

District Court of Western Australia Act 1969

District Court (Fees) Amendment Regulations 2003

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *District Court (Fees) Amendment Regulations 2003*.

2. Commencement

These regulations come into operation on 1 January 2004.

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 10 December 2003 see Gazette
30 June 2003.]

4. Regulation 3 amended

- (1) Regulation 3 is amended by deleting paragraph (a) of the definition of “small business”.
- (2) Regulation 3 is amended by inserting the following definitions in the appropriate alphabetical positions —

“

“**individual**” does not include a public officer of the Commonwealth, of this State or any other State, or of any Territory acting in the course of his or her duties as such an officer;

“**non-profit association**” means a society, club, institution, or body that is not for the purpose of trading or securing pecuniary profit for its members from its transactions;

”.

5. Regulation 4 amended

- (1) Regulation 4(6) is amended by inserting after “small business” —

“ or a non-profit association ”.

- (2) Regulation 4(7) is amended by inserting after “small business” —
“ or a non-profit association ”.
- (3) Regulation 4(8) is amended by inserting after “small business” —
“ or a non-profit association ”.
- (4) Regulation 4(9) is amended by inserting after “small business” —
“ or a non-profit association ”.
- (5) Regulation 4(10) is amended by inserting after “small business” —
“ or a non-profit association ”.

6. Regulation 7 amended

- (1) Regulation 7(1) is amended as follows:
 - (a) by deleting “, including financial hardship,”;
 - (b) in paragraph (a) by inserting after “a fee” —
“ or fees ”;
 - (c) in paragraph (b) by inserting after “the fee” —
“ or fees ”;
 - (d) in paragraph (c) by inserting after “a fee” —
“ or fees ”.
- (2) After regulation 7(1) the following subregulations are inserted —
“
 - (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.
 - (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 or poundage 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 or poundage 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.
- ”.
- (3) Regulation 7(2) is amended by inserting after “a fee” —
- “ or fees ”.
- (4) After regulation 7(3) the following subregulation is inserted —
- “
- (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.
- ”.

- (5) Regulation 7(5) is amended as follows:
- (a) by deleting “If the fee” and inserting instead —
“ If a fee ”;
 - (b) by deleting “subregulation (2)” and inserting instead —
“ subregulation (1) ”.
- (6) After regulation 7(5) the following subregulations are inserted —
- “
- (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.
- ”.

7. Schedule 1 amended

- (1) Schedule 1 is amended by deleting the note to item 3.
- (2) Schedule 1 item 5 is amended by deleting “Entering for hearing a cause or matter” and inserting instead —
- “
- Entry for hearing a cause or matter
or notice of an appointment to hear
an originating summons
- ”.
- (3) Schedule 1 item 6 note 5 is amended by deleting “fee is refundable.” in both places where it occurs and inserting instead —
- “ fee is, subject to regulation 7, to be refunded. ”.
- (4) Schedule 1 item 9 is amended by deleting “proceeds for more than one day” and inserting instead —
- “
- is listed for more than one day and
proceeds for more than the number
of days listed,
- ”.
- (5) Schedule 1 item 13 is amended as follows:
- (a) in paragraph (a) by deleting “photographic”;
 - (b) in paragraph (b) by deleting “photographic”.

(6) After Schedule 1 item 13 the following item is inserted —

“

14.	(a)	For a copy of a transcript, for each page or part of a page	4.50	4.50
	(b)	For each copy of a transcript 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	10.00	10.00
	(c)	For each copy of a transcript not in electronic format if a fee has been paid under paragraph (a) by the applicant for a copy of the transcript, for each page or part of a page	1.50	1.50

”

(7) Schedule 1 is amended in each item listed in column 1 of the Table to this regulation by deleting the figure set out in column 2, and inserting instead the figure set out in column 3 opposite that item.

Table

Column 1 Item No.	Column 2 Delete	Column 3 Insert instead
1	325	342
1	500	526
2(d)	150	158
2(d)	200	210
3	50	52.50
3	100	105
4	60	63
4	80	84
5	200	210
5	300	315
6	350	368
6	700	736
7	350	368
7	700	736
8	100	105
8	150	158
10(a)	100	105
10(a)	150	158
11	20 (in both places)	21
12(a)	30 (in both places)	32
12(b)	50 (in both places)	53
13(b)(i)	7 (in both places)	7.50

Column 1 Item No.	Column 2 Delete	Column 3 Insert instead
13(c)	10 (in both places)	10.50
13(d)	40 (in both places)	42

8. Schedule 2 amended

Schedule 2 is amended in each item listed in column 1 of the Table to this regulation by deleting the figure set out in column 2, and inserting instead the figure set out in column 3 opposite that item.

Table

Column 1 Item No.	Column 2 Delete	Column 3 Insert instead
1(a)	56.00	59.00
1(b)	22.50	24.00
2	33.00	35.00
2(a)	23.50	25.00
2(b)	23.50	25.00
3(a)	52.50	55.50
3(b)	33.00	35.00
3(c)	33.00	35.00
4(a)	0.85	0.90
4(b)	0.95	1.00
5	\$13 000 (4 places)	\$13 500
6	\$13 000	\$13 500
7	\$13 000 (4 places)	\$13 500
10(a)	33.00	35.00
11	147.50	156.00
12	52.50	55.50
13(b)	33.00	35.00

9. Schedule 3 amended

(1) Schedule 3 Form 1 is amended as follows:

- (a) by inserting after “small business” where it occurs in the heading to the form —
“ **or a non-profit association** ”;
- (b) by inserting after “application is made is a small business¹” —
“ or a non-profit association² ”;
- (c) in endnote 1 by deleting “Supreme Court (Fees) Regulations 2002” and inserting instead —
“ *District Court (Fees) Regulations 2002* ”;
- (d) in endnote 1 by deleting “a society, club, institution, or body that is not for the purpose of trading or securing pecuniary profit for its members from its transactions;”;

(e) by inserting the following after endnote 1 —

“

² Under regulation 3 of the District Court (Fees) Regulations 2002 a non profit association is a society, club, institution, or body that is not for the purpose of trading or securing pecuniary profit for its members from its transactions.

”

(2) Schedule 3 Form 2 is amended as follows:

(a) by deleting “The following reasons are my” and inserting instead —

“ The following reasons are the ”;

(b) by inserting before “If the special reasons include financial hardship” —

“

<p>If the special reasons include that an important right or obligation affecting the community or a significant part of the community will be determined, what is the right or obligation? <i>[Give details of each right or obligation, and explain why it affects the community or a significant part of the community.]</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>If the special reasons include that the development of the law generally will be affected so as to reduce the need for further litigation, what law will be developed generally? <i>[Give details of how a determination in relation to that law will reduce the need for further litigation.]</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

”

(c) by inserting after “form must be provided by the applicant” —

“ if the applicant is a natural person ”;

(d) by inserting the following before “Signature of applicant:” —

“

If the special reasons include financial hardship the information required in the following part of this form must be provided by the applicant if the applicant is a corporation or incorporated association.	
INCOME	\$
LIABILITIES	\$
ASSETS	VALUE
	\$

”

By Command of the Governor,

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