

Western Australia

Magistrates Court (Fees) Regulations 2005

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Magistrates Court (Fees) Regulations 2005

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Magistrates Court (Fees) Regulations 2005

1. Citation

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

2. Commencement

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

3. Terms used in these regulations

In these regulations unless the contrary intention appears —

“**case statement**” has the meaning given to that term in the *Magistrates Court (Civil Proceedings) Act 2004* section 3(1);

“**claim**” has the meaning given to that term in the *Magistrates Court (Civil Proceedings) Act 2004* section 3(1);

“**claimant**” means a person who commences a case as defined in the *Magistrates Court (Civil Proceedings) Act 2004* section 3(1);

“**corporation**” has the meaning given by section 57A of the *Corporations Act 2001* of the Commonwealth;

“**counterclaim**” has the meaning given to that term in the *Magistrates Court (Civil Proceedings) Act 2004* section 9(1);

“enforcement officer” has the meaning given to that term in the *Civil Judgments Enforcement Act 2004* section 3;

“Form”, if followed by a number, means the form of that number in Schedule 2 completed in accordance with these regulations;

“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;

“minor cases procedure” has the meaning given to that term in the *Magistrates Court (Civil Proceedings) Act 2004* section 3(1);

“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;

“party” means a party to a case as defined in the *Magistrates Court (Civil Proceedings) Act 2004* section 3(1);

“prosecution notice” has the meaning given to that term in the *Criminal Procedure Act 2004* section 3(1);

“small business” means —

- (a) 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;
- (b) a corporation that has less than 20 full-time equivalent employees and that is not a subsidiary of a corporation that has 20 or more full-time equivalent employees;
- (c) a company within the meaning of 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;

- (d) a corporation within the meaning of the *Statutory Corporations (Liability of Directors) Act 1996* that has less than 20 full-time equivalent employees and that is not a body that would be a subsidiary, if the corporation were a corporation to which the *Corporations Act 2001* of the Commonwealth applies, of a corporation within the meaning of the *Corporations Act 2001* of the Commonwealth or the *Statutory Corporations (Liability of Directors) Act 1996* that has 20 or more full-time equivalent employees;

“**subsidiary**” has the meaning given to that term in section 9 of the *Corporations Act 2001* of the Commonwealth.

Regulation 3 amended in Gazette 23 Jun 2006 p. 2178.]

4. Fees to be charged

- (1) Subject to the provisions of these regulations, the fees specified in Schedule 1 are to be charged in respect of the matters referred to in the Act section 42 in relation to which they are applicable.
- (2) In relation to a matter specified in Schedule 1 Division 2 column 2 that has 8 columns, the fee shown opposite the matter —
- (a) in column 3, 5 or 7 applies if an individual is required to pay the fee; or
- (b) in column 4, 6 or 8 applies if a person other an individual is required to pay the fee,
- as the case requires.
- (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) Except as provided in Schedule 1 a fee must not be charged in respect of any of the following —

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- (a) filing an affidavit;
 - (b) filing a case statement;
 - (c) search by a party;
 - (d) sealing a copy of a document;
 - (e) drawing up, settling or signing a judgment or order;
 - (f) amending or supplementing a case statement;
 - (g) making a request under the rules of court;
 - (h) filing, depositing, giving, issuing or serving any other document required or permitted by the rules of court to be filed, deposited, given, issued or served in connection with proceedings in the Court.
- (5) No fee is to be charged in respect of any attendance in court if the attendance is required by an order of the Court made on its own motion.
- (6) On the lodgment of Form 1, a person that is a small business or a non-profit association is to be charged fees specified in Schedule 1 as if the person were an individual.
- (7) Subregulation (6) does not apply to fees payable by joint parties if at least one of the parties is not a small business or a non-profit association.
- (8) A person who has lodged a declaration under subregulation (6) must immediately advise a registrar if the person ceases to be a small business or a non-profit association.
Penalty: \$1 000.
- (9) Whether or not the person has complied with subregulation (8), a person is not entitled to be charged fees as if the person were an individual if the person is not a small business or a non-profit association.
- (10) If a person is charged a fee under subregulation (6) when the person was not a small business or a non-profit association, the Court may —

- (a) order that the person pay the difference between the fee the person paid and the fee that the person would otherwise have been required to pay; and
 - (b) make orders to enforce the order for the payment.
- (11) An order under subregulation (10)(b) may provide that —
- (a) a claim, case statement, application or other document must not be filed, issued or otherwise dealt with on the request of the person or that no other matter or thing is to be done in the Court or by an officer of the Court for the benefit of the person until the sum ordered to be paid is paid; and
 - (b) a claim, case statement, application or other document filed, issued or otherwise dealt with on the request of the person or any other matter or thing done in the Court or by an officer of the Court for the benefit of the person is of no effect until the sum ordered to be paid is paid.
- (12) A person who makes a statement or representation in a declaration under subregulation (6) that the person knows or has reason to believe is false or misleading in a material particular commits an offence.
- Penalty: \$1 000.

