

# **Children's Court (Fees) Regulations 2005**

Compare between:

[16 Nov 2013, 02-c0-02] and [01 Jul 2014, 02-d0-01]

#### Western Australia

Children's Court of Western Australia Act 1988

# **Children's Court (Fees) Regulations 2005**

#### 1. Citation

These regulations are the *Children's Court (Fees) Regulations* 2005<sup>1</sup>.

## 2. Commencement

These regulations come into operation on the day on which the *Courts Legislation Amendment and Repeal Act 2004* Part 7 comes into operation or on the day of their publication in the *Gazette*, whichever is the later <sup>1</sup>.

## 3. Terms used

In these regulations unless the contrary intention appears —

*civil jurisdiction* means the Court's jurisdiction other than criminal jurisdiction;

*criminal jurisdiction* means the Court's jurisdiction under the Act section 19;

*deputy registrar* means a deputy registrar appointed under the Act section 16(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;

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

Compare 16 Nov 2013 [02-c0-02] / 01 Jul 2014 [02-d0-01] Published on www.legislation.wa.gov.au

<u>r. 4</u>

[Regulation 3 amended in Gazette 23 Jun 2006 p. 2182.]

#### 4. Fees to be charged (Act s. 53)

- (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 53 in relation to which they are applicable.
- (2) A note to an item in Schedule 1 has effect according to its tenor as if it were a provision of these regulations.

#### 5. *Restraining Orders Act 1997* and *Prohibited Behaviour Orders Act 2010*, certain applications under exempt from fees

A fee is not to be charged in respect of —

- (a) an application under the *Restraining Orders Act 1997* for a violence restraining order or to vary or cancel a restraining order; or
- (b) an application under the *Prohibited Behaviour Orders Act 2010* for a prohibited behaviour order or to vary or cancel a prohibited behaviour order.

[Regulation 5 inserted in Gazette 27 Mar 2012 p. 1505.]

#### 6. Some fees subject to conditions or must be waived

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

page 2

r. 7

 (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; and
  - (b) the Court has not made a decision in relation to the application that applies to the respondent; 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 in civil cases

- (1) This regulation applies to proceedings in the Court's civil jurisdiction.
- (2) Subject to the provisions of these regulations
  - (a) an 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 application or other document or upon or in respect of the doing of that matter or thing, has been paid.

r. 8			

#### 8. Financial hardship etc., waiving etc. fees in cases of

- (1) This regulation does not apply to a fee referred to in Schedule 1 Division 1 items 2 and 3 and Division 2 item 2.
- (2) The Court, a registrar or a deputy 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; or
  - (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, a registrar or a deputy registrar thinks fit.
- (3) For the purpose of assessing financial hardship, the Court, a registrar or a deputy registrar is to have regard to the applicant's income, day to day living expenses, liabilities and assets.
- (4) The Court, a registrar or a deputy registrar may direct that the payment of the whole or a part of a fee in relation to the filing of an application or other document be deferred until such time, and upon such conditions, if any, as the Court, registrar or deputy 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 item 1 or 3 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

page 4

r. 8

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) Except as otherwise directed by a registrar, an application for a fee or fees to be waived, reduced, refunded or deferred must be in the form of Form 1.
- (7) Form 1 must be completed in accordance with the directions specified in it.
- (8) If an application under subregulation (2) is dealt with by a registrar or deputy registrar, the registrar or deputy registrar may, before determining the application, require the applicant to provide the registrar or deputy registrar with such further information as the registrar or deputy 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.
- 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, a registrar or a deputy 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, registrar or deputy 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.
- (12) Despite the provisions of these regulations, a fee is not to be charged in respect of an application under subregulation (2).

[Regulation 8 amended in Gazette 8 Mar 2011 p. 791.]

