



Western Australia

Children's Court of Western Australia Act 1988

Children's Court (Fees) Regulations 2005

As at 04 Jul 2016

Version 02-g0-02

Extract from www.slp.wa.gov.au, see that website for further information

Children's Court (Fees) Regulations 2005

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Defined terms

Children's Court (Fees) Regulations 2005

1. Citation

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

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 later¹.

3. Terms used

In these regulations unless the contrary intention appears —

approved form means a form approved by the President;

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);

eligible individual means an individual referred to in regulation 8(2);

eligible individual fee, in relation to a matter specified in an item in Schedule 1, means the fee, if any, shown in column B for that item;

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

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

[Regulation 3 amended in Gazette 23 Jun 2006 p. 2182;
14 Jun 2016 p. 1856.]

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.
- (2A) In relation to a matter specified in an item in Schedule 1 —
 - (a) the fee payable by an individual who is not an eligible individual is the fee shown in column A for that item; or
 - (b) the fee payable by an eligible individual is the eligible individual fee for that item.
- (2) A note to an item in Schedule 1 has effect according to its tenor as if it were a provision of these regulations.

[Regulation 4 amended in Gazette 14 Jun 2016 p. 1856.]

5. Exemptions

A person is not required to pay a fee in respect of a matter if —

- (a) the matter is an application under the *Restraining Orders Act 1997* for a violence restraining order or to vary or cancel a violence restraining order; or
- (b) the matter is an application under the *Prohibited Behaviour Orders Act 2010* for a prohibited behaviour order or to vary or cancel a prohibited behaviour order; or
- (c) a written law provides that the person is not required to pay a fee in respect of a matter of that type; or
- (d) the person has not reached 18 years of age on the day the fee would otherwise be payable.

[Regulation 5 inserted in Gazette 14 Jun 2016 p. 1857.]

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
 - (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.

8. Who is an eligible individual

- (1) In this regulation —

Centrelink means the Commonwealth agency known as Centrelink.
- (2) An eligible individual is —
 - (a) an individual who holds one or more of the following cards issued by Centrelink —
 - (i) a health care card;
 - (ii) a health benefit card;
 - (iii) a pensioner concession card;
 - (iv) a Commonwealth seniors health card;
 - or
 - (b) an individual who holds any other card issued by Centrelink or the Department of Veterans' Affairs of the Commonwealth that certifies entitlement to Commonwealth health concessions; or
 - (c) an individual who is in receipt of a youth training allowance, or an AUSTUDY allowance, as defined in

the *Social Security Act 1991* (Commonwealth) section 23(1); or

- (d) an individual who is in receipt of benefits under the Commonwealth student assistance scheme known as the ABSTUDY Scheme; or
- (e) an individual who has been granted legal aid under the *Legal Aid Commission Act 1976* or a legal aid scheme or service established under a Commonwealth, State or Territory law in respect of the proceedings in relation to which a fee would otherwise be payable; or
- (f) an individual who the Court or a registrar has directed is an eligible individual under regulation 9B(1)(b).

[Regulation 8 inserted in Gazette 14 Jun 2016 p. 1857-8.]

9A. Application to be recognised as eligible individual

- (1) A person may apply for a direction under regulation 9B(1) that the person is an eligible individual in respect of a matter specified in Schedule 1.
- (2) An application is to be in the approved form and is to specify the matter in respect of which the individual is seeking to pay the eligible individual fee.
- (3) Despite anything else in these regulations, a fee is not to be charged in respect of an application under subregulation (1).

[Regulation 9A inserted in Gazette 14 Jun 2016 p. 1858-9.]

9B. Recognition as eligible individual

- (1) The Court or a registrar may, on an application under regulation 9A(1) —
 - (a) direct that a person is an eligible individual described in regulation 8(2)(a) to (e) in respect of the matter if satisfied that the person meets one or more of the requirements set out in those paragraphs; or

r. 9C

- (b) direct that a person is an eligible individual described in regulation 8(2)(f) if satisfied that the person should be required to pay only an eligible individual fee in respect of the matter for either, or both, of the following reasons —
 - (i) financial hardship;
 - (ii) the interests of justice.
- (2) The Court or a registrar may, before an application is determined, direct the applicant to provide to the registrar or the Court further information relating to the application.
- (3) A direction to provide further information —
 - (a) may be made in writing or orally; and
 - (b) may require that the information is provided either in writing or orally.

[Regulation 9B inserted in Gazette 14 Jun 2016 p. 1859.]