5. Exemptions

A fee is not to be charged in respect of an application under the *Restraining Orders Act 1997* —

- (a) for a violence restraining order; or
- (b) to vary or cancel a restraining order.

6. Fees subject to conditions or waiver

- (1) This regulation applies to —
- (a) proceedings in the Court's criminal jurisdiction; and
 - (b) proceedings under the *Restraining Orders Act 1997*.

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- (2) In this regulation —
 “respondent” has the meaning given to that term in the
 Restraining Orders Act 1997 section 3.
- (3) If —
- (a) proceedings are instituted or taken —
 - (i) by a police officer; or
 - (ii) by an officer of a department as defined in the
Public Sector Management Act 1994 section 3(1)
on behalf of that department;
 - or
 - (b) a member of the State Solicitor’s Office acts or appears
on behalf of a board or other body,

the appropriate prescribed fees are payable only upon conviction
of and recovery from the accused or the making of a restraining
order and recovery from the respondent.

- (4) A registrar must, in the case where —
- (a) a respondent requests a copy of an application, either
personally or by counsel or solicitor;
 - (b) the Court has not made a decision in relation to the
application; and
 - (c) the respondent has not previously obtained a copy of the
application under this subregulation,

waive the fee for a copy of the application.

7. Fees to be paid before documents etc. filed

- (1) This regulation applies to proceedings in the Court’s civil
jurisdiction.
- (2) Subject to the provisions of these regulations —
- (a) a claim, application or other document must not be filed,
issued or otherwise dealt with; and

- (b) no other matter or thing is to 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 claim, application or other document or upon or in respect of the doing of that matter or thing, has been paid.

8. Court or registrar may remit fees

- (1) This regulation does not apply to a fee referred to in Schedule 1 Division 1 items 2 and 3 and Division 2 item 9.
- (2) The Court or a registrar may, in a particular case for financial hardship or if it is in the interests of justice to do so, direct —
 - (a) that a fee or fees be waived or reduced;
 - (b) that the whole or part of the fee or fees be refunded; or
 - (c) that the payment of the whole or a part of a fee or fees be deferred until such time, and upon such conditions, if any, as the Court or registrar thinks fit.
- (3) 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.
- (4) The Court or a registrar may direct that the payment of the whole or a part of a fee in relation to the filing of a claim, 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 at the time of filing.

- (5) The payment of a fee referred to in Schedule 1 Division 2 items 1-3, 7, 10 and 11 and Division 3 items 1 and 2 must 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.
- (6) An application for a fee or fees to be waived, reduced, refunded or deferred must be in the form of Form 2.
- (7) Form 2 must be completed in accordance with the directions specified in it.
- (8) If an application under subregulation (2) 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.

- (9) A fee, payment of which has been deferred until an event occurs, becomes payable when that event occurs.
- (10) A person who makes a statement or representation in an application under subregulation (6) that the person knows or has reason to believe is false or misleading in a material particular commits an offence.
Penalty: \$1 000.
- (11) If a fee payable by a person is waived, reduced, refunded or deferred in accordance with a direction under subregulation (2) and the 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 (6) that the person knows or has reason to believe is false or misleading in a material particular, the 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 14.
- (12) Despite the provisions of these regulations, a fee is not to be charged in respect of an application under subregulation (2).

9. 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 to be taken in respect of those proceedings.

10. Schedule 1 Division 2 item 5 fee

The fee referred to in Schedule 1 Division 2 item 5 or so much of it as has not been waived or reduced under regulation 8 must be paid immediately after the Court determines the number of days to be allocated for the hearing.

11. Schedule 1 Division 2 item 6 fee

If a fee is to be paid under Schedule 1 Division 2 item 6, the hearing is not to be reconvened until that fee has been paid or so much of it as has not been waived or reduced under regulation 8 has been paid.