#### 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. Disputes as to fees, determination of

- (1) If a question arises as to the fee payable or applicable in a particular case, that question is to be determined by a registrar.
- (2) An application for a determination under subregulation (1) is to be in the form of Form 2.
- (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).

page 6

Compare 16 Nov 2013 [02-c0-02] / 01 Jul 2014 [02-d0-01] Published on www.legislation.wa.gov.au

r. 9

r. 11

# 11. Unpaid fees, recovery of

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

Compare 16 Nov 2013 [02-c0-02] / 01 Jul 2014 [02-d0-01] Published on www.legislation.wa.gov.au

# Schedule 1 — Fees

[r. 4]

#### **Division 1 — General**

Item		Matter	\$
1.		ler or conviction drawn up in the Court's sdiction	14.50
	•		14.50
_		plicate document or order	14.50
2.	notice or order of the	ay application, summons, originating process, e Court or any other process requiring	
	service		<u>55.00</u> 5
			<u>50</u>
	e is payable whether on the state of the sta	or not the service is successful and covers up to ame address.	
3.	on service of a sumr document, or on ma	ravel to execute a warrant or other process, or nons, order of the Court, other process or king an arrest or for all attempts, attendances n the enforcement officer's office or nearest	
	area;	metre travelled (one way) in the metropolitan	1. <del>40<u>4</u>5</del>
	(b) for each kilo metropolitan	metre travelled (one way) outside the area.	1. <del>55</del> 6(
officer	at the same time on t	document is executed or served by an enforcement he same person or on different persons at the same for kilometres is chargeable.	
4.	by or on beh	g any record or proceeding other than a search alf of a party to the proceedings in the Court's tion	<del>31.90</del> 32
	(b) listening to c requires supe	or viewing any electronic recording that ervision by an officer of the Court, a search	<u>70</u>
	And in addition to the	ne search fee, for each hour of the officer's	<del>31.90<u>32</u> 70</del>
			<del>79</del>
			81.00

page 8

Item		Matter	\$
5.	(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	<u>46.9048.</u>
	(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	<u>10</u>
			<mark>79</mark> 81.00
6.	(a)	copies of documents or exhibits for each page or part of a page	1.50
	(b)	for a copy of reasons for judgment —	
		<ul> <li>(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</li> </ul>	11. <del>104</del> 0
		<ul><li>(ii) for each copy consisting of 10 or more pages an additional fee per page of</li></ul>	1.40 <u>45</u>
	(c)	for certifying that a document is a true copy, an additional fee of	15. <mark>35</mark> 75
		n 6(a) for a copy of an application is not payable where circur on 6(4) exist.	nstances
7.	(a)	for a copy of a transcript or notes of evidence, for each page or part of a page	6. <del>20</del> 35
	(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	15. <del>35</del> 75
	(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	l		
A minin NOTE 2		ee of $22.0060$ is payable under item 7(a).	
Fees une		s item are payable in the case of an indictable offence dealt w	rith

Compare 16 Nov 2013 [02-c0-02] / 01 Jul 2014 [02-d0-01] Published on www.legislation.wa.gov.au

[Division 1 amended in Gazette 23 Jun 2006 p. 2182; 26 Jun 2007 p. 3040-1; 27 Jun 2008 p. 3071; 4 Sep 2009 p. 3484; 8 Mar 2011 p. 791-2; 20 Dec 2011 p. 5391; 30 Nov 2012 p. 5794-5; 15 Nov 2013 p. 5251; <u>27 Jun 2014 p. 2333-4</u>.]

