
JUSTICE

JU301

Civil Judgments Enforcement Act 2004

**Civil Judgments Enforcement Amendment
Regulations 2016**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Civil Judgments Enforcement Amendment Regulations 2016*.

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 *Civil Judgments Enforcement Regulations 2005*.

4. Regulation 101 amended

In regulation 101(1):

- (a) in paragraph (c) delete “105(5);” and insert:

107B(1);

- (b) in paragraph (d) delete “107;” and insert:

107D(1);

5. Regulation 104 amended

- (1) In regulation 104 in the definition of *small business*:

- (a) delete paragraph (a) and insert:

- (a) a business undertaking that is wholly owned and operated by an individual or individuals in partnership and has less than 20 full-time equivalent employees or partners;

- (b) delete paragraph (c) and insert:

- (c) a co-operative as defined in the *Co-operatives Act 2009* that has less than 20 full-time equivalent employees and that is not a subsidiary of another co-operative or corporation that has 20 or more full-time equivalent employees;

- (2) In regulation 104 insert in alphabetical order:

eligible entity means an entity referred to in regulation 107C(3);

eligible entity fee, in relation to a matter specified in an item in Schedule 1, means the fee shown in column A for that item;

eligible individual means an individual referred to in regulation 107C(2);

eligible individual fee, in relation to a matter specified in an item in Schedule 1, means the fee shown in column C for that item;

entity does not include an individual;

person means an individual or an entity;

6. Regulation 105 amended

(1) Delete regulation 105(3) and insert:

(3) In relation to a matter specified in an item in Schedule 1 —

- (a) the fee payable by an individual who is not an eligible individual is the fee shown in column A for that item; or
- (b) the fee payable by an eligible individual is the eligible individual fee for that item; or
- (c) the fee payable by an entity that is not an eligible entity is the fee shown in column B for that item; or
- (d) the fee payable by an eligible entity is the eligible entity fee for that item.

(2) Delete regulation 105(5) to (10).

Note: The heading to amended regulation 105 is to read:

General fees

7. Regulations 107B to 107G inserted

After regulation 107A insert:

107B. Fees for small businesses and non-profit associations

- (1) An entity that is a small business or a non-profit association may lodge with the court to which a fee is to be paid a declaration in the form of Form 3.
- (2) On the lodgment of a declaration the entity is to be charged fees as if it were an eligible entity.
- (3) Subregulation (2) does not apply to fees payable by joint parties unless each party is a small business or non-profit association.
- (4) An entity that has lodged a declaration under subregulation (1) must immediately advise the

Principal Registrar of the court in which the declaration was lodged if the entity ceases to be a small business or non-profit association as the case requires.

Penalty for this subregulation: a fine of \$1 000.

- (5) If an entity is charged a fee under subregulation (2) when the entity was not a small business or a non-profit association, the court may —
 - (a) order that the entity pay the difference between the amount of the fee the entity paid and the amount of the fee that would otherwise be payable by the entity; and
 - (b) make orders to enforce the order for the payment.
- (6) An order under subregulation (5)(b) may include orders relating to the future conduct of the matter to which the fees relate or the effect of anything that has been done in respect of the matter until the sum ordered to be paid has been paid.

107C. Who is an eligible individual or eligible entity

- (1) In this regulation —

Centrelink means the Commonwealth agency known as Centrelink.
- (2) An eligible individual is —
 - (a) an individual who holds one or more of the following cards issued by Centrelink —
 - (i) a health care card;
 - (ii) a health benefit card;
 - (iii) a pensioner concession card;
 - (iv) a Commonwealth seniors health card;or
 - (b) an individual who holds any other card issued by Centrelink or the Department of Veterans' Affairs of the Commonwealth that certifies entitlement to Commonwealth health concessions; or
 - (c) an individual who is in receipt of a youth training allowance, or an AUSTUDY allowance, as defined in the *Social Security Act 1991* (Commonwealth) section 23(1); or
 - (d) an individual who is in receipt of benefits under the Commonwealth student assistance scheme known as the ABSTUDY Scheme; or
 - (e) an individual who has been granted legal aid under the *Legal Aid Commission Act 1976* or a legal aid scheme or service established under a

Commonwealth, State or Territory law in respect of the proceedings in relation to which a fee would otherwise be payable; or

- (f) an individual who the court or a registrar of the court has directed is an eligible individual under regulation 107E(1)(b).

