

JU302\*

Magistrates Court Act 2004

## **Magistrates Court (Fees) Amendment Regulations (No. 2) 2009**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Magistrates Court (Fees) Amendment Regulations (No. 2) 2009*.

### **2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

**3. Regulations amended**

These regulations amend the *Magistrates Court (Fees) Regulations 2005*.

**4. Schedule 1 replaced**

Delete Schedule 1 and insert:

**Schedule 1 — Fees**

[r. 4]

**Division 1 — General**

<b>Item</b>	<b>Matter</b>	<b>\$</b>
1.	(a) for every order or conviction drawn up in the Court's criminal jurisdiction;	
	(b) issue of a duplicate document or order	14.50
2.	For the service of any application, summons, originating process, notice or order of the Court or any other process requiring service	44.50

**NOTE**

The fee is payable whether or not the service is successful and covers up to 3 attempts at service at the same address.

3. If it is necessary to travel to execute a warrant or other process, or on service of a summons, order of the Court, other process or document, or on making an arrest or for all attempts, attendances and inspections, from the enforcement officer's office or nearest Police Station —
- |     |   |      |
|-----|---|------|
| (a) | for each kilometre travelled (one way) in the metropolitan area;      | 1.15 |
| (b) | for each kilometre travelled (one way) outside the metropolitan area. | 1.25 |

**NOTE**

If more than one process or document is executed or served by an enforcement officer at the same time on the same person or on different persons at the same address, only one allowance for kilometres is chargeable.

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|----|-----|--|-------|
| 4. | (a) | for searching any record or proceeding other than a search by or on behalf of a party to the proceedings in the Court's civil jurisdiction | 26.00 |
|    | (b) | listening to or viewing any electronic recording that requires supervision by an officer of the Court, a search fee of                     | 26.00 |
|    |     | And in addition to the search fee, for each hour of the officer's time   | 64.00 |

Item	Matter	\$
NOTE		
Item 4(a) does not apply in relation to information provided under the <i>Magistrates Court (General) Rules 2005</i> rule 41A.		
5.	For provision of information under the <i>Magistrates Court (General) Rules 2005</i> rule 41A —	
	(a) fee per case specified in the information	1.15
	(b) annual fee for information provided by email to approved recipient	37 346.00
NOTE		
The fee under item 5(b) is payable on the date on which the recipient is approved by the Attorney General and on each anniversary of that date.		
6.	(a) on an application or summons for the production of records or documents that are required to be produced to any court, tribunal, arbitrator or umpire	38.00
	(b) if an officer is required to attend at any court or place out of the Court building where the officer is based, the officer's reasonable expenses and, in addition for each hour when the officer is necessarily absent from his or her office	64.00
7.	(a) copies of documents or exhibits for each page or part of a page	1.50
	(b) for a copy of reasons for judgment —	
	(i) for each copy consisting of not more than 10 pages issued to a person not a party to the proceedings and for each copy in excess of one copy issued to a party to the proceedings	9.00
	(ii) for each copy consisting of 10 or more pages an additional fee per page of	1.15
	(c) for certifying that a document is a true copy, an additional fee of	12.50
NOTE		
Fee under item 7(a) for a copy of an application is not payable where circumstances under regulation 6(4) exist.		
8.	(a) for a copy of a transcript or notes of evidence, for each page or part of a page	5.05
	(b) for each copy of a transcript or notes of evidence in electronic format if a fee has been paid under paragraph (a) by the applicant for a copy of the transcript, for each day of transcript	12.50

Item	Matter	\$
	(c) for each copy of a transcript or notes of evidence not in electronic format if a fee has been paid under paragraph (a) by the applicant for a copy of the transcript or notes, for each page or part of a page	1.50

## NOTE 1

A minimum fee of \$17.95 is payable under item 8(a).

## NOTE 2

Fees under this item are payable in the case of an indictable offence dealt with summarily.

### Division 2 — Civil jurisdiction

Item	Matter	Claim not exceeding \$10 000		Claim exceeding \$10 000 but not exceeding \$50 000		Claim exceeding \$50 000	
		Individual \$	Person other than individual \$	Individual \$	Person other than individual \$	Individual \$	Person other than individual \$
1.	On filing any claim or any originating process to commence proceedings in the Court	74.50	112.50	190.50	287.00	304.00	456.00
2.	On filing —						
	(a) a counterclaim or a set-off;						
	(b) a third party claim;						
	(c) any other application for which no fee has been provided for in this Division	48.50	73.00	88.50	114.00	141.00	182.00
3.	On commencing an appeal	25.00	49.50	37.50	75.50	50.50	101.00
4.	Application for hearing	118.50	177.50	215.00	321.00	240.00	358.00

## NOTE 1

No fee is payable for applications for hearing of matters dealt with under the minor cases procedure, residential tenancies proceedings, applications under item 10 or 11 or for relisting a hearing, or if the proceedings are of an interlocutory nature only.

## NOTE 2

No fee is payable in respect of listing an appeal for hearing.

Item	Matter	Claim not exceeding \$10 000		Claim exceeding \$10 000 but not exceeding \$50 000		Claim exceeding \$50 000	
		Individual \$	Person other than individual \$	Individual \$	Person other than individual \$	Individual \$	Person other than individual \$
5.	For allocation of a date or dates of hearing of an application, appeal or proceedings, for each half day allocated	68.50	137.50	120.00	240.00	171.50	343.00

## NOTE 1

This fee is not payable for matters dealt with under the minor cases procedure, residential tenancies proceedings or applications under item 10 or 11.

