrar by the person at whose request the document is filed or the service rendered.

(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 the fee.

(3) This clause does not apply to the additional amount referred to in clause 4 (1) that is payable in respect of the giving of notice under section 102 (2) of the Environmental Planning and Assessment Act 1979.

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 a 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 any part of such a fee be postponed, waived or remitted, subject to such conditions (if any) as the registrar thinks fit to impose.

(3) This clause does not apply to the additional amount referred to in clause 4 (1) that is payable in respect of the giving of notice under section 102 (2) of the Environmental Planning and Assessment Act 1979.

Repeal

8. (1) The Land and Environment Court (Fees) Regulation is repealed.

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

SCHEDULE 1—COURT FEES

(Cl. 3)

	\$
1. Filing a process to commence proceedings in Class 1 of the Court's jurisdiction (other than proceedings referred to in Item 2 or 3)	450.00
2. Filing a process to commence proceedings in Class 1 of the Court's jurisdiction where the matter relates to a development application (other than a development application relating to the subdivision of land) or to a building application, and where the value of the development or building:	
(a) is less than \$50,000	135.00
(b) is \$50,000 or more but less than \$500,000	450.00
(c) is \$500,000 or more but less than \$1,000,000	2,050.00
(d) is \$1,000,000 or more	2,560.00
3. Filing a process to commence proceedings in Class 1 of the Court's jurisdiction where the matter relates to an appeal under section 98 of the Environmental Planning and Assessment Act 1979	135.00
4. Filing a process to commence proceedings in Class 2 of the Court's jurisdiction (other than proceedings referred to in Item 5) ..	450.00
5. Filing a process to commence proceedings in Class 2 of the Court's jurisdiction where the matter relates to a development application (other than a development application relating to the subdivision of land) or to a building application, and where the value of the development or building is less than \$50,000 .	135.00
6. Filing a process to commence proceedings in Class 3 of the Court's jurisdiction (other than proceedings referred to in Item 7, 8 or 9)	450.00
7. Filing a process to commence proceedings in Class 3 of the Court's jurisdiction where the matter relates to an appeal, reference or other matter under the Crown Lands Act 1989, the Crown Lands (Continued Tenures) Act 1989, the Roads Act 1993, the Water Act 1912 or the Western Lands Act 1901	66.00
8. Filing a process to commence proceedings in Class 3 of the Court's jurisdiction where the matter relates to an appeal or objection against a valuation of land, and where the value of the land, as determined by the respondent valuing authority:	
(a) is less than \$100,000	115.00
(b) is \$100,000 or more but less than \$500,000	155.00
(c) is \$500,000 or more but less than \$1,000,000	250.00
(d) is \$1,000,000 or more	350.00

9. Filing a process to commence proceedings in Class 3 of the Court's jurisdiction where the matter relates to a claim for compensation for the acquisition of land, as referred to in section 24 of the Land and Environment Court Act 1979. and where the amount offered as Compensation by the resuming or constructing authority:	
(a) is less than \$50,000	135.00
(b) is \$50,000 or more but less than \$500,000	450.00
(c) is \$500,000 or more but less than \$1,000,000	2,050.00
(d) is \$1,000,000 or more	2,560.00
10. In respect of Item 6, 8 or 9, if the registrar determines that, because of the substance of the matter and its lack of complexity, the fee referred to in the Item is not appropriate	66.00
11. Filing a process to commence proceedings in Class 4 of the Court's jurisdiction	450.00
12. Filing a process to commence proceedings in Class 5 of the Court's jurisdiction.....	450.00
13. Filing a process to commence proceedings in Class 6 of the Court's jurisdiction.....	135.00
14. Filing a process to commence an appeal to the Court under section 56A of the Land and Environment Court Act 1979	545.00
15. Production of a document, by an officer of the Court, elsewhere than the place at which the Court sits and elsewhere than the office of the registrar	36.00
16. Making a copy of a document, for each page	2.00
(Minimum fee	10.00)
17. Supplying a copy of the transcript/diskette of proceedings:	
(a) for each page (or equivalent) where the matter being transcribed is under 3 months old	6.50
(minimum fee for 1 to 8 pages or equivalent	55.00)
(b) for each page (or equivalent) where the matter being transcribed is over 3 months old	7.50
(minimum fee for 1 to 8 pages or equivalent	65.00)
18. Furnishing a party to proceedings with a second or subsequent copy of the written opinion or reasons for opinion of a Judge or of an assessor or other officer of the Court in relation to the proceedings, for each copy	36.00
19. Opening, or keeping open, the office of the registrar:	
(a) on a Saturday, Sunday or public holiday (except the day after Easter Monday)	355.00
(b) on any other day:	
(i) before 9 a.m. or after 4.30 p.m.	355.00

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(ii) between 9 and 9.30 a.m. or 4 and 4.30 p.m. ..	36.00
20. Supplying a duplicate tape recording of sound-recorded evidence, for each cassette 30.00	
21. Taxation fees (for orders made before 1 July 1994):	
(a) filing a bill of costs	205.00
(b) lodging an objection to a bill of costs	205.00

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SCHEDULE 1—COURT FEES**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake, with minor changes, the provisions of the Land and Environment Court (Fees) Regulation. The new Regulation makes provision with respect to the following matters:

- (a) the amounts of the fees chargeable for the filing of documents and the provision of other services with respect to the business of the Land and Environment Court (clause 3);
- (b) the fees payable under section 102 of the Environmental Planning and Assessment Act 1979 for applications to modify development consents granted by the Land and Environment Court (clause 4);
- (c) the fees payable under section 106 of the Local Government Act 1993 for applications to amend approvals granted by the Land and Environment Court (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) other formal matters (clauses 1, 2 and 8).

The fees remain unchanged:

- (a) except for the fee for filing a process commencing proceedings concerning the subdivision of land, in which case the sliding scale of fees that currently applies is replaced by the standard flat fee of \$450; and
- (b) except for the fee for the supply of a duplicate tape recording of sound-recorded evidence, in which case the fee is being reduced from \$31 to \$30 to bring it into line with the fees applicable in other courts; and
- (c) except for the fees under section 102 of the Environmental Planning and Assessment Act 1979 and section 106 of the Local Government Act 1993, being fees that have not previously been fixed under the Land and Environment Court Act 1979.

This Regulation is made under the Land and Environment Court Act 1979, including section 78 (the power to fix fees taken in respect of the business of the Court).

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