(3) An eligible entity is —

- (a) an entity that has been granted legal aid under the *Legal Aid Commission Act 1976* or a legal aid scheme or service established under a Commonwealth, State or Territory law in respect of the proceedings in relation to which a fee would otherwise be payable; or
- (b) an entity that the court or a registrar of the court has directed is an eligible entity under regulation 107E(2)(b).

107D. Application to be recognised as eligible individual or eligible entity

- (1) A person may apply to the court to which a fee is to be paid for —
 - (a) a direction under regulation 107E(1) that the person is an eligible individual in respect of a matter specified in Schedule 1; or
 - (b) a direction under regulation 107E(2) that the person is an eligible entity in respect of a matter specified in Schedule 1.
- (2) An application is to be in the form of Form 4 and is to specify —
 - (a) for an individual — the matter in respect of which the individual is seeking to pay the eligible individual fee; or
 - (b) for an entity — the matter in respect of which the entity is seeking to pay the eligible entity fee.
- (3) Despite anything else in these regulations, a fee is not to be charged in respect of an application under subregulation (1).

107E. Recognition as eligible individual or eligible entity

- (1) The court or a registrar of the court may, on an application to the court under regulation 107D(1)(a) —
 - (a) direct that a person is an eligible individual described in regulation 107C(2)(a) to (e) in respect of the matter if satisfied that the person meets one or more of the requirements set out in those paragraphs; or

- (b) direct that a person is an eligible individual described in regulation 107C(2)(f) if satisfied that the person should be required to pay only an eligible individual fee in respect of the matter for either, or both, of the following reasons —
 - (i) financial hardship;
 - (ii) the interests of justice.
- (2) The court or a registrar of the court may, on an application to the court under regulation 107D(1)(b) —
 - (a) direct that a person is an eligible entity described in regulation 107C(3)(a) in respect of the matter if satisfied that the person meets the requirements set out in that paragraph; or
 - (b) direct that a person is an eligible entity described in regulation 107C(3)(b) if satisfied that the person should be required to pay only the eligible entity fee in respect of the matter for either, or both, of the following reasons —
 - (i) financial hardship;
 - (ii) the interests of justice.
- (3) A judge or a registrar of the court may, before an application is determined, direct the applicant to provide to the judge, the registrar of the court or the court further information relating to the application.
- (4) A direction to provide further information —
 - (a) may be made in writing or orally; and
 - (b) may require that the information is provided either in writing or orally.

107F. Revocation of directions for providing false or misleading information

- (1) The court or a registrar of the court with which a declaration under regulation 107B(1) is lodged may make an order that the declaration is invalid if satisfied, having given the person who lodged the declaration an opportunity to make a written submission, that the person has contravened regulation 101(1) in relation to a statement or representation in the declaration or providing further information in relation to the declaration.

- (2) The court that, or the registrar who, makes a direction under regulation 107E(1) or (2) may revoke the direction if satisfied, having given the person who applied for the direction under regulation 107D(1) an opportunity to make a written submission, that the person has contravened regulation 101(1) in relation to a statement or representation in the application or providing further information in relation to the application.
- (3) If a declaration is declared invalid under subregulation (1) or a direction is revoked under subregulation (2), the court may —
 - (a) order that the person in respect of whom the declaration or direction was made pay the difference between the fee the person paid and the fee that would otherwise be payable by the person; and
 - (b) make an order to enforce the order for the payment.
- (4) An order under subregulation (3)(b) may include orders relating to the future conduct of the proceedings to which the fees relate or the effect of anything that has been done in respect of the proceedings until the sum ordered to be paid has been paid.

