

Supreme Court Regulation 2000

[2000-545]



New South Wales

Status Information

Currency of version

Historical version for 14 May 2004 to 30 June 2004 (accessed 24 November 2024 at 8:30)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Authorisation

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File last modified 14 May 2004

Supreme Court Regulation 2000



New South Wales

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Supreme Court Regulation 2000



New South Wales

1 Name of Regulation

This Regulation is the *Supreme Court Regulation 2000*.

2 Commencement

This Regulation commences on 1 September 2000.

Note—

This Regulation replaces the *Supreme Court (Fees and Percentages) Regulation 1993* which is repealed on 1 September 2000 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(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 that are specified in the Third Schedule to the Act.

hearing allocation fee means a fee referred to in item 3 of Schedule 1.

hearing fee means a fee referred to in item 6 of Schedule 1.

the Act means the *Supreme Court Act 1970*.

(2) The explanatory note, table of contents and 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 (except fees chargeable in the Sheriff's Office) 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 chargeable in criminal proceedings

Subject to any provision to the contrary in Schedule 1, fees are chargeable under this Regulation in respect of criminal proceedings.

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 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 or clerk 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.

7 Pro bono cases

- (1) The taking of a fee for the filing of any initiating process (or a 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 or clerk 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 initiating process (or cross-claim) on behalf of a pro bono party to those proceedings.
- (4) Despite clause 12, 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.
- (5) For the purpose of this clause, a party is a **pro bono party to proceedings** 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, or clerk, with whom the initiating process (or cross-claim) is lodged on behalf of the party that the party is being so represented, and
 - (b) undertakes in writing to the registrar or clerk 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.

8 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 pensioner party or legally assisted party is, if the fee is payable by the pensioner party or 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 pensioner party or legally assisted party, or
 - (b) judgment is in favour of the pensioner party or 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 or clerk 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 pensioner party or legally assisted party to those proceedings.
- (4) Despite clause 12, 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 pensioner party or legally assisted party to those proceedings.
- (5) For the purpose of this clause:
- (a) 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
 - (b) 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](#).

9 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 an originating process that is filed in an office (other than the registry) of a clerk of the Court—to the clerk, or
 - (b) in any other case—to the registrar who is requested to file the document or render the service.
- (2) In the case of a fee that is chargeable in the Sheriff's Office for any document or service, the fee is payable to the Sheriff by the person at whose request the document is filed or the service rendered.
- (3) 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.
- (4) A clerk of the Court who receives a fee under subclause (1) (a) must send to the registrar a copy of the receipt for the fee together with the originating process that is

sent to the registrar in accordance with Part 7 rule 6 (4) of the *Supreme Court Rules 1970*.

- (5) 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.
- (6) 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.

10 Persons by and to whom hearing allocation and 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 3 or 6 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.

11 Other provisions relating to 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.
- (2) 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.
- (2A) 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.
- (3) 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.
- (4) A registrar in relation to any proceedings for which a hearing allocation fee or hearing fee is chargeable 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.
- (5) 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 person holding office as, or appointed to act temporarily as, deputy registrar, deputy chief executive officer, manager court operations or chief clerk of the Court.
- (6) 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 to any person holding office as, or appointed to act temporarily as, deputy chief executive officer or manager court operations of the Court.
- (7) A reference in subclause (3) 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.
- (8) This clause is subject to clauses 7 and 8.

12 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.

13 Percentage of interest etc payable to Treasurer

A registrar must deduct 2.5% of any amount received by way of interest or dividends on funds that are paid into Court and invested, in accordance with the [Supreme Court Rules 1970](#), and must pay any amount so deducted to the Treasurer for payment into the Consolidated Fund.

14 Savings provision

Any act, matter or thing that, immediately before the repeal of the [Supreme Court \(Fees and Percentages\) Regulation 1993](#), had effect under that Regulation is taken to have effect under this Regulation.

Schedule 1 Court fees

(Clause 4)

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| 1 | (1) | Filing an initiating process (other than an initiating process referred to in paragraph (2) or (3) or filed in the Court of Appeal) | 1,184 (in the case of a corporation) or 592 (in any other case) |
| | (2) | Filing an initiating process in the Equity Division for entry in the Commercial List, the Construction List or the Admiralty List | 2,700 (in the case of a corporation) or 1,350 (in any other case) |
| | (3) | Filing an initiating process by which an application for a grant or resealing under Part 78 (Probate) of the <i>Supreme Court Rules 1970</i> is made 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 | 522 |
| | | (c) is \$250,000 or more but less than \$500,000 | 658 |
| | | (d) is \$500,000 or more but less than \$1,000,000 | 991 |
| | | (e) is \$1,000,000 or more | 1,320 |
| | (4) | The fees for filing a cross-claim under Part 6 (Cross-claims) of the <i>Supreme Court Rules 1970</i> in any Division of the Court are to be the same fees as are from time to time payable in respect of the filing of an initiating process in that Division. | |