# **Division 2**—**Civil jurisdiction**

Item		Matter	\$
1.		filing an application for a misconduct restraining order under Restraining Orders Act 1997	<del>91.50<u>94</u></del>
2	0	he constitute of an annual constant of and him d	<u>0</u>
2.		the execution of an arrest warrant of any kind —	
	(a)	for arresting the person	100.00 02.5
	(b)	for conveying the person to a court or a custodial place and	
		releasing the person from arrest or custody	<u>100.00</u> 02.5
	(c)	for each 30 minutes after 2 hours and 30 minutes that an	
		enforcement officer is required to keep the person in	
		custody until the person is conveyed to a court or a	
		custodial place	26.50 <u>27</u> 20
NOTE 1			
		ragraph (a) is payable whether or not the Sheriff's functions under the warran includes up to 3 attempts to perform the functions at the same address.	t are
NOTE 2			
<ul> <li>(a) real</li> <li>(b) att</li> <li>(c) gi</li> </ul>	ceipt of tendanc ving any	ragraph (a) includes — the warrant; and es and inquiries before attempting arrest; and y notice; and ny report.	
3.	For	an application for an extraordinary drivers licence	<del>158<u>162</u> 50</del>
	р. 2 р. 1 р. 5	ivision 2 amended in Gazette 30 Aug 2005 p. 4054; 23 Ju 2183; 26 Jun 2007 p. 3041; 27 Jun 2008 p. 3071; 9 Jun 2 1925; 4 Sep 2009 p. 3484-5; 8 Mar 2011 p. 792; 20 Dec 5391; 30 Nov 2012 p. 5795; 15 Nov 2013 p. 5251 <u>; 27 J</u> 2334.]	2009 2011

page 10

Item	Matter	\$
1.	On filing —	
	(a) a prosecution notice;	
	(b) an application under the <i>Criminal Procedure Act 2004</i> section 71	<del>77<u>79</u>.00</del>
2.	For the issue of a summons or court hearing notice to an accused	14.70 <u>15.</u> <u>10</u>
3.	For a warrant of any kind —	
	(a) issue of it	<b>77<u>79</u>.00</b>
	(b) execution of it	<del>100.00<u>1</u></del> 02.50

**Division 3**— Criminal jurisdiction

[Division 3 amended in Gazette 23 Jun 2006 p. 2183; 26 Jun 2007 p. 3041; 27 Jun 2008 p. 3072; 4 Sep 2009 p. 3485; 8 Mar 2011 p. 792; 20 Dec 2011 p. 5391-2; 30 Nov 2012 p. 5795; 15 Nov 2013 p. 5252; 27 Jun 2014 p. 2334.]

Compare 16 Nov 2013 [02-c0-02] / 01 Jul 2014 [02-d0-01] Published on www.legislation.wa.gov.au

# Schedule 2 — Forms

[r. 8(6), 10(2)]

# 1. Application to remit fees

Form 1				
<b>Children's Court (Fees) Regulations 2005</b>				
(Regulation 8)				
	Application to	remit f	ees	
Children's Court of	f Western Australia	No.	of 2	
Applicant:	Full name			
	Address			
	 Date of birth		 MDL No.	
If the reason is financial hardship the information required in the following part of this form must be provided by the applicant. I am employed as a by				
· ·		•		
I am unemployed/ a		ered wi	th the Department of Social	

page 12

I have/ do not have* a depen dependant children		e/ husband/de facto partner*	* and
My weekly/ fortnightly* incodollars) —	ome and	expenditure is as follows (in	n whole
Income		Expenditu	ire
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	\$
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	

Compare 16 Nov 2013 [02-c0-02] / 01 Jul 2014 [02-d0-01] Published on www.legislation.wa.gov.au

ASSETS		VALUE
My assets and liabilities are as follows —		\$
-		
House or other real property (give address	ses)	
TOTAL		
Motor vehicles (car, utility, motor cycle, t	ruck, 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		

page 14

LIABILITIES				
Mortgage to	for \$			
Other to	Other to for \$			
Time to pay order for \$				
TOTAL				
Signature of applicant:		I		
Date:				
* Strike out words that are not a Note: It is an offence under the Chil	upplicable. dren's Court (Fees) Regulations 2005 regula	tion 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.