107G. Refunds

- (1) A judicial officer or legally qualified registrar presiding in a proceeding may order the refund of the difference between the amount of a fee paid by a person in respect of the proceeding and the amount of the fee that the person was entitled to be charged under these regulations in respect of the proceedings.
- (2) The Principal Registrar of the court may refund to a person the amount of a fee, or part of a fee, paid by the person if the amount was paid in error.

8. Regulation 107 deleted

Delete regulation 107.

9. Schedule 1 replaced

Delete Schedule 1 and insert:

Schedule 1 — Court fees

[r. 105]

Item	Matter	Column A Fee for individual or eligible entity \$	Column B Fee for entity \$	Column C Fee for eligible individual \$
1.	For an application or request under the Act —			
	(a) a judgment not exceeding \$10 000	98.50	148.00	29.55
	(b) all other judgments	159.50	240.00	47.85
<p>Note 1: The fee is payable only once on the first application or request by a judgment creditor or other person entitled to the benefit of the judgment.</p> <p>Note 2: No fee is payable in relation to interpleader proceedings.</p> <p>Note 3: No fee is payable for registering a judgment or order of a court or tribunal of the State for the purpose of enforcing the judgment or order.</p> <p>Note 4: No fee is payable for an application or request brought by a person other than a judgment creditor or other person entitled to the benefit of the judgment.</p> <p>Note 5: The fee payable on an application relating to an order made in the exercise of the jurisdiction referred to in the <i>Residential Tenancies Act 1987</i> section 12A is the fee payable on an application in relation to a judgment not exceeding \$7 500.</p>				
2.	Registering a judgment in a court under the <i>Service and Execution of Process Act 1992</i> (Commonwealth) section 105(1)	83.50	110.50	25.05

10. Schedule 4 amended

- (1) In the reference after the heading to Schedule 4 delete “105, 107,” and insert:

107B, 107D,

(2) In Schedule 4 in Form 3:

- (a) delete “105(5)” and insert:

107B(1)

- (b) delete “an individual or individuals in partnership who wholly own and operate a business undertaking that has less than 20 full-time equivalent employees and partners;” and insert:

a business undertaking that is wholly owned and operated by an individual or individuals in partnership and has less than 20 full-time equivalent employees or partners;

- (c) delete “a company as defined in the Companies (Co-operative) Act 1943 that has less than 20 full-time equivalent employees and that is not, under section 130(1) of that Act, deemed to be a subsidiary company of another company or corporation that has 20 or more full-time equivalent employees;” and insert:

a co-operative as defined in the Co-operatives Act 2009 that has less than 20 full-time equivalent employees and that is not a subsidiary of another co-operative or corporation that has 20 or more full-time equivalent employees;

(3) In Schedule 4 delete Form 4 and insert:

4. Application to reduce fee

Form 4 <i>Civil Judgments Enforcement Regulations 2005</i> <i>(Regulation 107D(1))</i> APPLICATION TO REDUCE FEE		
In the Supreme Court / District Court / Magistrates Court	No.	of 2
Applicant:		
Fee type for which request is made:		
<input type="checkbox"/> Application or request under the <i>Civil Judgments Enforcement Act 2004</i>	<input type="checkbox"/> Registering a judgment in a court under the <i>Service and Execution of Process Act 1992</i> (Commonwealth) section 105(1)	
Concession Card Holder: <input type="checkbox"/> Yes <input type="checkbox"/> No	Pension Concession Card No:	_____
	Health Care Card No:	_____

