

Western Australia

Supreme Court (Fees) Regulations 2001

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Schedule 1 — Fees

Supreme Court Act 1935

Supreme Court (Fees) Regulations 2001

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Supreme Court (Fees) Regulations 2001*.

2. Commencement

These regulations come into operation on 28 July 2001.

3. Interpretation

In these regulations unless the contrary intention appears —
“**Rules**” means the *Rules of the Supreme Court 1971*.

4. Fees and poundage to be charged

- (1) Subject to the provisions of these regulations, the fees and poundage specified in Schedule 1 are to be charged in respect of the matters referred to in section 171(1) of the Act in relation to which they are specified.
- (2) Except as provided in Schedule 1, a fee must not be charged in respect of any of the following —
 - (a) filing an affidavit;
 - (b) filing a pleading;
 - (c) search by a party;
 - (d) sealing a copy of a document;
 - (e) drawing up, settling or signing a judgment, order, or decree;
 - (f) amending a pleading;
 - (g) making a request under the Rules;
 - (h) filing, depositing, giving, issuing, or serving any other document required or permitted by the Rules to be filed, deposited, given, issued, or served in connection with proceedings in the Court.
- (3) A note to an item in Schedule 1 has effect according to its tenor as if it were a provision of these regulations.
- (4) No fees are to be charged in respect of proceedings under Part VIII of the *Justices Act 1902*.

- (5) No fee is to be charged on the appointment of an associate to be a Commissioner for Affidavits where that appointment is for the period during which the appointee holds office as an associate.

5. Exemptions

The provisions of these regulations apply to all proceedings in the Supreme Court in any jurisdiction inherent in or conferred on the Court or a Judge other than —

- (a) criminal proceedings, or appeals under Part VIII of the *Justices Act 1902*;
- (b) proceedings under the *Bankruptcy Act 1966* of the Commonwealth;
- (c) proceedings under the *Surveillance Devices Act 1998*;
- (d) proceedings under the *Witness Protection (Western Australia) Act 1996*;
- (e) proceedings in the Court of Disputed Returns;
- (f) applications for appointment as public notaries;
- (g) returns and copies of, or searches for, returns under the *Newspaper Libel and Registration Act 1884*; or
- (h) proceedings in Prize Courts.

6. Fees to be paid before documents etc., filed

Subject to the provisions of these regulations —

- (a) a pleading, application, or other document must not be filed, issued, or otherwise dealt with; and
- (b) no other matter or thing shall be done in the Court or by an officer of the Court,

unless the fee (if any) payable upon or in respect of filing, sealing, issuing, or otherwise dealing with that pleading, application, or other document or upon or in respect of the doing of that matter or thing, has been paid.

7. Court or Registrar may remit fees or poundage

The Court or a Registrar may, in a particular case for special reasons, direct —

- (a) that a fee or poundage be waived or reduced;
- (b) that the whole or part of the fee or poundage be refunded; or
- (c) that the payment of the whole or a part of a fee or poundage be deferred until such time, and upon such conditions, if any, as the Court or Registrar thinks fit.

8. Conventions

If, by a Convention that applies to the State, it is provided that a fee is not required to be paid in respect of specified proceedings,

the fees referred to in regulation 4 are not be taken in respect of those proceedings.

Schedule 1 — Fees

[r. 4]

Division I

Fees to be taken in the Central Office

Item	Matter	Fee \$
1.	(a) Commencing any cause or matter, including filing a draft notice of appeal, other than proceedings of the kind referred to in item 2 or 13;	
	(b) Filing a cross appeal	265.00
2.	(a) Filing a counterclaim; or	
	(b) Issuing a third party notice or a notice under 0.19, R.8;	
	(c) An application to extend a period of time fixed by law including an application to extend time before proceedings are commenced;	
	(d) An application to limit a period of time within which proceedings may be taken;	
	(e) An application for leave to serve a writ or notice of a writ out of jurisdiction;	
	(f) An application to swear to the death of a person;	
	(g) An application for leave to appeal;	
	(h) An application to remove a local court appeal into the Full Court;	
	(i) An application for inclusion in the Expedited list	100.00
3.	Commencing an appeal to which O.60A R. 4 applies	200.00
4.	Registering a certificate or judgment in proceedings under the <i>Service and Execution of Process Act 1992</i> of the Commonwealth	40.00
5.	Entering for hearing a cause or matter except where item 6 applies	200.00
6.	Entering for hearing an appeal resulting from an order of a Court of Petty Sessions	100.00
7.	If an application for an urgent hearing results in the Court being opened after normal hours for the hearing, for each hour or part of an hour	250.00
8.	On an appointment before a Master or Registrar —	
	(a) on a reference for trial or for inquiry and report;	
	(b) to pass accounts;	
	(c) to settle the index of a transcript for use upon the hearing of an appeal; or	

