

# Land and Environment Court Regulation 2000

[2000-526]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Authorisation

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New South Wales

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# Land and Environment Court Regulation 2000



New South Wales

## 1 Name of Regulation

This Regulation is the *Land and Environment Court Regulation 2000*.

## 2 Commencement

This Regulation commences on 1 September 2000.

### Note—

This Regulation replaces the *Land and Environment Court Regulation 1994* which is repealed on 1 September 2000 under section 10 (2) of the *Subordinate Legislation Act 1989*.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.

### 3A Definition

In this Regulation:

**the Act** means the *Land and Environment Court Act 1979*.

## 4 Fees generally

The fees to be taken in respect of the matters set out in Schedule 1 are the fees specified in that Schedule.

## 5 Persons by and to whom fees payable

- (1) A fee charged under this Regulation for a document or service is payable to the registrar by the person at whose request the document is filed or the service rendered.
- (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 the fee.

### **5A Fee not chargeable for transcript—appeal to Court of Criminal Appeal**

No fee is chargeable to a person convicted of an offence in proceedings before the Court for a transcript or diskette of the proceedings if:

- (a) the person has filed a notice of appeal, notice of intention to appeal, notice of application for leave to appeal or notice of intention to apply for leave to appeal with the Court of Criminal Appeal against the conviction or a sentence imposed by the Court in respect of the conviction, or
- (b) the person is a respondent to an appeal against such a sentence.

### **6 Postponement or waiver of fees in certain cases**

- (1) The taking of the fee for filing initiating process to commence proceedings in any Class of the Court's jurisdiction is to be postponed until judgment is given in the proceedings if the process is filed by or on behalf of:
  - (a) a pro bono party to the proceedings, or
  - (b) a pensioner party to the proceedings, or
  - (c) a legally assisted party to the proceedings.
- (2) The fee is not to be taken at all, or if taken must be remitted, if, in relation to the proceedings:
  - (a) judgment is against the party concerned, or
  - (b) judgment is in favour of that party, but costs are not awarded in his or her favour.
- (3) Despite clause 7 (2), the registrar must not refuse to file or issue any document, or render a service, relevant to proceedings merely because, in accordance with this clause, a fee has not been taken for the filing of any initiating process on behalf of a pro bono party, a pensioner party or a legally assisted party to the proceedings concerned.
- (4) For the purposes of this clause:
  - (a) 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 legal practitioner acting for the party:
    - (i) certifies in writing to the registrar on behalf of the party that the party is being so represented, and
    - (ii) 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, and

- (b) a party to proceedings is a **pensioner party** if he or she is the holder of any card issued by the Commonwealth Government that entitles the holder to Commonwealth health concessions, and
- (c) 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](#).

## **7 When fees payable**

- (1) A fee charged under this Regulation becomes payable when the document concerned is filed or the service concerned is rendered.
- (2) However, the registrar:
  - (a) may require a 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 such a fee be postponed, waived or remitted, subject to such conditions (if any) as the registrar thinks fit to impose.
- (3) The 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 5/6 administrative or clerical officer or above.
- (4) The 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 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 the registrar includes a reference to a person to whom the registrar delegates his or her powers in accordance with this clause.
- (6) This clause is subject to clause 6.

## **8 Determination of costs if no agreement between prosecutor and defendant**

- (1) This clause applies if no agreement between a prosecutor and defendant can be reached as to the amount of costs payable in accordance with a direction under section 52 of the Act.
- (2) The prosecutor or the defendant may apply to the proper officer of the Supreme Court in accordance with section 202 of the [Legal Profession Act 1987](#) for an assessment of the whole of, or any part of, the costs referred to in a direction under section 52 of the Act.
- (3) The costs are to be assessed in accordance with the provisions of Division 6 of Part 11 of the [Legal Profession Act 1987](#).

## 9 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Land and Environment Court Regulation 1994*, had effect under that Regulation is taken to have effect under this Regulation.