## NOTE 2

No fee is payable if the proceedings are of an interlocutory nature only.

## NOTE 3

The fee to be charged is to be determined on the basis that the days allocated for a hearing are the number of days determined by the Court at a listing conference.

## NOTE 4

The fee is to be refunded or transferred to a new allocated date or dates if the Court or registrar is satisfied that an adjournment was due to circumstances beyond the control of the parties. Otherwise the fee is non-refundable in respect of any allocated dates that are not required.

## NOTE 5

If written advice of settlement or written notice of intended adjournment is received by the Court not later than 35 days before the date allocated for the commencement of the hearing of the proceedings, an amount equal to 75% of the fee is refundable. If written advice of settlement or written notice of intended adjournment is received by the Court no later than 21 days before the date allocated for the commencement of the hearing of the proceedings, an amount equal to 50% of the fee is refundable.

6.	Half daily hearing fee before the Court constituted by a magistrate	68.50	137.50	120.00	240.00	171.50	343.00
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## NOTE 1

This fee is not payable for matters dealt with under the minor cases procedure, residential tenancies proceedings, applications under item 10 or 11 or if the proceedings are of an interlocutory nature only.

## NOTE 2

The fee to be charged is to be paid in respect of any number of hearing days or half days greater than the number of hearing days for which a fee has been paid under item 5.

Item	Matter	Claim not exceeding \$10 000		Claim exceeding \$10 000 but not exceeding \$50 000		Claim exceeding \$50 000	
		Individual \$	Person other than individual \$	Individual \$	Person other than individual \$	Individual \$	Person other than individual \$

## NOTE 3

This fee is payable for each additional day or part day that a hearing proceeds beyond the date or dates allocated in item 5.

## NOTE 4

The daily fee becomes payable on a day-to-day basis and is payable prior to the daily reconvening of the hearing.

7.	On filing of an interlocutory application or application for assessment of damages or summary judgment that requires hearing before a magistrate or registrar	62.50	93.50	75.50	113.00	101.50	153.50
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## NOTE 1

This fee is not payable for matters dealt with under the minor cases procedure, residential tenancies proceedings or applications under item 10 or 11.

## NOTE 2

This fee is inclusive of the hearing of the application and includes any adjournment of the hearing.

## NOTE 3

This fee is not payable for matters dealt with in the absence of a party.

8.	On an appointment to assess a bill of costs —						
	(a) lodgment fee	62.50	93.50	75.50	113.00	101.50	153.50
	(b) in addition to the lodgment fee, an assessment fee at the rate per annum of	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%

## NOTE 1

This fee is not payable for matters dealt with under the minor cases procedure, residential tenancies proceedings or applications under item 10 or 11.

## NOTE 2

The % rate is to be applied to the amount at which the bill is drawn.

Item	Matter	Claim not exceeding \$10 000		Claim exceeding \$10 000 but not exceeding \$50 000		Claim exceeding \$50 000	
		Individual \$	Person other than individual \$	Individual \$	Person other than individual \$	Individual \$	Person other than individual \$

## NOTE 3

If the parties agree on the bill of costs and the appointment is cancelled, the following percentage of the fee paid is to be refunded —

- (a) if the appointment is cancelled less than 3 days before the day of the appointment, nil;
- (b) if the appointment is cancelled 3 days or more and less than 10 days before the day of the appointment, 50%;
- (c) if the appointment is cancelled 10 or more days before the day of the appointment, 80%.

Item	Matter	\$
9.	On the execution of an arrest warrant of any kind —	
	(a) for arresting the person	81.50
	(b) for conveying the person to a court or a custodial place and releasing the person from arrest or custody	81.50
	(c) for each 30 minutes after 2 hours and 30 minutes that an enforcement officer is required to keep the person in custody until he or she is conveyed to a court or a custodial place	21.50

## NOTE 1

The fee under paragraph (a) is payable whether or not the Sheriff's functions under the warrant are performed and includes up to 3 attempts to perform the functions at the same address.

## NOTE 2

The fee under paragraph (a) includes —

- (a) receipt of the warrant; and
  - (b) attendances and inquiries before attempting arrest; and
  - (c) giving any notice; and
  - (d) making any report.
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|-----|---|--------|
| 10. | For an application for an extraordinary drivers licence under the <i>Road Traffic Act 1974</i>                          | 155.00 |
| 11. | On filing —   |        |
|     | (a) an application for a misconduct restraining order under the <i>Restraining Orders Act 1997</i> ;                    |        |
|     | (b) an application under the <i>Disposal of Uncollected Goods Act 1970</i> ;  |        |
|     | (c) an application under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i> section 101 or 101A; |        |
|     | (d) an application under the <i>Dividing Fences Act 1961</i> ;  |        |
|     | (e) an application under the <i>Pawnbrokers and Second-hand Dealers Act 1994</i> .                                      | 74.50  |

### Division 3 — Criminal jurisdiction

Item	Matter	\$
1.	On filing —	
	(a) a prosecution notice;	

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<b>Item</b>	<b>Matter</b>	<b>\$</b>
	(b) an application under the <i>Criminal Procedure Act 2004</i> section 71	62.50
2.	For the issue of a summons or court hearing notice to an accused	12.00
3.	For a warrant of any kind —	
	(a) issue of it	62.50
	(b) execution of it	81.50

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By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.

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