Item	Matter	Fee \$
	(d) to settle a list of creditors under the <i>Companies (Western Australia) (Transitional Provision) Rules 1982</i> or for a certificate under r. 49 or 54(3) of those rules	70.00
9.	On an appointment to tax a bill of costs in a cause or matter or under the <i>Legal Practitioners Act 1893</i> or the <i>Commercial Arbitration Act 1985</i> —	
	(a) lodgment fee	20.00
	plus	
	(b) taxing fee —	
	(i) where the amount claimed is under \$2 000	50.00
	(ii) where the amount claimed is \$2 000 or more 2.5% of the amount at which the bill is drawn.	
	NOTE: The taxing Officer must allow against the person chargeable with the costs as taxed, taxing fees at the rate of 2.5% of the amount found due on taxation.	
10.	For searching any proceeding or record other than a search made by or on behalf of a party to the proceeding	10.00
11.	(a) On an application for the production of records or documents that are required to be produced to any court or tribunal (including an umpire or arbitrator)	15.00
	(b) Where an officer is required to attend at any court or place out of the Supreme Court building, the officer's reasonable expenses and, in addition, for each hour or part of an hour when the officer is necessarily absent from his or her office	25.00
12.	Admiralty Proceedings —	
	(a) on an application in a pending cause or matter whether by summons or on motion, other than an application by the Marshal; or	
	(b) entry for hearing of a reference to the Registrar	70.00
	(c) sealing a warrant of arrest release, commission for the appraisement or sale of property or for the appraisement and sale of property	20.00
	NOTES:	
	(1) If the Registrar is assisted by one or more merchants or other assessors, the daily fee is payable for each assessor or merchant as a Judge or the Registrar may consider reasonable.	

Item	Matter	Fee \$
	(2) The fees payable to assessors or merchants due <i>de die in diem</i> as the reference proceeds and are payable in the first instance by the claimant.	
13.	(a) On an application for a commission to take affidavits or for sealing any other commission, unless otherwise prescribed; and	
	(b) On an application for admission as a practitioner	50.00
14.	(a) For typing a copy of a document of any kind or for examining a typed copy of a document of any kind not bespoke, including marking as an office copy if required — for each page or part of a page	5.00
	(b) For a photographic copy of a document of any kind, including prepared transcript and of any plan, map, drawing, or diagram, including marking as an office copy if required for each page or part of a page	3.00
	and for second or subsequent copies — per page	0.50
	(c) For a photographic copy of reasons for judgment consisting of not more than 10 pages — for each copy 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	7.00
	and for each page in excess of 10	1.00
	(d) For photographic copies of exhibits or other documents (other than evidence or reasons for judgment) required for use on an appeal — for each page	1.00
	(e) For examining the transcript on an appeal — for each page	1.00
	NOTE: This fee is not payable where item 14(d) applies.	
	(f) For a typed copy of a document in a foreign language or for a copy other than a photographic copy of a plan, map, section drawing, photograph, or diagram — the reasonable cost thereof as certified by a Registrar.	
	(g) For certifying under seal that a document is a true copy — an additional fee of.....	5.00
	(h) For a certificate under the hand of a Registrar	20.00

Division II

Fees to be taken in the Probate Office

Item	Matter	Fee \$
15.	On application for an original grant or to reseal a foreign grant —	
(a)	where the value of the estate is less than \$5 000	50.00
(b)	where the value of the estate is \$5 000 or over	120.00
	NOTES:	
(1)	This fee covers:	
(a)	all documents filed in support of the application;	
(b)	preparation of the necessary photographic copies of documents including will (if any) required for the grant and Court files; and	
(c)	the issue of the grant.	
(2)	This fee is not chargeable on a grant <i>pendente lite</i> or <i>ad colligenda bona</i> , as to which see item 16.	
(3)	In this item and in subsequent items in this Division, “ grant ” means a grant of probate or administration with or without the will, or an order to administer.	
16.	On application for a second subsequent grant in relation to the same deceased person or for a grant <i>pendente lite</i> or <i>ad colligenda bona</i>	75.00
	NOTE: This fee is subject to Note (2) to Item 15.	
17.	For depositing a will of a deceased person in the Registry, (including renunciation of executor)	20.00
18.	(a) For photographic copies of a will or other document, including marking as an office copy if required — for each page	3.00
	and for second or subsequent copies per page	0.50
(b)	For typing of a copy of a will or other document including marking as an office copy if required — for each page or part of a page	5.00
(c)	For collating a copy with the original document and marking as an office copy if required — for each page or part of a page ...	5.00
	NOTE: This fee is not payable where the copy is a photographic copy or where item 18(b) is payable.	
(d)	For certifying under seal that a copy of a document is a true copy — an additional fee of	5.00
19.	(a) For a duplicate or triplicate probate or administration (in addition to item 18(a));	
(b)	For an exemplification of a grant (in addition to item 18(a)); or	

