



New South Wales

# Justice Legislation Amendment (Fees) Regulation 2023

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under—

- (a) the *Civil Procedure Act 2005*, and
- (b) the *Criminal Procedure Act 1986*.

MICHAEL DALEY, MP  
Attorney General

## Explanatory note

The object of this regulation is to provide for the annual automatic indexation of Sheriff's fees in accordance with the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.

This regulation is made under—

- (a) the *Civil Procedure Act 2005*, section 18(1)(a), (c), (e) and (f), and
- (b) the *Criminal Procedure Act 1986*, sections 4(1) and 4A(1)(a)–(c).

## **Justice Legislation Amendment (Fees) Regulation 2023**

**1 Name of regulation**

This regulation is the *Justice Legislation Amendment (Fees) Regulation 2023*.

**2 Commencement**

This regulation commences on 1 August 2023.

## Schedule 1 Amendment of Civil Procedure Regulation 2017

### [1] Clause 3 Definitions

Omit “Schedule 1, Part 6” from clause 3(1), definition of *fee unit*.  
Insert instead “Schedule 3”.

### [2] Clause 4A Annual adjustment of court fees—the Act, s 18(1)(a), (c) and (f)

Omit the clause.

### [3] Clause 5A

Insert after clause 5—

#### **5A Annual adjustment of fees—the Act, s 18**

For the Act, section 18(1)(a), (c), (e) and (f), the fee payable by a person in relation to matters specified in those paragraphs must be adjusted for inflation in accordance with Schedule 3.

### [4] Clause 18

Insert after clause 17—

#### **18 Transitional provisions—fees**

To avoid doubt, the amendments made by the *Justice Legislation Amendment (Fees) Regulation 2023* do not apply to a fee charged before 1 August 2023.

### [5] Schedule 1 Court fees

Omit “clauses 4 and 4A”. Insert instead “clause 4”.

### [6] Schedule 1, Part 6

Omit the part.

### [7] Schedule 2 Sheriff’s fees

Omit the matter relating to items 1–4. Insert instead—

#### **Service and execution**

- |   |   |      |
|---|---|------|
| 1 | Serving or attempting service of a document, other than a document specified in items 2–6, including service by post and preparation of affidavit of service, for each address at which, and each occasion on which, service is effected or attempted | 0.7  |
| 2 | Executing or attempting execution of an arrest warrant under the Act, section 97, for each address at which, and each occasion on which, execution is effected or attempted   | 0.9  |
| 3 | Executing or attempting execution of a writ of possession under the Act, Part 8, for each address at which, and each occasion on which, execution is effected or attempted  | 3.67 |

- 4 Executing or attempting execution of a writ of delivery under the Act, Part 8, for each address at which, and each occasion on which, execution is effected or attempted 0.9

**[8] Schedule 2**

Omit “\$90” from item 5, column 2. Insert instead “0.9”.

**[9] Schedule 2**

Omit the matter relating to items 6–13. Insert instead—

- 6 Executing or attempting execution of a court process, other than a warrant or writ specified in item 2, 3, 4 or 5, for each address at which, and each occasion on which, execution is effected or attempted 3.67

- 7 Providing Sheriff’s officers to guard property seized under a writ of execution under the Act, Part 8, for each Sheriff’s officer for each day 4.92

**Other functions**

- 8 Preparing for the sale of land after receiving a notice of sale from a judgment creditor under the *Uniform Civil Procedure Rules 2005*, rule 39.22 9.02

- 9 Certifying a copy of a writ for the levy of property for registration under the *Real Property Act 1900*, section 105 and supplying the copy 0.27

- 10 Attending a view ordered by a judge under the *Evidence Act 1995*, section 53 in civil proceedings if a jury will be present 1.96

- 11 Conducting a debt search on a judgment debt registered with the Sheriff’s office for enforcement, for each name of a company or individual searched 0.64

**Administrative services**

- 12 Opening or keeping open the Sheriff’s office— 7.9

- (a) on a Saturday, Sunday or public holiday, or  
(b) on another day before 9am or after 5pm