Grant of Legal Aid under a legal aid scheme or service: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Applicant Details:	Full Name:		
	Please indicate your party type: <input type="checkbox"/> Individual <input type="checkbox"/> Entity		
	Address:		
	Date of Birth:		
If you are applying for a fee reduction because of financial hardship or in the interests of justice, please give supporting reasons for your request (attach a separate page if required). <u>If the reasons include financial hardship you must complete the information on the following pages.</u>			
I certify that the above information and disclosures in this form are true and correct.			
<i>Applicant's Signature</i>		Dated:	
<i>*Note: A person who makes a statement or representation in this application that the person knows or has reason to believe is false or misleading in a material particular commits an offence under the Civil Judgments Enforcement Regulations 2005 regulation 101(1).</i>			
COURT SEAL			
FINANCIAL DETAILS: APPLICANT WHO IS AN INDIVIDUAL			
If the reasons for application include financial hardship, the following sections of the form must be completed by the applicant if the applicant is an individual.			
Occupation:			
Employer:			
Employer's Address:			
Marital Status:	<input type="checkbox"/> single <input type="checkbox"/> married <input type="checkbox"/> partner <input type="checkbox"/> de facto <input type="checkbox"/> separated		
Dependants:	<input type="checkbox"/> dependant wife / husband / partner / de facto _____ (number of) dependant children		

INCOME AND FINANCIAL ASSETS DETAILS			
Income / financial assets (net)	Self	Partner	Total
Wage / salary / benefit	\$ _____	\$ _____	\$ _____
Money in financial institution	\$ _____	\$ _____	\$ _____
Cash	\$ _____	\$ _____	\$ _____
Income from investments	\$ _____	\$ _____	\$ _____
Other income	\$ _____	\$ _____	\$ _____
Money loaned and to be repaid	\$ _____	\$ _____	\$ _____
Total	\$ _____	\$ _____	\$ _____
EXPENDITURE DETAILS			
Expenditure	Self	Partner	Total
Rent / board	\$ _____	\$ _____	\$ _____
Mortgage payment	\$ _____	\$ _____	\$ _____
Maintenance for dependants	\$ _____	\$ _____	\$ _____
Food	\$ _____	\$ _____	\$ _____
Utilities (gas / electricity)	\$ _____	\$ _____	\$ _____
Telephone	\$ _____	\$ _____	\$ _____
Water	\$ _____	\$ _____	\$ _____
Rates and taxes	\$ _____	\$ _____	\$ _____
Court orders	\$ _____	\$ _____	\$ _____
Credit card/s	\$ _____	\$ _____	\$ _____
Other debts (provide details) _____	\$ _____	\$ _____	\$ _____
Total	\$ _____	\$ _____	\$ _____
TOTAL INCOME	\$ _____	TOTAL EXPENDITURE	\$ _____
ASSETS			VALUE
House or other property (provide addresses)			\$ _____

Motor Vehicles (car, utility, motorcycle, truck etc.)	1	Year: Make: Model: Registration Number:	\$ _____
	2	Year: Make: Model: Registration Number:	\$ _____
Other assets (provide details)			\$ _____
TOTAL ASSET VALUE			\$ _____
HOME CONTENTS (please complete appropriate box where applicable)			
Television \$ _____	DVD player \$ _____	Computers \$ _____	Other electronic devices \$ _____
		Dishwasher \$ _____	Microwave \$ _____
Furniture \$ _____	Collection of coins, stamps etc. \$ _____	Other collectables \$ _____	Other assets \$ _____
			Interests in business or company \$ _____
LIABILITIES			TOTAL
Mortgage to:			\$ _____
Other to:			\$ _____
Time to Pay Order:			\$ _____
TOTAL LIABILITIES			\$ _____
FINANCIAL DETAIL: APPLICANT WHO IS NOT AN INDIVIDUAL			
If the reasons for application include financial hardship, the following sections of the form must be completed by the applicant if the applicant is an entity.			
Income			\$ _____

Assets		\$ _____
Liabilities		\$ _____
TOTAL		\$ _____

R. NEILSON, Clerk of the Executive Council.