Item	Matter	Fee \$
	(c) for drawing and engrossing a grant (other than an application under s. 55 of the <i>Administration Act 1903</i>) including collating	25.00
20.	For settling and sealing a citation or a subpoena	25.00
21.	For a search for and inspection of a document or file of documents	6.00

Division III

Fees to be taken by the sheriff and the Marshal

Fees to be taken by the sheriff

Item	Matter	Fee \$
22.	(a) Receiving and entering a writ or order for execution including issuing warrant and statement under 0.47, R.11	50.00
	(b) Receiving and entering a writ or other process for service	20.00
23.	(a) Service of a writ of summons or other process or document (including the execution of any affidavit of such service)..	29.50
	(b) Attempted Service: Where after reasonable inquiry the process or other document cannot be served (in addition to an allowance for kilometres travelled)	21.00
	(c) Where the process or document is subsequently served at another address, for attempted service in the discretion of the Registrar or sheriff (in addition to an allowance for kilometres travelled)	21.00
NOTE: If a person is or could have been served with more than one document at the one time, one fee only must be allowed.		
24.	(a) For executing a writ or other process or for an arrest or for each seizure of goods	47.00
	(b) For the release from arrest of any person	29.50
	(c) For inquiries concerning judgment debtor's property or for attempted execution (where item 24(a) is not payable)	29.50
25.	For kilometres travelled on execution of a warrant or other process. Or on service of a writ, summons, other process, or document, or on making an arrest or attending a view, for each kilometre (one way) for the sheriff's office or Bailiff's office	0.75

Item	Matter	Fee \$
	NOTE: If more than one process or document is executed or served at the same time on the same person or on different persons at the same address, only one allowance for kilometres travelled is chargeable	for travel in the metropolitan area; or 0.75 for travel outside the metropolitan area, or such higher fee as the sheriff may allow.
26.	<p>(a) Poundage on executing a writ of fieri facias or other process under or by reason of which money is received by the sheriff or by the judgment creditor, after seizure, 5% on the first \$10 000.00 and 2.5% on the balance above that amount.</p> <p>(b) If the sale of land, interest in land, or goods or chattels is conducted by a licensed auctioneer instructed by the sheriff, poundage shall be charged at one-half the above mentioned rates.</p> <p>NOTE: For the purposes of this item —</p> <p>(a) with respect to land, or an interest in land, the service of the writ of fieri facias on the Registrar of Titles under section 133 of the <i>Transfer of Land Act 1893</i>;</p> <p>(b) the seizure of chattels in the possession or apparent possession of the judgment debtor; or</p> <p>(c) the seizure of books of account in the possession of the judgment debtor,</p> <p>is to be taken to be “seizure”.</p>	
27.	If the sale, whether by public auction or otherwise, is conducted by the sheriff or his or her officer without the intervention of an auctioneer or agent, poundage of 1% of the proceeds of sale (in addition to that prescribed by item 26(a) is chargeable; but the amount chargeable under this item must not exceed \$90.00.	
28.	<p>(a) Poundage on executing a writ of possession: 5% on the first \$10 000.00 and 2.5% on balance of the annual rental value of property as fixed by the sheriff.</p> <p>(b) Poundage on executing a writ of delivery: 5% on the first \$10 000.00 and 2.5% on the balance of the value of the property delivered, as fixed by the sheriff.</p>	