Note 1—

In this item, **initiating process** means:

- (a) an originating process under the *Supreme Court Rules 1970* (other than a notice of appeal to the Court of Appeal and a summons for leave to appeal to the Court of Appeal), or
- (b) a notice of appeal under Part 5 of the *Justices Act 1902*, or
- (c) a petition, or
- (d) subject to Note 3, an originating process under the *Corporations Act 2001* of the Commonwealth, or
- (e) a writ of summons under the *Admiralty Rules* of the Commonwealth.

Note 2—

Where proceedings are entered in the Commercial List, the Construction List or the Admiralty List:

- (a) the fee payable is the difference between the fee referred to in paragraph (2) of item 1 and any fee paid under paragraph (1) or (3) of that item, and
- (b) the fee is payable:
 - (i) if the proceedings are entered pursuant to an order of the Court—by the party requesting the making of the order, or
 - (ii) if the proceedings are entered by the consent of the parties—by the parties to the proceedings in equal proportions.

Note 3—

This item does not apply to:

- (a) a summons by which an application for a grant or resealing under Part 78 (Probate) of the *Supreme Court Rules 1970* is made in respect of an estate the sworn gross value of which is less than \$50,000, or
- (b) a summons by which an application is made in the course of a winding up by the Court under the *Corporations Act 2001* of the Commonwealth, unless it is a summons claiming relief under section 1321 of the *Corporations Act 2001* of the Commonwealth or regulation 5.6.26 (3) or 5.6.54 (2) of the *Corporations Regulations 2001* of the Commonwealth, or
- (c) a summons to pass accounts which is filed pursuant to section 85 (1AA) of the *Wills, Probate and Administration Act 1898*.

Note 4—

No fee is payable:

- (a) in respect of a summons issued under Part 58 (Taking evidence for foreign and Australian courts and tribunals) of the *Supreme Court Rules 1970*, or
- (b) for an initiating process which relates to the issue of a subpoena to be served outside the State under the *Service and Execution of Process Act 1992* of the Commonwealth.

2 For filing in the Court of Appeal:

- (a) a holding summons for leave to appeal or to cross-appeal 232 (in the case of a corporation) or 116 (in any other case)
- (b) an ordinary summons for leave to appeal or to cross-appeal in respect of an application initiated by a holding summons 1,084 (in the case of a corporation) or 542 (in any other case)
- (c) any other summons 1,312 (in the case of a corporation) or 656 (in any other case)
- (d) notice of appeal without appointment 524 (in the case of a corporation) or 262 (in any other case)
- (e) notice of appeal with appointment:
 - (i) in proceedings in which a summons has been filed in the Court of Appeal 2,760 (in the case of a corporation) or 1,380 (in any other case)
 - (ii) in proceedings in which a notice of appeal without appointment has been filed 3,550 (in the case of a corporation) or 1,775 (in any other case)
 - (iii) in any other proceedings 4,072 (in the case of a corporation) or 2,036 (in any other case)

Note—

The fee under item 2 (e) (ii) is payable for the obtaining of an appointment to proceed with a cross-appeal if an appeal has been discontinued before the filing of a notice of appeal with appointment in respect of the discontinued appeal.

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| 3 | For allocation of a date for hearing of the proceedings by one or more judges, a judge and jury or a master | 2,254 (in the case of a corporation) or 1,127 (in any other case) |
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Note 1—

The 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 fee is payable for:

- (a) an application for leave to appeal or cross-appeal if the appeal or cross-appeal has been set down for hearing on the basis that oral argument on the appeal or cross-appeal will proceed concurrently with the application for leave to appeal or cross-appeal, or
- (b) proceedings allocated a date for hearing after 1 September 2000 whether the proceedings were initiated before or after that date.

Note 3—

No fee is 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.

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| 4 | (1) Filing a requisition for civil trial by jury (to be paid by party requesting jury) | 1,436 (in the case of a corporation) or 718 (in any other case) |
| | (2) Daily jury retention fee (to be paid by party requesting jury for each day jury is required after the first day of a civil trial) | 654 (in the case of a corporation) or 327 (in any other case) |
| 5 | Filing an application for an order under section 76B of the Act for referral of an action to arbitration | 662 (in the case of a corporation) or 331 (in any other case) |
| 6 | (1) For the hearing of proceedings by one of more Judges—each half day of hearing on or after the 11th day | \$421 (in the case of a corporation) or \$210.50 (in any other case) |
| | (2) For the hearing of proceedings by a master—each half day of hearing on or after the 11th day | \$379 (in the case of a corporation) or \$189.50 (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 half an hour.

