



Civil Procedure Amendment (Fees) Regulation 2012

under the

Civil Procedure Act 2005

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

GREG SMITH, MP
Attorney General

Explanatory note

The object of this Regulation is to adjust certain fees payable under the *Civil Procedure Act 2005* and, in particular:

- (a) to increase certain fees payable in relation to civil proceedings generally and other fees that are payable to the Sheriff, and
- (b) to clarify the circumstances in which certain fees are payable in relation to appeals and cross-appeals in the Court of Appeal.

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

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Clause 1 Civil Procedure Amendment (Fees) Regulation 2012

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under the

Civil Procedure Act 2005

1 Name of Regulation

This Regulation is the *Civil Procedure Amendment (Fees) Regulation 2012*.

2 Commencement

This Regulation commences on 1 July 2012 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Civil Procedure Regulation 2005

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

grant of representation means a grant of probate, letters of administration or letters of administration with the will annexed.

[2] 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
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Filing an originating process (other than an originating process referred to in items 2–6)	\$951	\$2,281
2	Filing an originating process by which an application for a grant of representation, or reseal of a grant of representation, 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	\$730	—
	(c) is \$250,000 or more but less than \$500,000	\$923	—
	(d) is \$500,000 or more but less than \$1,000,000	\$1,392	—
	(e) is \$1,000,000 or more	\$1,853	—
3	Filing in the Court of Appeal a notice of intention to appeal	\$272	\$544

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	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
4	Filing in the Court of Appeal a summons seeking leave to appeal or a cross-summons seeking leave to cross-appeal in proceedings where a notice of intention to appeal has been filed by the same party	\$973	\$1,667
5	Filing in the Court of Appeal a summons seeking leave to appeal or a cross-summons seeking leave to cross-appeal in proceedings where a notice of intention to appeal has not been filed by the same party	\$1,245	\$2,211
6	Filing in the Court of Appeal a notice of appeal or notice of cross-appeal:		
	(a) in proceedings where leave to appeal has been granted	\$1,921	\$3,408
	(b) in proceedings where a notice of intention to appeal has been filed by the same party	\$2,894	\$5,075
	(c) in any other proceedings	\$3,166	\$5,619
7	Allocating a date for hearing of the proceedings by one or more judges, a judge and jury or an associate judge	\$1,900	\$3,800
8	Filing a requisition for trial by jury	\$1,006	\$2,012
9	Retaining a jury after the first day of trial Note. The fees under this item are to be paid by the party requesting a jury for the trial.	\$459 per day	\$918 per day
10	Referring proceedings for arbitration under Division 2 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$752	—
11	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>	\$573	\$1,148

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
12	Hearing of proceedings by one or more judges, for each day of hearing or part of a day of hearing:		
	(a) on the 2nd, 3rd or 4th day	\$757	\$1,520
	(b) on the 5th, 6th, 7th, 8th or 9th day	\$1,217	\$2,640
	(c) on or after the 10th day	\$2,450	\$5,210
13	Hearing of proceedings by an associate judge, for each day of hearing or part of a day of hearing on or after the 2nd day	\$682	\$1,364
14	Preparing appeal papers (for such number of copies as the registrar orders to be printed) in volumes of not more than 250 pages	\$658 per volume	\$1,316 per volume
15	Filing a notice of motion	\$349	\$698
16	Preparing a copy of a will	\$54	—
17	Conducting a genealogical search on a probate file (for each file searched)	\$104	—
18	Conducting a search for an application for a grant of representation or reseal of a grant of representation (for each file searched)	\$54	—
19	Lodging a caveat against an application for a grant of representation or reseal of a grant of representation	\$38	\$76
20	Conducting an adoption search (for each file searched)	\$54	—
21	Issuing a registrar's certificate as to the signature of a public notary	\$54	—

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Part 2 Land and Environment Court

Note. Fees that are payable in relation to proceedings before the Land and Environment Court in Class 5, 6 or 7 of its jurisdiction are set out in Part 1 of Schedule 2 to the *Criminal Procedure Regulation 2010*.

	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Filing an originating process in Class 1 of the Court's jurisdiction (other than an originating process referred to in item 2)	\$829	\$1,658
2	Filing an originating process in Class 1 of the Court's jurisdiction under section 97 of the <i>Environmental Planning and Assessment Act 1979</i> 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 \$500,000	\$829	\$1,658
	(b) is \$500,000 or more but less than \$1,000,000	\$3,795	\$5,039
	(c) is \$1,000,000 or more	\$4,740	\$6,297
3	Filing an originating process in Class 2 of the Court's jurisdiction (other than an originating process referred to in item 4)	\$829	\$1,658
4	Filing an originating process in Class 2 of the Court's jurisdiction where the matter relates to an application under the <i>Trees (Disputes Between Neighbours) Act 2006</i>	\$217	\$434
5	Filing an originating process in Class 3 of the Court's jurisdiction (other than an originating process referred to in item 6 or 7)	\$829	\$1,658