- 13 Retrieving, providing access to and supplying a copy of a document, except as specified in item 9—

- (a) for up to 20 pages 0.13  
(b) for each 10 pages, or part of 10 pages, after the first 20 pages 0.07

[10] **Schedule 3**

Insert after Schedule 2—

## **Schedule 3 Adjustment of fees for inflation**

clause 5A

### **1 Definitions**

In this schedule—

**CPI number** means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

**financial year** means a period of 12 months commencing on 1 July.

**Secretary** means the Secretary of the Department of Communities and Justice.

### **2 Calculation of fee unit for regulation**

- (1) In this regulation, a fee unit is—
- (a) in the financial year 2023–2024—\$110.93, and
  - (b) in each subsequent financial year—the amount calculated as follows—

$$\$110.93 \times \frac{A}{B}$$

where—

*A* is the CPI number for the December quarter in the financial year immediately preceding the financial year for which the amount is calculated.

*B* is the CPI number for the December quarter of 2022.

- (2) The amount of a fee unit is to be rounded to the nearest cent and an amount of 0.5 cent is to be rounded down.
- (3) However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

### **3 Rounding of fee amounts**

The amount of a fee calculated by reference to a fee unit is to be rounded to the nearest dollar and an amount of 50 cents is to be rounded down.

### **4 Notice of indexed fees**

- (1) As soon as practicable after the CPI number for the December quarter is published by the Australian Bureau of Statistics, the Secretary is required to—
  - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of that amount can be published on the NSW legislation website, and
  - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this schedule.
- (2) This schedule operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this clause.

## Schedule 2 Amendment of Criminal Procedure Regulation 2017

[1] **Clause 3 Definitions**

Omit “Part 1A” from clause 3(1), definition of *fee unit*.

Insert instead “Part 3”.

[2] **Clause 12A Annual adjustment of court fees—the Act, s 4A(1)(a) and (c)**

Omit the clause.

[3] **Clause 13A**

Insert after clause 13—

**13A Annual adjustment of fees—the Act, s 4A**

For the Act, section 4A(1)(a)–(c), the fee payable by a person in relation to matters specified in those paragraphs must be adjusted for inflation in accordance with Schedule 2, Part 3.

[4] **Clause 119C**

Insert after clause 119B—

**119C Transitional provision—fees**

To avoid doubt, the amendments made by the *Justice Legislation Amendment (Fees) Regulation 2023* do not apply to a fee charged before 1 August 2023.

[5] **Schedule 2 Fees**

Omit “clauses 12, 12A and 13”.

[6] **Schedule 2, Part 1**

Insert after the heading to the part—

clause 12

[7] **Schedule 2, Parts 2 and 3**

Omit Parts 1A and 2. Insert instead—

### Part 2 Sheriff’s fees

clause 13

Item	Matter for which fee payable	Fee (in fee units)
1	Attending a view ordered by a judge under the <i>Evidence Act 1995</i> , section 53 in criminal proceedings if a jury will be present	1.96

### Part 3 Adjustment of fees for inflation

clause 13A

## 1 Definitions

In this part—

**CPI number** means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of the index.

**financial year** means a period of 12 months commencing on 1 July.

## 2 Calculation of fee unit for regulation

- (1) In this regulation, a fee unit is—
  - (a) in the financial year 2023–2024—\$110.93, and
  - (b) in each subsequent financial year—the amount calculated as follows—

$$\$110.93 \times \frac{A}{B}$$

where—

**A** is the CPI number for the December quarter in the financial year immediately preceding the financial year for which the amount is calculated.

**B** is the CPI number for the December quarter of 2022.

- (2) The amount of a fee unit is to be rounded to the nearest cent and an amount of 0.5 cent is to be rounded down.
- (3) However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

## 3 Rounding of fee amounts

The amount of a fee calculated by reference to a fee unit is to be rounded to the nearest dollar and an amount of 50 cents is to be rounded down.

## 4 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the December quarter is published by the Australian Bureau of Statistics, the Secretary is required to—
  - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of that amount can be published on the NSW legislation website, and
  - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this part.
- (2) This part operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this clause.