

District Court of Western Australia Act 1969

**District Court (Fees) Amendment
Regulations 2005**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *District Court (Fees) Amendment Regulations 2005*.

2. Commencement

These regulations come into operation on the day on which the *Civil Judgments Enforcement Act 2004* comes into operation or on the day of their publication in the *Gazette*, whichever is the later.

3. The regulations amended

The amendments in these regulations are to the *District Court (Fees) Regulations 2002**.

[* *Published in Gazette 27 December 2001, p. 6617-43.*
*For amendments to 7 April 2005 see Western Australian
Legislation Information Tables for 2003, Table 4, p. 82.]*

4. Regulation 4 amended

Regulation 4(1) is amended by deleting “and poundage”.

5. Regulation 5 amended

Regulation 5 is amended by inserting after “other than criminal proceedings” —

“

and proceedings under the *Civil Judgments
Enforcement Act 2004*

”.

6. Regulation 5A inserted

After regulation 5 the following regulation is inserted —

“

5A. Disputes regarding fees

- (1) An application for a determination under section 89A(3) of the Act is to be in the form of Schedule 3 Form 3.

- (2) Despite the provisions of these regulations, a fee is not to be charged in respect of an application referred to in subregulation (1).

”.

7. Regulation 7 amended

- (1) Regulation 7(1) is amended by deleting “or poundage” in the 3 places where it occurs.

- (2) After regulation 7(1a) the following subregulation is inserted —

“

- (1aa) This regulation does not apply to fees specified in Schedule 2.

”.

- (3) Regulation 7(1c) is amended by deleting “or poundage” in the 2 places where it occurs.

- (4) Regulation 7(2) is amended by deleting “or poundage”.

- (5) After regulation 7(3a) the following subregulation is inserted —

“

- (3b) A fee, payment of which has been deferred until an event occurs, becomes payable when that event occurs.

”.

- (6) Regulation 7(5) is repealed and the following subregulation is inserted instead —

“

- (5) If a fee payable by a person is waived, reduced, refunded or deferred in accordance with a direction under subregulation (1) and the District 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 District 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.

”.

8. Regulation 9 replaced

Regulation 9 is repealed and the following regulation is inserted instead —

“

9. Allocation of hearing date — Schedule 1 item 6

- (1) In this regulation —

“**fee**” means the fee referred to in Schedule 1 item 6.

- (2) The fee is not payable in relation to interlocutory proceedings.
- (3) The number of days for which the fee is payable is the number of days the District Court determines are to be allocated for the hearing.
- (4) If the Court determines that half a day or less is to be allocated for the hearing, the fee is reduced by half.
- (5) The proceeding or appeal is not to be listed for hearing until the fee has been paid or has been waived or deferred under regulation 7.
- (6) The fee paid is not refundable except as provided in subregulations (7), (8) and (9).
- (7) If the matter is settled and the Court receives written notice of the settlement the following percentage of the fee paid is to be refunded —
 - (a) if notice is received 42 days or more before the first date allocated for the hearing date, 75%;
 - (b) if notice is received 28 days or more before that date, 50%.
- (8) If the hearing is adjourned before the first date allocated for the hearing the following percentage of the fee paid is to be refunded or transferred to the date or dates allocated for the adjourned hearing —
 - (a) if the Court or Registrar is satisfied the reason for the adjournment is beyond the control of the parties, 100%;
 - (b) otherwise, if the adjournment occurs —
 - (i) 42 days or more before the first date allocated for the hearing, 75%; or
 - (ii) 28 days or more before that date, 50%.
- (9) If the hearing is adjourned after it has commenced and the Court or Registrar is satisfied the reason for the adjournment is beyond the control of the parties, the fee paid in respect of dates after the date of the adjournment is to be refunded or transferred to the date or dates allocated for the adjourned hearing.

”.

9. Regulation 11 replaced by regulations 11 and 11A

Regulation 11 is repealed and the following regulations are inserted instead —

“

11. Recovery of unpaid fees

Any unpaid fee is a debt due to the State and may be recovered by action in a court of competent jurisdiction.

11A. Searchable information

- (1) In this regulation and Schedule 1 items 11 and 11A —
“approved recipient” means a person who is approved in writing by the Attorney General as a person entitled to receive searchable information;
“searchable information”, in relation to an action or matter, means —
 - (a) the names and addresses of the parties;
 - (b) the amount and nature of the claim;
 - (c) the amount of any judgment entered; and
 - (d) whether the action or matter has been discontinued.
- (2) Except as provided in subregulation (4), the Principal Registrar must on each working day provide an approved recipient with such searchable information that has not already been provided to the recipient in relation to each action or matter in the District Court.
- (3) An approved recipient to whom information has been provided under subregulation (2) is liable to a fee in the amount referred to in Schedule 1 item 11A(a) for each action or matter specified in the information.
- (4) If suitable facilities exist at the Court to enable searchable information to be provided by email, then the information must not be provided except by email to an approved recipient who has paid the annual fee referred to in Schedule 1 item 11A(b).