Compare 16 Nov 2013 [02-c0-02] / 01 Jul 2014 [02-d0-01] Published on www.legislation.wa.gov.au

Form 2					
Application for determination of dispute about feesIn the Children's Court ofNo of20					
Western Australia					
Applicant:	Applicant:				
Respondent:					
Application:	To a registrar for a c	To a registrar for a determination under the Children's			
	Court (Fees) Regula	tions 2005	regulation 10(1) of a		
	question regarding f	ees.			
Applicant:					
	Full name				
	Address				
	Date of birth		IDL No.		
Disputed fee:	The disputed fee is f	or			
	Payable under the C		1		
		chedule 1 D	vivision 1/2/3* item		
	I dispute —				
	$\Box$ that the fee is				
	$\Box$ the amount of				
	<b>O</b> other [give detai	ls]			
I dispute the fee be	ecause				
		•••••			
		•••••			
		<u></u>			
Signature of					
applicant:					
Date:	//20				
* Strike out numbers th	hat are not applicable.				

#### 2. Application for determination of dispute about fees

[Form 2 amended in Gazette 11 Mar 2008 p. 817.]

page 16

#### Notes

<sup>1</sup> This is a compilation of the *Children's Court (Fees) Regulations 2005* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

#### **Compilation table**

	1	
Citation	Gazettal	Commencement
Children's Court (Fees) Regulations 2005	28 Apr 2005 p. 1415-33	1 May 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
Children's Court (Fees) Amendment Regulations 2005	30 Aug 2005 p. 4054	30 Aug 2005
Children's Court (Fees) Amendment Regulations 2006	23 Jun 2006 p. 2181-3	1 Jul 2006 (see r. 2)
Children's Court (Fees) Amendment Regulations 2007	26 Jun 2007 p. 3040-1	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))
Children's Court (Fees) Amendment Regulations 2008	11 Mar 2008 p. 817	r. 1 and 2: 11 Mar 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 12 Mar 2008 (see r. 2(b))
Children's Court (Fees) Amendment Regulations (No. 2) 2008	27 Jun 2008 p. 3070-2	r. 1 and 2: 27 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2008 (see r. 2(b))
<b>Reprint 1: The</b> <i>Children's Court</i> ( <i>Fe</i> (includes amendments listed above)	ees) Regulations	2005 as at 5 Sep 2008
Children's Court (Fees) Amendment Regulations 2009	9 Jun 2009 p. 1925	r. 1 and 2: 9 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Jun 2009 (see r. 2(b))
Children's Court (Fees) Amendment Regulations (No. 2) 2009	4 Sep 2009 p. 3483-5	r. 1 and 2: 4 Sep 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 5 Sep 2009 (see r. 2(b))
Children's Court (Fees) Amendment	8 Mar 2011	r. 1 and 2: 8 Mar 2011

p. 791-2

(see r. 2(a));

Regulations other than r. 1 and 2:

9 Mar 2011 (see r. 2(b))

Compare 16 Nov 2013 [02-c0-02] / 01 Jul 2014 [02-d0-01] Published on www.legislation.wa.gov.au

Regulations 2011

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Citation	Gazettal	Commencement
Children's Court (Fees) Amendment Regulations (No. 2) 2011	20 Dec 2011 p. 5390-2	r. 1 and 2: 20 Dec 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Dec 2011 (see r. 2(b))
Children's Court (Fees) Amendment Regulations 2012	27 Mar 2012 p. 1505	r. 1 and 2: 27 Mar 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 28 Mar 2012 (see r. 2(b))
Reprint 2: The <i>Children's Court (Fe</i> (includes amendments listed above)	ees) Regulations	2005 as at 15 Jun 2012
Children's Court (Fees) Amendment Regulations (No. 2) 2012	30 Nov 2012 p. 5794-5	r. 1 and 2: 30 Nov 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Dec 2012 (see r. 2(b))
Children's Court (Fees) Amendment Regulations 2013	15 Nov 2013 p. 5250-2	r. 1 and 2: 15 Nov 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 16 Nov 2013 (see r. 2(b))
<u>Children's Court (Fees) Amendment</u> <u>Regulations (No. 2) 2014</u>	<u>27 Jun 2014</u> <u>p. 2333-4</u>	<u>r. 1 and 2: 27 Jun 2014</u> (see r. 2(a)); <u>Regulations other than r. 1 and 2:</u> <u>1 Jul 2014 (see r. 2(b)(i))</u>

page 18