Item	Matter	Fee \$
29.	For auctioneer's or agent's commission, advertising, and sundry expenses on account of sale by auction or otherwise of goods or chattels or land or any interest in land, whether a sale does or does not take place	A fee fixed in accordance with the recognised scale of charges for auctioneers and agents in the State of Western Australia, or such other fee as the sheriff may allow.
30.	If a sale takes place by auction or private contract, or when no sale takes place — (a) for advertising and giving publicity to any sale, or intended sale, printing catalogues and bills and distributing and posting the same (b) for labour (if any) employed in lotting and showing goods or chattels, preparing catalogues and if a sale takes place by auction attending the sale and superintending the removal of goods or chattels by purchaser (c) travelling expenses	As to paragraphs (a), (b) and (c), the sums actually and reasonably paid.
31.	(a) Assistants required to execute a writ of possession (b) Person in possession (c) Out-of-pocket expenses incurred by the Bailiff or officer while executing any process including postage, telegraphic, and telephonic messages, and travelling expenses of the bailiff and assistants (d) Clerical assistance when necessary (e) Warehousing or storage of goods or vehicles which are being or are about to be, or have been removed, and insurance for them against fire, damage, and in the case of motor vehicles, accident and third party risk (f) Removal or cartage expenses (g) If animals or other livestock have been removed for taking charge of same and for their keep while in custody of the sheriff whether before or after removal	As to paragraphs (a), (b), (c), (d), (e) (f) and (g), the sums actually and reasonably paid.
32.	Preparing for the sale of real or personal property including drawing advertisements and particulars and conditions of sale but excluding actual disbursements (see items 29, 30 and 31)	100.00
33.	For attendance at sale	47.00

Item	Matter	Fee \$
34.	If an officer is required to attend Court in charge of any person including a prisoner ordered to attend for examination pursuant to a Judge's order, or to lodge any person in a lock up the reasonable travelling and other expenses of the officer and the person or prisoner, and in addition for each hour or part of an hour when the officer is necessarily engaged	29.50
35.	Fee to the sheriff for attending a view — per hour or part of an hour	29.50
36.	(a) Striking a jury and preparing jury panel	100.00
	(b) Attendance of sheriff's officer at hearing (per day or part of a day)	The sum actually and reasonably paid.
37.	If a sheriff's officer, or other person employed under the sheriff is necessarily put to and incurs extra trouble and expense in the discharge of any duty incidental to his or her office or employment or for any duty or service not herein provided, such sum or such additional sum, as the case may be, as the sheriff may allow.	
Fees to be taken by the Marshal in Admiralty		
38.	Receiving and entering a warrant or release	50.00
39.	Receiving and entering a writ of summons, decree, order, commission, or other instrument under the seal of the Court	20.00
40.	For service of writ of summons	47.00
41.	For executing a warrant for the arrest of a ship or other property	117.00
42.	If a writ of summons is served at the same time as a warrant of arrest is executed, in lieu of items 40 and 41 a fee of	141.00
43.	For the execution of an attachment —for each person	47.00
44.	For the release from arrest of a vessel, goods, or person	29.50
45.	For attending the discharge of cargo, or removal of a vessel or goods, per hour	29.50
46.	For the execution of a commission of appraisement or sale, or appraisement and sale, in addition to the fees paid to the appraiser or auctioneer	100.00
47.	For the execution of a decree or order, commission, or other instrument other than those herein provided	47.00

Item	Matter	Fee \$
48.	On the gross proceeds of a vessel or goods, etc., sold — For every \$100.00 or part of \$100 up to \$20 000.00 For each additional \$100.00 or part of \$100	4.00 2.00
49.	(a) for retaining possession of a vessel with or without cargo, or of a cargo without a vessel, the expenses per day actually paid in respect of a shipkeeper or shipkeepers, and in addition per day NOTE: If the possession is for a lengthy period, this fee may be reduced at the discretion of the Marshal. (b) Other actual and necessary payments made by the Marshal for the safe custody of property under arrest may be also allowed. NOTE: No fee is payable for the custody and possession of property under arrest if it consists of money in a bank, or of goods stored in a bonded warehouse, or if it is in the custody of a customs house officer, or other authorised person.	29.50
50.	The Marshal or any of his or her officers, if required to travel for the purpose of discharging his or her duty, is entitled to his or her reasonable expenses for travelling, board, and maintenance, in addition to the above fees.	
51.	For any duty or service not provided for in this Part, or if the fee prescribed is insufficient having regard to the circumstances of the case, such sum, or such additional sum, as the Marshal, upon special application, may allow. NOTE: The Marshal may require a deposit of money on account of the fees applicable to any proceedings before the proceedings are commenced. The Marshal may also require an undertaking in writing to pay any further fees or charges which may become payable beyond the amount so deposited.	

By Command of the Governor,

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