## Schedule 1 Court fees

(Clause 4)

|  | \$       |
|--|----------|
| 1 Filing a process to commence proceedings in Class 1 of the Court's jurisdiction (other than proceedings referred to in item 2 or 3)  | 574.00   |
| 2 Filing a process to commence proceedings in Class 1 of the Court's jurisdiction 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 \$50,000  | 169.00   |
| (b) is \$50,000 or more but less than \$500,000  | 574.00   |
| (c) is \$500,000 or more but less than \$1,000,000   | 2,617.00 |
| (d) is \$1,000,000 or more   | 3,268.00 |
| 3 Filing a process to commence proceedings in Class 1 of the Court's jurisdiction where the matter relates to an appeal under section 96AA or 98 of the <i>Environmental Planning and Assessment Act 1979</i>  | 169.00   |
| 4 Filing a process to commence proceedings in Class 2 of the Court's jurisdiction (other than proceedings referred to in item 5)   | 574.00   |
| 5 Filing a process to commence proceedings in Class 2 of the Court's jurisdiction 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 is less than \$50,000  | 169.00   |
| 6 Filing a process to commence proceedings in Class 3 of the Court's jurisdiction (other than proceedings referred to in item 7, 8 or 9)   | 574.00   |
| 7 Filing a process to commence proceedings in Class 3 of the Court's jurisdiction where the matter relates to an appeal, reference or other matter under the <i>Crown Lands Act 1989</i> , the <i>Crown Lands (Continued Tenures) Act 1989</i> , the <i>Roads Act 1993</i> , the <i>Water Act 1912</i> , the <i>Water Management Act 2000</i> or the <i>Western Lands Act 1901</i> | 81.00    |
| 8 Filing a process to commence proceedings 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 \$100,000  | 148.00  |
|    | (b) is \$100,000 or more but less than \$500,000  | 201.00  |
|    | (c) is \$500,000 or more but less than \$1,000,000  | 317.00  |
|    | (d) is \$1,000,000 or more  | 449.00  |
| 9  | Filing a process to commence proceedings 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 \$50,000   | 169.00  |
|    | (b) is \$50,000 or more but less than \$500,000   | 574.00  |
|    | (c) is \$500,000 or more but less than \$1,000,000  | 2,617.00  |
|    | (d) is \$1,000,000 or more  | 3,268.00  |
| 10 | In respect of item 6, 8 or 9, if the registrar determines that, because of the substance of the matter and its lack of complexity, the fee referred to in the item is not appropriate   | 81.00   |
| 11 | Filing a process to commence proceedings in Class 4 of the Court's jurisdiction   | 574.00  |
| 12 | Filing a process to commence proceedings in Class 5 of the Court's jurisdiction   | 574.00  |
| 13 | Filing a process to commence proceedings in Class 6 or 7 of the Court's jurisdiction  | 169.00  |
| 14 | Filing a process to commence an appeal to the Court under section 56A of the <i>Land and Environment Court Act 1979</i>   | 698.00  |
| 15 | Filing a process to commence proceedings for modification of a development consent, or for modification of an approval, granted by the Court on appeal  | 105.00 or 30% of the original filing fee paid to the Court (whichever is the greater) |
| 16 | Production of a document, by an officer of the Court, elsewhere than at the place at which the Court sits and elsewhere than at the office of the registrar   | 47.00   |
| 17 | Making a copy of a document, for each page (minimum fee of \$10.00)   | 2.00  |
| 18 | Supplying a copy of the transcript/diskette of proceedings:   |   |

|    |   |        |
|----|---|--------|
|    | (a) for each page (or equivalent) where the matter being transcribed is under 3 months old<br>(minimum fee for 1 to 8 pages (or equivalent) of \$60.00)   | 7.10   |
|    | (b) for each page (or equivalent) where the matter being transcribed is 3 months old or older<br>(minimum fee for 1 to 8 pages (or equivalent) of \$70.00)  | 8.10   |
|    | (c) for each diskette also supplied (in addition to fee under paragraph (a) or (b))   | 5.00   |
| 19 | Furnishing a party to proceedings with a second or subsequent copy of the written opinion or reasons for opinion of a Judge or of a commissioner or other officer of the Court in relation to the proceedings, for each copy                      | 45.00  |
| 20 | Furnishing a person (other than a party to proceedings) with a first or subsequent copy of the written opinion or reasons for opinion of a Judge or of a commissioner or other officer of the Court in relation to any proceedings, for each copy | 45.00  |
| 21 | Opening, or keeping open, the office of the registrar:  |        |
|    | (a) on a Saturday, Sunday or public holiday (except the day after Easter Monday)  | 454.00 |
|    | (b) on any other day:   |        |
|    | (i) before 8 am or after 5.30 pm  | 454.00 |
|    | (ii) between 8 and 8.30 am or 5 and 5.30 pm   | 47.00  |
| 22 | Supplying a duplicate tape recording of sound-recorded evidence, for each cassette  | 38.00  |
| 23 | (a) To issue a subpoena for production  | 51.00  |
|    | (b) To issue a subpoena for production and to give evidence   | 51.00  |
|    | (c) To issue a subpoena to give evidence  | 26.00  |
| 24 | Retrieving a document from archival storage, for each document  | 23.00  |