



Supreme Court Amendment (Fees) Regulation 2003

under the

Supreme Court Act 1970

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

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to increase certain court fees, set out in the *Supreme Court Regulation 2000* (*the Principal Regulation*), 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 under the *Supreme Court Act 1970*. The fee increases are in line with movements in the Consumer Price Index.

This Regulation also introduces a new hearing fee for long civil matters in the Supreme Court. For each half day (being 3 hours or part of 3 hours) on or after the eleventh day of a hearing, the fees are as follows:

- (a) \$421 (in the case of a corporation) or \$210.50 (in any other case) for a hearing before one or more Judges,
- (b) \$379 (in the case of a corporation) or \$189.50 (in any other case) for a hearing before a master.

This Regulation also corrects a typographical error in a provision of the Principal Regulation and makes amendments as a consequence of the introduction of the hearing fee.

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

2003 No 425

Clause 1 Supreme Court Amendment (Fees) Regulation 2003

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Supreme Court Act 1970

1 Name of Regulation

This Regulation is the *Supreme Court Amendment (Fees) Regulation 2003*.

2 Commencement

This Regulation commences on 1 July 2003.

3 Amendment of Supreme Court Regulation 2000

The *Supreme Court Regulation 2000* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

hearing fee means a fee referred to in item 6 of Schedule 1.

[2] Clause 4 Fees chargeable

Insert “a” before “corporation” where secondly occurring in clause 4 (2).

[3] Clause 6 Fees not chargeable to the Crown

Insert “or hearing fee” after “hearing allocation fee” in clause 6 (2).

[4] Clause 7 Pro bono cases

Insert “or hearing fee” after “hearing allocation fee” wherever occurring in clause 7 (1), (4) and (5) (b).

[5] Clause 7 (4)

Insert “or refuse to hear those proceedings” after “hearing proceedings”.

[6] Clause 8 Postponement of fees in certain other cases

Insert “or refuse to hear those proceedings” after “hearing proceedings” in clause 8 (4).

[7] Clause 8 (4)

Insert “or hearing fee” after “hearing allocation fee”.

[8] Clause 9 Persons by and to whom fees payable (other than hearing allocation or hearing fees)

Insert “or hearing fees” after “hearing allocation fees” in clause 9 (6) (a).

[9] Clause 10 Persons by and to whom hearing allocation and hearing fees payable

Insert “or hearing fee” after “hearing allocation fee” wherever occurring in clause 10 (1) and (2).

[10] Clause 10 (1) (a)

Insert “or 6 respectively” after “item 3”.

2003 No 425

Supreme Court Amendment (Fees) Regulation 2003

Schedule 1 Amendments

[11] Clause 11 Other provisions relating to fees

Insert “or hearing fee” after “hearing allocation fee” wherever occurring in clause 11 (1) and (4).

[12] Clause 11 (2A)

Insert after clause 11 (2):

- (2A) A hearing fee charged under this Regulation becomes payable when the Court or a registrar notifies the person liable to pay the hearing fee in writing of the amount of the fee payable.

[13] Clause 12 Action available if hearing allocation or hearing fee not paid

Insert “or hearing fee” after “hearing allocation fee”.

[14] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Court fees

(Clause 4)

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1	(1) Filing an initiating process (other than an initiating process referred to in paragraph (2) or (3) or filed in the Court of Appeal)	1,184 (in the case of a corporation) or 592 (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	2,700 (in the case of a corporation) or 1,350 (in any other case)
	(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) is less than \$50,000	Nil

Supreme Court Amendment (Fees) Regulation 2003

Amendments

Schedule 1

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(b) is \$50,000 or more but less than \$250,000	522
(c) is \$250,000 or more but less than \$500,000	658
(d) is \$500,000 or more but less than \$1,000,000	991
(e) is \$1,000,000 or more	1,320

- (4) The fees for filing a cross-claim under Part 6 (Cross-claims) of the *Supreme Court Rules 1970* 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, an originating process under the *Corporations Act 2001* of the Commonwealth, 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 (2) of item 1 and any fee paid under paragraph (1) or (3) 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.

2003 No 425

Supreme Court Amendment (Fees) Regulation 2003

Schedule 1 Amendments

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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 Act 2001* of the Commonwealth, unless it is a summons claiming relief under section 1321 of the *Corporations Act 2001* of the Commonwealth or regulation 5.6.26 (3) or 5.6.54 (2) of the *Corporations Regulations 2001* of the Commonwealth, 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 232 (in the case of a corporation) or 116 (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 1,084 (in the case of a corporation) or 542 (in any other case)

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(c) any other summons	1,312 (in the case of a corporation) or 656 (in any other case)
(d) notice of appeal without appointment	524 (in the case of a corporation) or 262 (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	2,760 (in the case of a corporation) or 1,380 (in any other case)
(ii) in proceedings in which a notice of appeal without appointment has been filed	3,550 (in the case of a corporation) or 1,775 (in any other case)
(iii) in any other proceedings	4,072 (in the case of a corporation) or 2,036 (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.