12. Searchable information

- (1) In this regulation and Schedule 1 Division 1 items 4 and 5 —
“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 a case in the Court’s civil jurisdiction, 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 case has been discontinued.
- (2) Except as provided in subregulation (4), a 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 case in the Court’s civil jurisdiction.
- (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 Division 1 item 5(a) for each case 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 Division 1 item 5(b).
- (5) If immediately before the day on which these regulations come into operation a person is an approved recipient, on and after

that day the person is to be taken to be a person who is approved in writing by the Attorney General as a person entitled to receive information from the Court under this regulation.

13. Resolution of disputes as to fees

- (1) If a question arises as to the fee payable or applicable in a particular case, that question is to be determined by the Principal Registrar of the Court.
- (2) An application for a determination under subregulation (1) is to be in the form of Form 3.
- (3) Any person affected by the determination under subregulation (1) may have it reviewed by the Court in a summary manner.
- (4) Despite the provisions of these regulations, no fee is payable in relation to the determination of a question under subregulation (1) or a review under subregulation (3).

14. 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.

15. Transitional

- (1) In this regulation —
“**commencement day**” means the day on which these regulations come into operation.
- (2) A fee is not to be charged under Schedule 1 Division 2 item 5 or 6 in respect of days allocated for a hearing if —
 - (a) the case was part heard before the commencement day;
 - (b) the case is one for which hearing days had been allocated before the commencement day; or
 - (c) dates for a hearing were allocated before the commencement day, the hearing did not proceed on

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those dates on a Local Court's or the Court's own motion, and the Court has allocated other hearing dates on or after the commencement day.

Schedule 1 — Fees

[r. 4]

Division 1 — General

Item	Matter	\$
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	41.00

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; 1.05
 - (b) for each kilometre travelled (one way) outside the metropolitan area. 1.15

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.

Magistrates Court (Fees) Regulations 2005

Schedule 1 Fees
Division 1 General
cl. 1

Item	Matter	\$
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	24.00
	(b) listening to or viewing any electronic recording that requires supervision by an officer of the Court, a search fee of	24.00
	And in addition to the search fee, for each hour of the officer's time	59.50
NOTE No fee is payable under item 4(a) for a search made by an approved recipient of searchable information provided to it under regulation 12.		
5.	For provision of searchable information to approved recipients under regulation 12 —	
	(a) fee per civil case provided to approved recipient	1.05
	(b) annual fee for information provided by email to approved recipient	34 662.00
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	35.50
	(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	59.50

Magistrates Court (Fees) Regulations 2005

Fees **Schedule 1**
 General **Division 1**
 cl. 1

Item	Matter	\$
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	8.35
	(ii) for each copy consisting of 10 or more pages an additional fee per page of	1.05
	(c) for certifying that a document is a true copy, an additional fee of	11.50

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	4.70
	(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 ...	11.50
	(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

NOTE 1

A minimum fee of \$16.70 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 1 amended in Gazette 23 Jun 2006 p. 2178-9; 26 Jun 2007 p. 3033-4.]

Magistrates Court (Fees) Regulations 2005

Schedule 1 Fees

Division 2 Civil jurisdiction

cl. 1

Division 2 — Civil jurisdiction

Item	Matter	Claim not exceeding \$7 500		Claim exceeding \$7 500 but not exceeding \$25 000		Claim exceeding \$25 000	
		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.	69.00	104.50	177.00	266.00	282.00	424.00
NOTE Not payable in respect of applications made under item 10 or 11.							
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	45.00	67.50	82.00	106.00	131.00	169.00
3.	On commencing an appeal	23.00	46.00	35.00	70.00	47.00	94.00
4.	Application for hearing	110.00	165.00	199.00	298.00	222.00	333.00

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.

NOTE 3

No fee is payable by the defendant for applications for hearing of a set-off or counterclaim providing this fee has been paid previously by the applicant.

NOTE 4

Includes pre-trial conference, mediation conference, directions hearing and listing conference.

Magistrates Court (Fees) Regulations 2005

Fees **Schedule 1**
Civil jurisdiction **Division 2**
cl. 1

Item	Matter	Claim not exceeding \$7 500		Claim exceeding \$7 500 but not exceeding \$25 000		Claim exceeding \$25 000	
		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	63.50	127.50	111.00	222.00	159.00	318.00
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	63.50	127.50	111.00	222.00	159.00	318.00

Magistrates Court (Fees) Regulations 2005

Schedule 1 Fees

Division 2 Civil jurisdiction

cl. 1

Item	Matter	Claim not exceeding \$7 500		Claim exceeding \$7 500 but not exceeding \$25 000		Claim exceeding \$25 000	
		Individual \$	Person other than individual \$	Individual \$	Person other than individual \$	Individual \$	Person other than individual \$

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.

