



New South Wales

# Civil Procedure Amendment (Fees) Regulation 2007

under the

Civil Procedure Act 2005

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Civil Procedure Act 2005*.

JOHN HATZISTERGOS, M.L.C.,  
Attorney General

## Explanatory note

The objects of this Regulation are:

- (a) to increase certain fees that are payable to the Sheriff and certain other fees that are payable in relation to civil proceedings generally, and
- (b) to confer an exemption from filing fees for the originating process by which a question of law is referred to the Supreme Court for decision under section 61 of the *Australian Securities and Investments Commission Act 2001* of the Commonwealth or section 659A of the *Corporations Act 2001* of the Commonwealth, and
- (c) to make it clear that the party to a proceeding and a solicitor for that party are jointly and severally liable for the payment of certain fees, and
- (d) to provide that no fee is payable in relation to the filing of a notice of motion for application for a writ of execution, and
- (e) to provide that a fee is payable in relation to the filing of a notice of motion for an application for an examination order in relation to proceedings in a Local Court sitting in its Small Claims Division.

This Regulation is made under the *Civil Procedure Act 2005*, including section 18 (Fees).

## **2007 No 278**

Clause 1            Civil Procedure Amendment (Fees) Regulation 2007

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### **Civil Procedure Amendment (Fees) Regulation 2007**

under the

Civil Procedure Act 2005

#### **1 Name of Regulation**

This Regulation is the *Civil Procedure Amendment (Fees) Regulation 2007*.

#### **2 Commencement**

This Regulation commences on 1 July 2007.

#### **3 Amendment of Civil Procedure Regulation 2005**

The *Civil Procedure Regulation 2005* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 3)

**[1] Clause 4 Fees payable in relation to court proceedings**

Insert after clause 4 (5) (b):

- (b1) an application for a writ of execution,

**[2] Clause 4 (5) (g)**

Insert "other than an application for an examination order" after "Division".

**[3] Clause 4 (6)**

Insert after clause 4 (5):

- (6) Despite subclause (2), no fee is payable in relation to the filing of an originating process by which a question of law is referred to the Supreme Court for decision under:
- (a) section 61 of the *Australian Securities and Investments Commission Act 2001* of the Commonwealth, or
  - (b) section 659A of the *Corporations Act 2001* of the Commonwealth.

**[4] Clause 7 Persons by and to whom fees are payable**

Insert after clause 7 (1):

- (1A) For the purposes of subclause (1), the fee imposed by item 2 of Part 4 of Schedule 1 is taken to be payable by the person who served the notice to produce under Part 34 of the *Uniform Civil Procedure Rules 2005*.

**[5] Clause 7 (3)**

Insert after subclause (2):

- (3) For the purposes only of subclause (2), a solicitor or other person by whom a person is carrying on proceedings is taken to be acting as an agent for that person.

**[6] Clause 9 Payment of hearing allocation fees**

Omit subclause 9 (2). Insert instead:

- (2) If a party is carrying on proceedings by a solicitor or other person, the party and solicitor or other person are jointly and severally liable for the payment of the hearing allocation fee.

## 2007 No 278

Civil Procedure Amendment (Fees) Regulation 2007

Schedule 1 Amendments

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### [7] Clause 10 Payment of hearing fees

Omit subclause (2). Insert instead:

- (2) If a party is carrying on proceedings by a solicitor or other person, the party and solicitor or other person are jointly and severally liable for the payment of the hearing fee.

### [8] Schedules 1 and 2

Omit the Schedules. Insert instead:

## Schedule 1 Court fees

(Clause 4)

### Part 1 Supreme Court

	Column 1	Column 2	Column 3
	Matter for which fee payable	Standard fee	Corporation fee
1	Filing an originating process (other than an originating process referred to in items 2–9)	\$685	\$1,370
2	Filing an originating process in the Equity Division for entry in the Commercial List or the Technology and Construction List	\$1,566	\$3,132
3	Filing an originating process in the Equity Division for entry in the Admiralty List	\$630	\$1,510
4	Filing an originating process by which an application for a grant or resealing of probate in respect of an estate the sworn gross value of which:		
	(a) is less than \$50,000	Nil	—
	(b) is \$50,000 or more but less than \$250,000	\$605	—
	(c) is \$250,000 or more but less than \$500,000	\$763	—
	(d) is \$500,000 or more but less than \$1,000,000	\$1,150	—
	(e) is \$1,000,000 or more	\$1,531	—
5	Filing in the Court of Appeal a holding summons for leave to appeal or cross-appeal	\$134	\$268

