

# District Court Regulation 2000

[2000-518]



New South Wales

## Status Information

### Currency of version

Historical version for 1 September 2000 to 30 June 2001 (accessed 26 June 2024 at 23:35)

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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File last modified 7 September 2000

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# District Court Regulation 2000



New South Wales

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *District Court Act 1973*.

BOB DEBUS, M.P., Attorney General

## 1 Name of Regulation

This Regulation is the *District Court Regulation 2000*.

## 2 Commencement

This Regulation commences on 1 September 2000.

### Note—

This Regulation replaces the *District Court (Fees) Regulation 1993* which is repealed on 1 September 2000 under section 10 (2) of the *Subordinate Legislation Act 1989*.

## 3 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

## 4 Fees chargeable

The fees to be taken in respect of the business of the Court are the fees set out in Schedule 1.

## 5 Fees not chargeable to the Crown

(1) No fee is chargeable to the Crown or any other person with respect to any document or service filed or provided:

- (a) for the Government of New South Wales, or
- (b) for any New South Wales Government Department, or
- (c) for any statutory body whose expenditure is paid out of the Consolidated Fund.

(2) This clause does not prevent the recovery from any person by the Crown or by any

such statutory body of any such fee that, had it been paid, would have been recoverable from that person.

## 6 Pro bono cases

- (1) The taking of the fee for the filing of any statement of claim or other originating process (or a notice of cross-claim) on behalf of a pro bono party to proceedings is to be postponed until judgment has been given in the proceedings.
- (2) The fee is not to be taken at all, or if taken must be remitted, if in relation to the claim (or cross-claim):
  - (a) judgment is against that party, or
  - (b) judgment is in favour of that party, but damages are not awarded (or only nominal damages are awarded) in his or her favour and costs are not awarded in his or her favour.
- (3) A registrar must not refuse to file or issue any document relevant to proceedings merely because, in accordance with this clause, a fee has not been taken for the filing of any originating process (or notice of cross-claim) on behalf of a pro bono party to those proceedings.
- (4) For the purposes of this clause, a party to proceedings is a **pro bono party** if he or she is being represented under the pro bono scheme of the Law Society of New South Wales or the pro bono scheme of the New South Wales Bar Association and a solicitor (in the case of the Law Society's scheme), or a barrister (in the case of the Bar Association's scheme), acting for the party:
  - (a) certifies in writing to the registrar with whom the originating process (or notice of cross-claim) is lodged on behalf of the party that the party is being so represented, and
  - (b) undertakes in writing to the registrar to pay the filing fee for that document if, at the conclusion of the proceedings, subclause (2) does not apply.

## 7 Postponement of fees in certain other cases

- (1) The taking of any fee in respect of the business of the Court in relation to proceedings involving a legally assisted party is, if the fee is payable by the legally assisted party, to be postponed until judgment has been given in the proceedings.
- (2) The fee is not to be taken at all, or if taken must be remitted, if:
  - (a) judgment in the proceedings is against the legally assisted party, or
  - (b) judgment is in favour of the legally assisted party, but damages are not awarded (or only nominal damages are awarded) in his or her favour and costs are not

awarded in his or her favour.

- (3) A registrar must not refuse to file or issue any document relevant to proceedings merely because, in accordance with this clause, a fee in respect of any business of the Court has not been taken on behalf of a legally assisted party to those proceedings.
- (4) For the purpose of this clause, a party to proceedings is a **legally assisted party** if he or she is receiving legal assistance through a community legal centre within the meaning of section 48H of the *Legal Profession Act 1987*.

## **8 Persons by and to whom fees payable**

- (1) Any fee charged under this Regulation for any document or service is payable by the person at whose request the document is filed or the service rendered:
  - (a) in the case of a document that is filed in any proceedings—to the registrar for the proper place in relation to the proceedings, or
  - (b) in the case of any service rendered by a bailiff—to the registrar who required the bailiff to render the service.
- (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 any such fee.

## **9 Time for payment of fees**

- (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 any 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 any such fee be postponed, waived or remitted, subject to such conditions (if any) as the registrar thinks fit to impose.
- (3) A registrar may delegate his or her power under this clause to direct that the whole or any part of any fee be postponed to any public servant holding office as, or appointed to act temporarily as, a grade 3/4 administrative or clerical officer or above.
- (4) A registrar may delegate his or her power under this clause to direct that the whole or any part of any fee be waived or remitted as follows:
  - (a) in the case of a registrar who is also a clerk of a Local Court, to any person holding office as, or appointed to act temporarily as, an assistant clerk of the Local Court or a chamber magistrate,

(b) in any case, to any public servant holding office as, or appointed to act temporarily as, a grade 7/8 administrative or clerical officer or above.

(5) A reference in subclause (2) to a registrar who is requested to file a document or render a service includes a reference to a person to whom such a registrar delegates his or her powers in accordance with this clause.

(6) This clause is subject to clauses 6 and 7.

## 10 Savings provision

Any act, matter or thing that, immediately before the repeal of the *District Court (Fees) Regulation 1993*, had effect under that Regulation is taken to have effect under this Regulation.

## Schedule 1 Court fees

(Clause 4)

		\$
1	(1) Filing a statement of claim or any other originating process (other than the filing of an originating process referred to in paragraph (2))	388
	(2) Filing an originating process by way of a notice of appeal	161
	(3) Filing a notice of cross-claim or third or subsequent party notice	388
2	Filing notice of motion under Part 16 of the <i>District Court Rules 1973</i> (not being a filing referred to in item 1)	51
3	(1) Filing a requisition for a civil trial by a jury (to be paid by the party requesting a jury)	663
	(2) Daily retention fee (to be paid by the party requesting a jury for each day a jury is required after the first day of a civil trial)	302
4	Making a copy of any document, for each page (minimum fee	2 10)
5	Supply of duplicate tape recording of sound-recorded evidence, for each cassette	31
6	For each copy of the transcript of any proceedings:	
	(a) for each page, where the matter being transcribed is under 3 months old	6.70
	(minimum fee for 1 to 8 pages	58)

	(b) for each page, where the matter being transcribed is 3 months old or older	7.70	
	(minimum fee for 1 to 8 pages	68)	
7	Service or attempted service of any process or other document, including service by post and preparation of an affidavit of service—for each address at which service of the process or other document is effected or attempted	39	
8	Execution or attempted execution of any writ or warrant—for each address at which execution of the writ or warrant is effected or attempted	49	
9	Disbursements in executing or attempting to execute a writ of execution, including a fee for keeping possession		
10	Levy on a writ of execution		
11	For work undertaken in preparing for a sale of land on instructions from a judgment creditor—if sale does not proceed		} As prescribed by the scale of fees under the <i>Sheriff Act 1900</i>
12	The travelling expenses incurred by officers in conveying an arrested person to prison or to court		
13	Attending a view by a jury (to be paid by the party making the request)		
14	On referral for hearing by an arbitrator under the <i>Arbitration (Civil Actions) Act 1983</i> (to be paid equally between the parties)	493	
15	Filing an application for an order under section 18A (1) of the <i>Arbitration (Civil Actions) Act 1983</i> for the rehearing of an action referred for arbitration	376	
	<b>NOTE:</b>		
	<i>This amount is subject to any provision of the <i>District Court Rules 1973</i> providing for the refund of the whole or any part of this amount.</i>		
16	(a) To issue a subpoena for production	49	
	(b) To issue a subpoena for production and to give evidence	49	
	(c) To issue a subpoena to give evidence	24	