Note 2—

The 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—

No fee is payable:

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

Note 4—

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

7 Filing notice of motion under Rule 2 of Part 19 of the *Supreme Court Rules 1970* or an interlocutory process under the *Corporations Act 2001* of the Commonwealth 274 (in the case of a corporation) or 137 (in any other case)

To open or keep open the registry or part of the registry or to open or keep open an office of a clerk of the Court elsewhere in the State:

- 8 (a) on a Saturday, Sunday or public holiday, or 938 (in the case of a corporation) or 469 (in any other case)
- (b) on any other day before 9 am or after 5 pm

Note—

No fee is payable in criminal proceedings.

9 For an officer of the Court to produce a document at a place other than the Supreme Court Building, Queens Square, Sydney 98 (in the case of a corporation) or 49 (in any other case)

10 To furnish a copy of the written opinion or reasons for opinion of any judge or of any master or other officer of the Court:

- (a) for a printed copy 46
- (b) for any other kind of copy 29

Note—

A party to proceedings before the Court is entitled to one copy of the opinion or reasons for opinion in relation to the proceedings without charge.

11 To prepare appeal papers—for the first 11 copies, or such other number of copies as is ordered to be printed by the registrar—for each volume of not more than 250 pages 938 (in the case of a corporation) or 469 (in any other case)

12 The fees to be paid to the Marshal in Admiralty are to be the same fees as are from time to time taken by the Sheriff or an officer of the Sheriff for service and execution of process of the Court, except there is no levy payable on a writ of execution.

13 Certificate of a registrar as to a signature of a public notary 39

14	To prepare a copy of a will, a certificate of grant, an exemplification or a divorce decree, or a copy of a certificate of conviction (except where it is requested by a party to the proceedings)	39
15	Making a copy of any document, otherwise than as provided for by item 10 or 14 for each page (minimum fee of \$10)	2
16	Supply of duplicate tape recording of sound-recorded evidence, for each cassette	34
17	For each copy of the transcript of any proceedings: (a) for each page, where the matter being transcribed is under 3 months old (minimum fee for 1 to 8 pages of \$62) (b) for each page, where the matter being transcribed is 3 months or older (minimum fee for 1 to 8 pages of \$72)	7.30 8.40
18	To conduct a genealogical search on a probate file (for each file searched)	75
19	To conduct an adoption search (for each file searched)	39
	Note— This amount also includes a copy of any document, if approved by the Court.	
20	To conduct a search for an application for a grant or resealing under Part 78 (Probate) of the <i>Supreme Court Rules 1970</i> (for each file searched)	29
21	To lodge a caveat against an application for a grant or resealing under Part 78 (Probate) of the <i>Supreme Court Rules 1970</i>	56 (in the case of a caveator that is a corporation) or 28 (in any other case)
22	To lodge a will that is not attached to an initiating process by which an application for a grant or resealing under Part 78 (Probate) of the <i>Supreme Court Rules 1970</i> is made	29
23	To issue a subpoena (for production, to give evidence, or both)	106 (in the case of a corporation) or 53 (in any other case)
24	Notice lodged by a legal practitioner of another State, of a Territory of the Commonwealth or of New Zealand for admission as a legal practitioner of the Court	(See Note to this item)

Note—

This fee is fixed as referred to in section 40 of the *Mutual Recognition Act 1992* of the Commonwealth and section 40 of the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth. Under those Acts, such a fee cannot be greater than the fee imposed on persons in New South Wales seeking to be admitted as legal practitioners of the Court.

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| 25 | For storing material over 1 kg in weight that is produced on subpoena (to be paid by the party requesting issue of the subpoena) | 102 (in the case of a corporation) or 51 (in any other case) |
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Note—

This fee must be remitted under clause 11 if:

- (a) within 4 weeks of being granted leave to inspect the material, the party requesting the issue of the subpoena:
 - (i) notifies the Court in writing of that part of the material that is not required for the purposes of the proceedings, and
 - (ii) consents to the return of that part to the person who produced the material, and
- (b) the remainder of the material weighs less than 1 kg.

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| 26 | For storing material produced under a notice to produce (to be paid by the party who issued the notice), but only if the party who produced the material to the Court or the registry does not collect the material within the time specified in a notice issued to that party by a registrar | 102 (in the case of a corporation) or 51 (in any other case) |
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| 27 | The fee for a service not otherwise provided for in this Schedule | 56 (in the case of a corporation) or 28 (in any other case) |
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Note—

This fee is chargeable only with the approval of the Principal Registrar.