2003 No 425

Supreme Court Amendment (Fees) Regulation 2003

Schedule 1 Amendments

		\$
3	For allocation of a date for hearing of the proceedings by one or more judges, a judge and jury or a master	2,254 (in the case of a corporation) or 1,127 (in any other case)
	<p>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.</p> <p>Note 2. A fee is payable for:</p> <ul style="list-style-type: none">(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 1 September 2000 whether the proceedings were initiated before or after that date. <p>Note 3. No fee is payable:</p> <ul style="list-style-type: none">(a) in criminal proceedings, or(b) if the proceedings are of an interlocutory nature only. <p>Note 4. A hearing allocation fee is not payable and, if paid, is to be remitted if:</p> <ul style="list-style-type: none">(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)	1,436 (in the case of a corporation) or 718 (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)	654 (in the case of a corporation) or 327 (in any other case)
5	Filing an application for an order under section 76B of the Act for referral of an action to arbitration	662 (in the case of a corporation) or 331 (in any other case)
6	(1) For the hearing of proceedings by one of more Judges—each half day of hearing on or after the 11th day	\$421 (in the case of a corporation) or \$210.50 (in any other case)
	(2) For the hearing of proceedings by a master—each half day of hearing on or after the 11th day	\$379 (in the case of a corporation) or \$189.50 (in any other case)

Note 1. A half day is 3 hours or part of 3 hours. That 3-hour period includes any short adjournment of less than half an hour.

Note 2. The fee is payable by the plaintiff or appellant in the proceedings. If the Court so orders, the fee is payable by another party to the proceedings or by any parties to the proceedings in the proportions ordered.

Note 3. No fee is payable:

- (a) in criminal proceedings, or
- (b) if the sole purpose of the hearing is the delivery of a reserved judgment, or
- (c) if a date for hearing the proceedings was allocated before 1 July 2003.

2003 No 425

Supreme Court Amendment (Fees) Regulation 2003

Schedule 1 Amendments

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Note 4. A hearing fee is not payable and, if paid, is to be remitted if:

- (a) the proceedings do not proceed on the day or days set down for hearing, and
- (b) a registrar is satisfied that the adjournment was due to circumstances beyond the control of the parties to the proceedings.

7	Filing notice of motion under Rule 2 of Part 19 of the <i>Supreme Court Rules 1970</i> or an interlocutory process under the <i>Corporations Act 2001</i> of the Commonwealth	274 (in the case of a corporation) or 137 (in any other case)
8	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)	938 (in the case of a corporation) or 469 (in any other case)
	(b) on any other day:	
	(i) before 8.30 am or after 5.30 pm	938 (in the case of a corporation) or 469 (in any other case)
	(ii) between 8.30 and 9 am or 5 and 5.30 pm	98 (in the case of a corporation) or 49 (in any other case)

Note. No fee is payable in criminal proceedings.

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9	For an officer of the Court to produce a document at a place other than the Supreme Court Building, Queens Square, Sydney	98 (in the case of a corporation) or 49 (in any other case)
10	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	46
	(b) for any other kind of copy	29
	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.	
11	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	938 (in the case of a corporation) or 469 (in any other case)
12	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.	
13	Certificate of a registrar as to a signature of a public notary	39
14	To prepare a copy of a will, a certificate of grant, an exemplification or a divorce decree, or a copy of a certificate of conviction (except where it is requested by a party to the proceedings)	39
15	Making a copy of any document, otherwise than as provided for by item 10 or 14 for each page	2
	(minimum fee of \$10)	

2003 No 425

Supreme Court Amendment (Fees) Regulation 2003

Schedule 1 Amendments

		\$
16	Supply of duplicate tape recording of sound-recorded evidence, for each cassette	34
17	For each copy of the transcript of any proceedings:	
	(a) for each page, where the matter being transcribed is under 3 months old	7.30
	(minimum fee for 1 to 8 pages of \$62)	
	(b) for each page, where the matter being transcribed is 3 months or older	8.40
	(minimum fee for 1 to 8 pages of \$72)	
18	To conduct a genealogical search on a probate file (for each file searched)	75
19	To conduct an adoption search (for each file searched)	39
	Note. This amount also includes a copy of any document, if approved by the Court.	
20	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)	29
21	To lodge a caveat against an application for a grant or resealing under Part 78 (Probate) of the <i>Supreme Court Rules 1970</i>	56 (in the case of a caveator that is a corporation) or 28 (in any other case)
22	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	29

Supreme Court Amendment (Fees) Regulation 2003

Amendments

Schedule 1

		\$
23	(1) To issue a subpoena for production	106 (in the case of a corporation) or 53 (in any other case)
	(2) To issue a subpoena for production and to give evidence	106 (in the case of a corporation) or 53 (in any other case)
	(3) To issue a subpoena to give evidence	52 (in the case of a corporation) or 26 (in any other case)
24	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)
	<p>Note. This fee is fixed as referred to in section 40 of the <i>Mutual Recognition Act 1992</i> of the Commonwealth and section 40 of the <i>Trans-Tasman Mutual Recognition Act 1997</i> of the Commonwealth. 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.</p>	

2003 No 425

Supreme Court Amendment (Fees) Regulation 2003

Schedule 1 Amendments

		\$
25	For storing material over 1 kg in weight that is produced on subpoena (to be paid by the party requesting issue of the subpoena)	102 (in the case of a corporation) or 51 (in any other case)
	Note. This fee must be remitted under clause 11 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.	
26	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	102 (in the case of a corporation) or 51 (in any other case)
27	The fee for a service not otherwise provided for in this Schedule	56 (in the case of a corporation) or 28 (in any other case)
	Note. This fee is chargeable only with the approval of the Principal Registrar.	

BY AUTHORITY