Column 1	Column 2	Column 3
Matter for which fee payable	Standard fee	Corporation fee
6 Filing in the Court of Appeal an ordinary summons for leave to appeal or cross-appeal in respect of an application initiated by a holding summons	\$628	\$1,256
7 Filing any other summons in the Court of Appeal	\$761	\$1,522
8 Filing a notice of appeal without appointment in the Court of Appeal	\$302	\$604
9 Filing a notice of appeal with appointment in the Court of Appeal:		
(a) in proceedings in which a summons has been filed in the Court of Appeal	\$1,600	\$3,200
(b) in proceedings in which a notice of appeal without appointment has been filed	\$2,059	\$4,118
(c) in any other proceedings	\$2,361	\$4,722
10 Allocating a date for hearing of the proceedings by one or more judges, a judge and jury or an associate judge	\$1,307	\$2,614
11 Filing a requisition for trial by jury	\$832	\$1,664
12 For retention of jury after the first day of trial <b>Note.</b> The fees under this item are to be paid by the party requesting a jury for the trial.	\$379 per day	\$758 per day
13 On referral of proceedings for arbitration under Division 2 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$622	—
14 Filing an application for an order for the rehearing of proceedings under Division 3 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$474	\$948
15 Hearing of proceedings by one of more judges, for each half day of hearing on or after the 11th day <b>Note.</b> For the purposes of this item, a half day comprises a period of 3 hours or less, such period to include any adjournment of less than half an hour.	\$243	\$486

## 2007 No 278

### Civil Procedure Amendment (Fees) Regulation 2007

#### Schedule 1 Amendments

---

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Matter for which fee payable</b>	<b>Standard fee</b>	<b>Corporation fee</b>
16 Hearing of proceedings by an associate judge, for each half day of hearing on or after the 11th day <b>Note.</b> For the purposes of this item, a half day comprises a period of 3 hours or less, such period to include any adjournment of less than half an hour.	\$219	\$438
17 Preparing appeal papers (for such number of copies as the registrar orders to be printed) in volumes of not more than 250 pages	\$544 per volume	\$1,088 per volume
18 Filing a notice of motion	\$158	\$316
19 Lodging a will otherwise than as an attachment to an originating process by which an application for a grant or resealing of probate is made	\$33	—
20 Preparing a copy of a will	\$46	—
21 Conducting a genealogical search on a probate file (for each file searched)	\$87	—
22 Conducting a search for an application for a grant or resealing of probate (for each file searched)	\$46	—
23 Lodging a caveat against an application for a grant or resealing of probate	\$32	\$64
24 Conducting an adoption search (for each file searched)	\$46	—
25 Issuing a registrar's certificate as to the signature of a public notary	\$46	—

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## Part 2 District Court

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Matter for which fee payable</b>	<b>Standard fee</b>	<b>Corporation fee</b>
1 Filing an originating process (other than an originating process referred to in item 2)	\$488	\$976
2 Filing an originating process in relation to an appeal	\$202	\$404

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Matter for which fee payable</b>	<b>Standard fee</b>	<b>Corporation fee</b>
3 Allocating a date for hearing of the proceedings by a judge, a judge and jury or a judicial registrar	\$522	\$1,044
4 Filing a requisition for trial by jury	\$835	\$1,670
5 For retention of jury after the first day of trial <b>Note.</b> The fees under this item are to be paid by the party requesting a jury for the trial.	\$379 per day	\$758 per day
6 On referral of proceedings for arbitration under Division 2 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$618	—
7 Filing an application for an order for the rehearing of proceedings under Division 3 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$474	\$948
8 Filing a notice of motion	\$63	\$126

### Part 3 Local Courts

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Matter for which fee payable</b>	<b>Standard fee</b>	<b>Corporation fee</b>
1 Filing an originating process, under Part 7 of the <i>Local Courts Act 1982</i> , in a Local Court sitting in its General Division	\$180	\$360
2 Filing an originating process, under Part 7 of the <i>Local Courts Act 1982</i> , in a Local Court sitting in its Small Claims Division	\$73	\$146
3 Filing an application notice under Part 6 of the <i>Local Courts Act 1982</i>	\$70	—
4 Filing an application for an order for the rehearing of proceedings under Division 3 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$313	\$626
5 Serving or attempting service by post of originating process by a Local Court	\$31 for each address to which process posted	—
6 Filing a notice of motion	\$63	\$126

## 2007 No 278

Civil Procedure Amendment (Fees) Regulation 2007

Schedule 1 Amendments

---

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Matter for which fee payable</b>	<b>Standard fee</b>	<b>Corporation fee</b>
7 Filing a notice of appeal, or application for leave to appeal, to the District Court under Part 3 of the <i>Crimes (Appeal and Review) Act 2001</i> , as applied to proceedings under Part 6 of the <i>Local Courts Act 1982</i>		
(a) in relation to a single notice	\$85	—
(b) in relation to more than 1 notice arising from the same court appearance	\$46	—