	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
6	Filing an originating process 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 \$500,000	\$291	\$582
	(b) is \$500,000 or more but less than \$1,000,000	\$459	\$918
	(c) is \$1,000,000 or more	\$829	\$1,658
7	Filing an originating process in Class 3 of the Court's jurisdiction where the matter relates to a claim for compensation for the compulsory acquisition of land, as referred to in section 24 of the <i>Land and Environment Court Act 1979</i> , and where the amount offered as compensation by the resuming or constructing authority:		
	(a) is less than \$500,000	\$829	\$1,658
	(b) is \$500,000 or more but less than \$1,000,000	\$3,795	\$5,039
	(c) is \$1,000,000 or more	\$4,740	\$6,297
8	Filing an originating process in Class 4 of the Court's jurisdiction	\$829	\$1,658
9	Filing an originating process in Class 8 of the Court's jurisdiction	\$217	\$434
10	Filing a process to commence an appeal to the Court under section 56A of the <i>Land and Environment Court Act 1979</i>	\$1,939	\$3,878
11	Filing a notice of motion	\$192	\$384

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Part 3 District Court

	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Filing an originating process (other than an originating process referred to in item 2)	\$591	\$1,182
2	Filing an originating process in relation to an appeal	\$244	\$488
3	Allocating a date for hearing of the proceedings by a judge, a judge and jury or a judicial registrar	\$632	\$1,264
4	Filing a requisition for trial by jury	\$1,011	\$2,022
5	Retaining a jury after the first day of trial Note. The fees under this item are to be paid by the party requesting a jury for the trial.	\$459 per day	\$918 per day
6	Referring proceedings for arbitration under Division 2 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$748	—
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>	\$573	\$1,146
8	Filing a notice of motion	\$76	\$152

Part 4 Local Court

	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Filing an originating process, under Part 3 of the <i>Local Court Act 2007</i> , in the Local Court sitting in its General Division	\$217	\$434
2	Filing an originating process, under Part 3 of the <i>Local Court Act 2007</i> , in the Local Court sitting in its Small Claims Division	\$88	\$176

	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
3	Filing an application notice under Part 4 of the <i>Local Court Act 2007</i>	\$83	—
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>	\$379	\$758
5	Serving or attempting service by post of originating process by the Local Court	\$37 for each address to which process posted	—
6	Filing a notice of motion	\$76	\$152
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 4 of the <i>Local Court Act 2007</i> :		
	(a) in relation to a single notice	\$102	—
	(b) in relation to more than 1 notice arising from the same court appearance	\$54	—

Part 5 Miscellaneous court fees

	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Issuing a subpoena (for production, to give evidence, or both)	\$74	\$148
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>	\$74	\$148
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>	\$82	\$164

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	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
4	Opening or keeping open the registry or part of the registry: (a) on a Saturday, Sunday or public holiday (b) on any other day before 9 am or after 5 pm	\$653	\$1,306
5	Requesting production to the court of documents held by another court	\$54	\$108
6	Furnishing one or more sealed or certified copies of a judgment or order, or of the written opinion or reasons for opinion of any judicial or other officer of the court	\$54	—
7	Retrieving, providing access to and furnishing a copy of any document (otherwise than as provided for by items 6, 8 and 10)	\$11.40, plus \$5.65 for each 10 pages (or part of 10 pages) after the first 20 pages	—
8	Retrieving and providing access to, but not furnishing a copy of, any file or box of files, where the file or box of files is retrieved from: (a) the Government Records Repository or any other off-site storage facility (other than the State Archives): (i) standard retrieval request (ii) non-standard retrieval request (including an urgent, high or after hours priority retrieval request or a retrieval request for delivery to or from a regional location outside the Sydney metropolitan area) (b) the State Archives—standard retrieval request	\$12.30 per file or box of files Such additional fee incurred by a court \$30.85 per file or box of files	— — —

	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
9	Supplying a duplicate recording of sound-recorded evidence—per cassette tape or disc	\$46.75	—
10	Supplying a copy of a transcript of any proceedings:		
	(a) where the matter being transcribed is under 3 months old	\$79, plus an additional \$9.70 for each page after the first 8 pages	—
	(b) where the matter being transcribed is 3 months old or older	\$97, plus an additional \$11 for each page after the first 8 pages	—
11	Providing any service for which a fee is not otherwise imposed by this Schedule Note. A fee may not be imposed under this item except with the approval of the registrar.	\$38	\$76

Schedule 2 Sheriff's fees

(Clause 5)

	Column 1	Column 2
Item	Matter for which fee payable	Fee
1	Serving or attempting service of any document, including service by post and preparation of affidavit of service	\$59 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>	\$74 for each address at which, and each occasion on which, execution is effected or attempted
3	Executing or attempting execution of a writ of possession under Part 8 of the <i>Civil Procedure Act 2005</i>	\$307 for each address at which, and each occasion on which, execution is effected or attempted

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	Column 1	Column 2
Item	Matter for which fee payable	Fee
4	Executing or attempting execution of a writ of delivery under Part 8 of the <i>Civil Procedure Act 2005</i>	\$74 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> Note. The 3% levy in Column 2 is not payable in relation to writs executed by the Marshal in Admiralty.	\$74 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)	\$307 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 under rule 39.22 of the <i>Uniform Civil Procedure Rules 2005</i>	\$753
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>	\$22
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>	\$411 per Sheriff's officer per day
10	Attending a view by a jury in civil proceedings	\$163
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	\$659
12	Retrieving, providing access to and furnishing a copy of any document (otherwise than as provided by item 8)	\$11.40, plus \$5.65 for each 10 pages (or part of 10 pages) after the first 20 pages