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	58.00	86.50	70.00	105.00	94.50	142.50
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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.

Magistrates Court (Fees) Regulations 2005

Fees **Schedule 1**
Civil jurisdiction **Division 2**
cl. 1

Item	Matter	Claim not exceeding \$7 500		Claim exceeding \$7 500 but not exceeding \$25 000		Claim exceeding \$25 000	
		Individual \$	Person other than individual \$	Individual \$	Person other than individual \$	Individual \$	Person other than individual \$
8.	On an appointment to assess a bill of costs —						
	(a) lodgment fee	58.00	86.50	70.00	105.00	94.50	142.50
	(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.

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	75.50
	(b) for conveying the person to a court or a custodial place and releasing the person from arrest or custody	75.50
	(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	20.00

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.

Magistrates Court (Fees) Regulations 2005

Schedule 1 Fees

Division 3 Criminal jurisdiction

cl. 1

Item	Matter	\$
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.	
10.	For an application for an extraordinary drivers licence under the <i>Road Traffic Act 1974</i>	177.00
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> .	69.00

[Division 2 amended in Gazette 23 Jun 2006 p. 2179-81; 26 Jun 2007 p. 3034-5.]

Division 3 — Criminal jurisdiction

Item	Matter	\$
1.	On filing —	
(a)	a prosecution notice;	
(b)	an application under the <i>Criminal Procedure Act 2004</i> section 71	58.00
2.	For the issue of a summons or court hearing notice to an accused	11.00
3.	For a warrant of any kind —	
(a)	issue of it	58.00
(b)	execution of it	75.50

[Division 3 amended in Gazette 23 Jun 2006 p. 2181; 26 Jun 2007 p. 3035.]

Schedule 2 — Forms

[r. 4(6), 8(6), 13(2)]

1. Declaration that a person is a small business or a non-profit association

Form 1 Magistrates Court (Fees) Regulations 2005 (Regulation 4) Declaration that a person is a small business or a non-profit association	
In the Magistrates Court of Western Australia	No. of 2
Applicant:	..... Full name
	..... Address
	..... Name of small business/non-profit association*
	..... Position held by applicant in the small business/non-profit association*
I declare that the person in respect of which the application is made is a small business ¹ or a non-profit association ² within the meaning of that term in the <i>Magistrates Court (Fees) Regulations 2005</i> .	
Signature of applicant:	
Date:	
<i>Note: It is an offence under Magistrates Court (Fees) Regulations 2005 regulation 4(12) for a person to make a statement or representation in this declaration that the person knows or has reason to believe is false or misleading in a material particular. The maximum fine is \$1 000.</i>	
¹ Under the Magistrates Court (Fees) Regulations 2005 regulation 3 a small business is — 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; a corporation that has less than 20 full-time equivalent employees and that is not a subsidiary of a corporation that has 20 or more full-time equivalent employees;	

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a company within the meaning of 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;

a corporation within the meaning of the Statutory Corporations (Liability of Directors) Act 1996 that has less than 20 full-time equivalent employees and that is not a body that would be a subsidiary, if the corporation were a corporation to which the Corporations Act 2001 of the Commonwealth applies, of a corporation within the meaning of the Corporations Act 2001 of the Commonwealth or the Statutory Corporations (Liability of Directors) Act 1996 that has 20 or more full-time equivalent employees.

² Under the Magistrates Court (Fees) Regulations 2005 regulation 3 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 .

* Strike out the words that are not applicable.

2. Application to remit fees

<p>Form 2 Magistrates Court (Fees) Regulations 2005 (Regulation 8) Application to remit fees</p>	
In the Magistrates Court of Western Australia	No. of 2
Claimant:	
Defendant:	
Applicant:	.....
	Full name

	Address

	Date of birth
	MDL No.
The following reason is the reason ¹ for applying to have the above fee waived/ reduced/ refunded/ deferred*.	
¹ The reasons available are financial hardship or that it is in the interests of justice to do so.	
* Strike out those that are not applicable.	