”.

10. Schedule 1 amended

- (1) Schedule 1 item 5 is amended by inserting after “matter” —
 “
 (including the assessment of damages
 in an action for personal injury)
 ”.
- (2) Schedule 1 item 6 is deleted and the following item is inserted instead —
 “
 6. Allocation of hearing date, for each
 day allocated 368 736
 NOTE:
 See regulation 9.
 ”.

- (3) Schedule 1 item 8 is amended by deleting all of the item from and including “On filing” to “in Chambers” and inserting instead —

“

On filing an —

- (i) interlocutory application or summons or motion returnable;
- (ii) application for assessment of damages other than in an action for personal injury; or
- (iii) application for summary judgment, before a Judge or Registrar in Chambers

”.

- (4) Schedule 1 item 9 is amended by deleting “an interlocutory application, summons or motion before a Judge or Registrar” and inserting instead —

“ a matter to which item 8 applies ”.

- (5) Schedule 1 item 11 is deleted and the following items are inserted instead —

“

11. For searching any record or proceeding 21 21

NOTE:

No fee is payable under item 11 for a search made —

- (a) by or on behalf of a party to the proceedings; or
- (b) by an approved recipient of searchable information provided to it under regulation 11A.

11A. For provision of searchable information to approved recipients under regulation 11A —

- (a) fee per action or matter provided to recipient 1 1
- (b) annual fee for information provided by email to approved recipient 1 000 1 000

NOTE:

The fee under item 11A(b) is payable on the date on which the recipient is approved by the Attorney General and on each anniversary of that date.

”.

11. Schedule 2 replaced

Schedule 2 is repealed and the following Schedule is inserted instead —

“

Schedule 2 — Fees to be taken by the Sheriff

[r. 4]

Item	Matter	Fee \$
1.	For the execution of an arrest warrant of any kind	136.00
NOTE 1: The fee includes all duties associated with executing an arrest warrant including —		
(a) arresting the person;		
(b) conveying the person to a court or a custodial place;		
(c) ongoing custody of the person;		
(d) releasing the person from arrest.		
NOTE 2: This fee covers up to 2½ hours of the Sheriff's time. If in any case the execution of the warrant exceeds 2½ hours, the Court may grant the Sheriff an additional allowance.		
2.	For the service of any writ, application, summons, originating process, notice or order of the Court or any other process requiring service	37.50
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 writ, summons, order of the Court, other process or document, or on making an arrest or for all attempts, attendances and inspections, from the Sheriff's office or nearest bailiff's office —	
	(a) for each kilometre travelled (one way) in the metropolitan area	0.95
	(b) for each kilometre travelled (one way) outside the metropolitan area	1.05
NOTE: If more than one process or document is executed or served by the Sheriff or a bailiff at the same time on the same person or on different persons at the same address, only one allowance for kilometres is chargeable.		
4.	Fee to the Sheriff for attending a view — per hour or part of an hour	35.00
5.	(a) For striking a jury and preparing jury panel	118.00
	(b) For attendance of Sheriff's officer at hearing (per day or part of a day)	The sum actually and reasonably paid.

”

12. Schedule 3 amended

- (1) Schedule 3 Form 2 is amended by deleting “and poundage”.
- (2) At the end of Schedule 3 the following form is inserted —

“

Form 3	
Application for determination of dispute about fees	
In the District Court of Western Australia	No. of 20
Plaintiff:	
Defendant:	
Application:	To the Principal Registrar for a determination under s. 89A(3) of the <i>District Court of Western Australia Act 1969</i> of a question regarding fees.
Applicant: Full name
 Address
 Date of birth
 MDL No.
Disputed fee:	The disputed fee is for

	Payable under the <i>District Court (Fees) Regulations 2002</i> Schedule 1 item
	I dispute —
	<input type="checkbox"/> that the fee is payable
	<input type="checkbox"/> the amount of the fee
	<input type="checkbox"/> other [give details].....

I dispute the fee because	
.....	
.....	
.....	
Signature of applicant:	
Date:	/ /20

”

13. Transitional: recognised reporting services

A recognised reporting service approved by the Attorney General immediately before the date on which these regulations commenced is taken to have been approved as a person entitled to receive searchable information on that date.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.