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### Part 4 Miscellaneous court fees

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Matter for which fee payable</b>	<b>Standard fee</b>	<b>Corporation fee</b>
1 Issuing a subpoena (for production, to give evidence, or both)	\$61	\$122
2 Receipt by the registrar of a document or thing produced in compliance with a notice to produce under Part 34 of the <i>Uniform Civil Procedure Rules 2005</i>	\$61	\$122
3 Filing or registering a copy or certificate of a judgment, order, determination, decree, adjudication or award of any other court or person under section 133 of the <i>Civil Procedure Act 2005</i>	\$69	\$138
4 Opening or keeping open the registry or part of the registry:	\$540	\$1,080
(a) on a Saturday, Sunday or public holiday or		
(b) on any other day before 9 am or after 5 pm		
5 Requesting production to the court of documents held by another court	\$46	\$92
6 Furnishing a sealed or certified copy of a judgment or order, or of the written opinion or reasons for opinion of any judicial or other officer of the court	\$46	—

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Column 1	Column 2	Column 3
Matter for which fee payable	Standard fee	Corporation fee
7 Retrieving, providing access to and furnishing a copy of any document (otherwise than as provided for by item 6)	\$10, plus \$5 for each 10 pages (or part thereof) after the first 20 pages	—
8 Retrieving and providing access to, but not furnishing a copy of, any document	Nil	—
9 Supplying a duplicate tape recording of sound-recorded evidence	\$38 per cassette	—
10 Supplying a transcript of any proceedings:		
(a) where the matter being transcribed is under 3 months old	\$70, plus an additional \$8.50 for each page after the first 8 pages	—
(b) where the matter being transcribed is 3 months old or older	\$85, plus an additional \$9.70 for each page after the first 8 pages	—
11 Providing any service for which a fee is not otherwise imposed by this Schedule <b>Note.</b> A fee may not be imposed under this item except with the approval of the registrar.	\$32	\$64

## Schedule 2 Sheriff's fees

(Clause 5)

Column 1	Column 2
Matter for which fee payable	Fee
1 Serving or attempting service of any document, including service by post and preparation of affidavit of service	\$50 for each address at which, and each occasion on which, service is effected or attempted
2 Executing or attempting execution of an arrest warrant under section 97 of the <i>Civil Procedure Act 2005</i>	\$61 for each address at which, and each occasion on which, execution is effected or attempted

## 2007 No 278

### Civil Procedure Amendment (Fees) Regulation 2007

#### Schedule 1 Amendments

---

<b>Column 1</b>	<b>Column 2</b>
<b>Matter for which fee payable</b>	<b>Fee</b>
3 Executing or attempting execution of a writ of possession under Part 8 of the <i>Civil Procedure Act 2005</i>	\$255 for each address at which, and each occasion on which, execution is effected or attempted
4 Executing or attempting execution of a writ of delivery under Part 8 of the <i>Civil Procedure Act 2005</i>	\$61 for each address at which, and each occasion on which, execution is effected or attempted
5 Executing or attempting execution of a writ for the levy of property under Part 8 of the <i>Civil Procedure Act 2005</i> <b>Note.</b> The 3% levy in Column 2 is not payable in relation to writs executed by the Marshal in Admiralty	\$61 for each address at which, and each occasion on which, execution is effected or attempted, plus 3% of the proceeds of enforcement
6 Executing or attempting execution of any court process (other than a warrant or writ referred to in item 2, 3, 4 or 5)	\$255 for each address at which, and each occasion on which, execution is effected or attempted
7 Preparing for sale of land following receipt of notice of sale from judgment creditor (UCPR rule 39.22)	\$623
8 Furnishing a certified copy of a writ for the levy of property for registration under section 105A of the <i>Real Property Act 1900</i>	\$17
9 Providing Sheriff's officers to guard property seized under a writ of execution under Part 8 of the <i>Civil Procedure Act 2005</i>	\$340 per Sheriff's officer per day
10 Attending a view by a jury in civil proceedings	\$135
11 Opening or keeping open the Sheriff's office on a Saturday, Sunday or public holiday or on any other day before 9 am or after 5 pm	\$544
12 Retrieving, providing access to and furnishing a copy of any document (otherwise than as provided by item 8)	\$10, plus \$5 for each 10 pages (or part thereof) after the first 20 pages

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BY AUTHORITY