If the reason is that it is in the interests of justice to do so, why is that so?			
If the reason is financial hardship the information required in the following part of this form must be provided by the applicant if the applicant is a natural person.			
I am employed as a by Their business address is			
I am unemployed/ a pensioner* and registered with the Department of Social Security at			
I am single/ married/ separated.*			
I have/ do not have* a dependant wife/ husband/ de facto partner* and dependant children.			
My weekly/ fortnightly* income and expenditure is as follows (in whole dollars) —			
Income		Expenditure	
Wage/salary/benefit (net)		Rent/board	\$
Self	\$	Mortgage payment	\$
Spouse	\$	Maintenance for dependants	\$
De facto partner	\$	Food	\$
Total	\$	Electricity/gas	\$
Money in bank or other financial institution		Telephone	\$
Self	\$	Water	\$
Spouse	\$	Rates and taxes	\$

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De facto partner	\$	Court orders	\$
Total	\$	Lease or other (give details)	\$
Income from investments	\$	Other debts owing (give details)	\$
Other income	\$		
Money owed to me	\$		
TOTAL		TOTAL	
ASSETS		VALUE	
		\$	
My assets and liabilities are as follows —			
House or other real property (give addresses)			
.....		
.....		
TOTAL			
Motor vehicles (car, utility, motor cycle, truck, etc.)			
Make and model		Reg. No.	
TOTAL			
Home contents			
Television		yes / no	
Video recorder		yes / no	
Stereo system		yes / no	

Furniture	yes / no	
Dishwasher	yes / no	
Microwave oven	yes / no	
Collection of coins, stamps, etc.		
Other collectables		
Interest in business or company		
Other assets		
TOTAL		
LIABILITIES		
Mortgage to	for \$	
Other to	for \$	
Time to pay order	for \$	
TOTAL		
If the reason is 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
		\$
Signature of applicant:		
Date:		
<p>* <i>Strike out words that are not applicable.</i></p> <p><i>Note: It is an offence under the Magistrates Court (Fees) Regulations 2005 regulation 8(10) for a person to make a statement or representation in this application that the person knows or has reason to believe is false or misleading in a material particular. The maximum fine is \$1 000.</i></p>		

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3. Application for determination of dispute about fees

Form 3	
Application for determination of dispute about fees	
In the Magistrates Court of Western Australia	No. of 20
Claimant/ Applicant:	
Defendant:	
Application:	To the Principal Registrar for a determination under the <i>Magistrates Court (Fees) Regulations 2005</i> regulation 13(1) 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>Magistrates Court (Fees) Regulations 2005</i> Schedule 1 Division 1/2/3* 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.....
* <i>Strike out numbers that are not applicable.</i>	

Notes

¹ This is a compilation as at of the *Magistrates Court (Fees) Regulations 2005* and includes the amendments made by the other written laws referred to in the following table ^{1a}.

Compilation table

Citation	Gazettal	Commencement
<i>Magistrates Court (Fees) Regulations 2005</i>	28 Apr 2005 p. 1573-603	1 May 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7127)
<i>Magistrates Court (Fees) Amendment Regulations 2006</i>	23 Jun 2006 p. 2178-81	1 Jul 2006 (see r. 2)
<i>Magistrates Court (Fees) Amendment Regulations 2007</i>	26 Jun 2007 p. 3033-5	r. 1 and 2: 26 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Magistrates Court (Fees) Amendment Regulations 2008</i> r. 3-5 ²	16 May 2008 p. 1910-11	Operative on commencement of the <i>Acts Amendment (Justice) Act 2008</i> s. 71 (see r. 2(b))

² On the date as at which this compilation was prepared, the *Magistrates Court (Fees) Amendment Regulations 2008* r. 3-5 had not come into operation. They read as follows:

“

3. The regulations amended

The amendments in these regulations are to the *Magistrates Court (Fees) Regulations 2005*.

4. Regulation 12 replaced

Regulation 12 is repealed and the following regulation is inserted instead —

“

12. Fees for searchable information

A person to whom information is provided under the *Magistrates Court (General) Rules 2005* rule 41A is liable for each case specified in the information to a fee in the amount referred to in —

- (a) if the information is not provided by email — Schedule 1 Division 1 item 5(a);
- (b) if the information is provided by email — Schedule 1 Division 1 item 5(b).

”

5. Schedule 1 amended

- (1) Schedule 1 Division 1 item 4 is amended by deleting the note and inserting instead —

“

NOTE

Item 4(a) does not apply in relation to information provided under the *Magistrates Court (General) Rules 2005* rule 41A.

”

- (2) Schedule 1 Division 1 item 5 is deleted and the following item is inserted instead —

“

5. For provision of information under the *Magistrates Court (General) Rules 2005* rule 41A —

- (a) fee per case specified in the information 1.05
- (b) annual fee for information provided by email to approved recipient 34 662.00

”

”