

# District Court Regulation 2000

[2000-518]



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

## Contents

1 Name of Regulation .....	3
2 Commencement .....	3
3 Interpretation .....	3
4 Fees chargeable .....	3
5 Fees not chargeable to the Crown .....	4
5A Fee not chargeable for transcript—appeal to Court of Criminal Appeal.....	4
6 Pro bono cases .....	4
7 Postponement of fees in certain other cases.....	5
8 Persons by and to whom fees payable (other than hearing allocation or hearing fees) .....	6
8A Persons by and to whom hearing allocation or hearing fees payable.....	6
9 Time for payment of fees.....	7
9A Action available if hearing allocation or hearing fee not paid .....	8
10 Savings provision.....	8
<b>Schedule 1 Court fees .....</b>	<b>8</b>

# District Court Regulation 2000



New South Wales

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This Regulation replaces the *District Court (Fees) Regulation 1993* which is repealed on 1 September 2000 under section 10 (2) of the *Subordinate Legislation Act 1989*.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

(1) In this Regulation:

**corporation** has the same meaning as in section 57A of the *Corporations Act 2001* of the Commonwealth.

**criminal proceedings** means proceedings in the Court's criminal jurisdiction within the meaning of section 9 (2) of the Act.

**hearing allocation fee** means a fee referred to in item 17 of Schedule 1.

**hearing fee** means a fee referred to in item 18 of Schedule 1.

**the Act** means the *District Court Act 1973*.

(2) Notes in the text of this Regulation (other than those in Schedule 1) do not form part of this Regulation.

## 4 Fees chargeable

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

(2) However, a reference in that Schedule to a corporation does not include a reference to a corporation that produces evidence, satisfactory to a registrar:

(a) that its turnover, in the financial year of the corporation immediately preceding

the financial year in which the fees are to be taken, was less than \$200,000, or

- (b) if the corporation has not been in existence for a full financial year—that its turnover in its first financial year is likely to be less than \$200,000.

## **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) No hearing allocation fee or hearing fee is chargeable to any of the following parties to proceedings or to agents acting on their behalf in those proceedings:
- (a) the Government of New South Wales,
  - (b) any New South Wales Government Department,
  - (c) any statutory body whose expenditure is paid out of the Consolidated Fund.
- (3) A registrar may require evidence to be furnished for the purpose of deciding whether a statutory body's expenditure is paid out of the Consolidated Fund.
- (4) 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.

## **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 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 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, or a hearing allocation fee or hearing fee in any such 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.
- (3A) Despite clause 9A, the Court must not refuse to allocate a date for hearing proceedings or refuse to hear those proceedings merely because, in accordance with this clause, a hearing allocation fee or hearing fee has not been taken 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, or the hearing allocation fee or hearing fee, 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.

(3A) Despite clause 9A, the Court must not refuse to allocate a date for hearing proceedings or refuse to hear those proceedings merely because, in accordance with this clause, a hearing allocation fee or hearing fee 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 (other than hearing allocation or hearing fees)**

- (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.
- (3) A reference in Schedule 1 to a fee payable in the case of a corporation is a reference to a corporation on whose behalf a request is made to file a document or render a service.
- (4) This clause:
  - (a) does not apply to hearing allocation fees or hearing fees, and
  - (b) is subject to any provision to the contrary in Schedule 1.

## **8A Persons by and to whom hearing allocation or hearing fees payable**

- (1) A hearing allocation fee or hearing fee charged under this Regulation:
  - (a) is payable by the person made liable to pay the fee under item 17 or 18 respectively of Schedule 1, and
  - (b) is payable to a registrar.
- (2) If a person is acting as an agent for a party to any proceedings (being a party by whom a hearing allocation fee or hearing fee is payable under Schedule 1), the person and the party are jointly and severally liable for payment of the hearing allocation fee

or hearing fee.

