

7. Court or Registrar may remit fees

- (1) The Court or a Registrar may, in a particular case for special reasons direct —
 - (a) that a fee or fees be waived or reduced;
 - (b) that the whole or part of the fee or fees be refunded; or
 - (c) that the payment of the whole or a part of a fee or fees be deferred until such time, and upon such conditions, if any, as the Court or Registrar thinks fit.
- (1a) In subregulation (1) —

“special reasons” includes —

 - (a) financial hardship;
 - (b) that an important right or obligation affecting the community or a significant part of the community will be determined; or
 - (c) that the development of the law generally will be affected so as to reduce the need for further litigation.
- (1aa) This regulation does not apply to fees specified in Schedule 2.
- (1b) For the purpose of assessing financial hardship, the Court or a Registrar is to have regard to —
 - (a) in the case of an individual, the income, day to day living expenses, liabilities and assets of the individual;
 - (b) in the case of a corporation or incorporated association, the income, liabilities and assets of the corporation or incorporated association.
- (1c) The Court or a Registrar may direct that the payment of the whole or a part of a fee in relation to the filing of a pleading, application or other document be deferred until such time, and upon such conditions, if any, as the Court or Registrar thinks fit if the filing is attended by urgency that overrides the requirement of payment of the fee at the time of filing.
- (1d) The payment of a filing fee listed in Schedule 1 is to be waived in relation to the following persons —
 - (a) the holder of one of the following cards issued by the Department of Social Security of the Commonwealth —
 - (i) a health care card;
 - (ii) a health benefit card;
 - (iii) a pensioner concession card;
 - (iv) a Commonwealth seniors health card;
 - (b) the holder of any other card issued by the Department of Social Security or the Department of Veterans’ Affairs of the Commonwealth that certifies entitlement to Commonwealth health concessions;
 - (c) a prisoner or person lawfully detained in a public institution;
 - (d) a person under 18 years of age;
 - (e) a person in receipt of a youth training allowance, or an austudy allowance, as defined in section 23(1) of the *Social Security Act 1991* of the Commonwealth;

- (f) a person in receipt of benefits under the Commonwealth student assistance scheme known as the ABSTUDY Scheme;
 - (g) a person granted legal aid in respect of the proceedings in relation to which the fee would otherwise be payable.
- (2) An application for a fee or fees to be waived, reduced, refunded or deferred must be in the form of Schedule 4 Form 2.
 - (3) Schedule 4 Form 2 must be completed in accordance with the directions specified in it.
 - (3a) If an application under subregulation (1) is dealt with by a Registrar, the Registrar may, before determining the application, require the applicant to provide the Registrar with such further information as the Registrar requires either in writing or orally.
 - (3b) A fee, payment of which has been deferred until an event occurs, becomes payable when that event occurs.
 - (4) A person who makes a statement or representation in an application under subregulation (2) that the person knows or has reason to believe is false or misleading in a material particular commits an offence.
Penalty: \$1 000.
 - (5) If a fee payable by a person is waived, reduced, refunded or deferred in accordance with a direction under subregulation (1) and the Court or a Registrar is satisfied, having given the person an opportunity to make a written submission, that the person has made a statement or representation in an application under subregulation (2) that the person knows or has reason to believe is false or misleading in a material particular, the Court or Registrar may revoke the direction and so much of the fee as was waived, reduced, refunded or deferred is to be paid by the person within 5 days of being given notice of the revocation of the direction and, if it is not so paid, is recoverable as an unpaid fee under regulation 11.
 - (6) Despite the provisions of these regulations, a fee is not to be charged in respect of an application under subregulation (1).
 - (7) An application can be made to the trial Judge under subregulation (1) on a ground referred to in paragraph (b) or (c) of the definition of “special reasons” in subregulation (1a) notwithstanding that an application on that ground has previously been refused by a Registrar.

[Regulation 7 amended in Gazette 30 Dec 2003 p. 5694-6; 28 Apr 2005 p. 1759.]