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

- (1) A fee charged under this Regulation (other than a hearing allocation fee or hearing fee) becomes payable when the document concerned is filed or the service concerned is rendered.
- (1A) A hearing allocation fee charged under this Regulation becomes payable:
  - (a) immediately after a date is allocated for hearing the proceedings, or
  - (b) when the Court or a registrar notifies the parties in writing of the Court's intention to allocate a date for hearing the proceedings,whichever first occurs.
- (1B) A hearing fee charged under this Regulation becomes payable when the Court or a registrar notifies the person liable to pay the hearing fee in writing of the amount of the fee payable.
- (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.

**9A Action available if hearing allocation or hearing fee not paid**

If a hearing allocation fee or hearing fee is not paid by the due date for its payment, the Court may refuse to hear or continue to hear the proceedings concerned until the fee is paid.

**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))	842.00 (in the case of a corporation) or 421.00 (in any other case)
	(2) Filing an originating process by way of a notice of appeal	348.00 (in the case of a corporation) or 174.00 (in any other case)
	(3) Filing a notice of cross-claim or third or subsequent party notice	842.00 (in the case of a corporation) or 421.00 (in any other case)
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)	110.00 (in the case of a corporation) or 55.00 (in any other case)
3	(1) Filing a requisition for a civil trial by a jury (to be paid by the party requesting a jury)	1,440.00 (in the case of a corporation) or 720.00 (in any other case)
	(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)	654.00 (in the case of a corporation) or 327.00 (in any other case)
4	Making a copy of any document, for each page (minimum fee of \$10.00)	2.00
5	Supply of duplicate tape recording of sound-recorded evidence, for each cassette	34.00
6	For each copy of the transcript of any proceedings:	
	(a) for each page, where the matter being transcribed is under 3 months old	7.30



	(minimum fee for 1 to 8 pages of \$62.00)	
	(b) for each page, where the matter being transcribed is 3 months old or older	8.40
	(minimum fee for 1 to 8 pages of \$72.00)	
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	42.00
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	53.00
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)	536.00
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	818.00 (in the case of a corporation) or 409.00 (in any other case)
	<b>Note—</b> 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.	
16	To issue a subpoena (for production, to give evidence, or both)	106.00 (in the case of a corporation) or 53.00 (in any other case)
17	For allocation of a date for hearing the proceedings by a judge or a judge and jury	900.00 (in the case of a corporation) or 450.00 (in any other case)

**Note 1—**

The hearing allocation fee is payable by the plaintiff or appellant in the proceedings. If the Court or a registrar so orders, the fee is payable by another party to the proceedings or by any parties to the proceedings in the proportions ordered.

**Note 2—**

A hearing allocation fee is payable for proceedings allocated a date for hearing after 1 October 2003 whether the proceedings were initiated before or after that date.

**Note 3—**

A hearing allocation fee is not payable:

- (a) in criminal proceedings, or
- (b) if the proceedings are of an interlocutory nature only.

**Note 4—**

A hearing allocation fee is not payable and, if paid, is to be remitted, if:

- (a) the proceedings do not proceed on the allocated date for hearing, and
- (b) a registrar is satisfied that the adjournment was due to circumstances beyond the control of the parties to the proceedings.

18

For the hearing of proceedings by a judge or judge and jury—each half day of hearing on or after the 6th day

235.00 (in the case of a corporation) of 117.50 (in any other case)

**Note 1—**

A half day is 3 hours or part of 3 hours. That 3-hour period includes any short adjournment of less than 30 minutes.

**Note 2—**

The hearing fee is payable by the plaintiff or appellant in the proceedings. If the Court or a registrar so orders, the fee is payable by another party to the proceedings or by any parties to the proceedings in the proportions ordered.

**Note 3—**

A hearing fee is not payable:

- (a) in criminal proceedings, or
- (b) if the sole purpose of the hearing is the delivery of a reserved judgement, or
- (c) if a date for hearing the proceedings was allocated before 1 October 2003.

**Note 4—**

If a matter is heard by a judge and jury, a hearing fee may be payable in addition to the daily retention fee for the jury.