9C. False or misleading statements

- (1) A person who makes a statement or representation in an application made under these regulations, or provides further information in relation to an application, that the person knows or has reason to believe is false or misleading in a material particular commits an offence.
Penalty for this subregulation: a fine of \$1 000.
- (2) The Court or a registrar may revoke a direction made under regulation 9B(1) if satisfied, having given the person an opportunity to make a written submission, that the person has contravened subregulation (1).
- (3) If a direction is revoked under subregulation (2), the Court or registrar may —
 - (a) order that the person in respect of whom the direction was made pay the difference between the fee the person

paid and the fee that would otherwise have been payable by the person; and

(b) make an order to enforce the order for the payment.

- (4) An order under subregulation (3)(b) may include orders relating to the future conduct of the matter to which the fees relate or the effect of anything that has been done in respect of the matter until the sum ordered to be paid has been paid.

[Regulation 9C inserted in Gazette 14 Jun 2016 p. 1860.]

9D. Refunds

- (1) A judge or magistrate presiding in a proceeding may order the refund of the difference between the amount of a fee paid by a person in respect of the proceeding and the amount of the fee that the person was entitled to be charged under these regulations in respect of the proceedings.
- (2) A registrar may refund to a person the amount of a fee, or part of a fee, paid by the person if the amount was paid in error.

[Regulation 9D inserted in Gazette 14 Jun 2016 p. 1860-1.]

9. Waiving fee for copy of document or transcript

The Court or a registrar may waive a fee referred to in Schedule 1 Division 1 item 6(a) or 7 if the Court or registrar is satisfied that the waiving of the fee would assist in the efficient operation of the Court.

[Regulation 9 inserted in Gazette 14 Jun 2016 p. 1861.]

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 approved form.

r. 11

- (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).

[Regulation 10 amended in Gazette 14 Jun 2016 p. 1861.]

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.

Schedule 1 — Fees

[Heading inserted in Gazette 14 Jun 2016 p. 1862.]

[r. 4]

Division 1 — General

[Heading inserted in Gazette 14 Jun 2016 p. 1862.]

Item	Matter	Column A Fee for individual \$	Column B Fee for eligible individual \$
1.	(a) for every order or conviction drawn up in the Court's criminal jurisdiction	16.10	4.85
	(b) issue of a duplicate document or order	16.10	4.85
2.	For the service of any application, summons, originating process, notice or order of the Court or any other process requiring service	70.50	70.50

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 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 —

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Schedule 1 Fees
Division 1 General

Item	Matter	Column A	Column B
		Fee for individual	Fee for eligible individual
		\$	\$
	(a) for each kilometre travelled (one way) in the metropolitan area	1.80	1.80
	(b) for each kilometre travelled (one way) outside the metropolitan area	2.00	2.00
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.			
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	40.70	12.20
	(b) listening to or viewing any electronic recording that requires supervision by an officer of the Court, a search fee of	40.70	12.20
	and in addition to the search fee, for each hour of the officer's time	101.00	30.30
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	60.00	18.00

Item	Matter	Column A	Column B
		Fee for individual	Fee for eligible individual
		\$	\$
	(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	91.00	27.30
6.	(a) copies of documents or exhibits for each page or part of a page	1.65	0.50
	(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	14.15	4.30
	(ii) for each copy consisting of 10 or more pages an additional fee per page of	1.80	0.55
	(c) for certifying that a document is a true copy, an additional fee of	19.60	5.90

NOTE

Fee under item 6(a) for a copy of an application is not payable where circumstances under regulation 6(4) exist.

7. (a) For a copy of a transcript, or part of a transcript —

Children's Court (Fees) Regulations 2005

Schedule 1 Fees

Division 2 Civil jurisdiction

Item	Matter	Column A	Column B
		Fee for individual	Fee for eligible individual
		\$	\$
	(i) provided within one day after the day on which the fee is paid; or	18.75 plus 7.70 per page	5.60 plus 2.30 per page
	(ii) provided within 4 days after the day on which the fee is paid; or	18.75 plus 6.70 per page	5.60 plus 2.00 per page
	(iii) provided within 7 days after the day on which the fee is paid	18.75 plus 6.45 per page	5.60 plus 1.95 per page
(b)	For an additional copy of the transcript, or part of the transcript, provided under paragraph (a)		
	(i) in electronic format	19.60	5.90
	(ii) paper copy	1.90 per page	0.55 per page

NOTE

Fees under this item are payable in the case of an indictable offence dealt with summarily.

[Division 1 inserted in Gazette 14 Jun 2016 p. 1862-6.]

Division 2 — Civil jurisdiction

[Heading inserted in Gazette 14 Jun 2016 p. 1866.]

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

Item	Matter	Column A	Column B
		Fee for individual	Fee for eligible individual
		\$	\$
1.	On filing an application for a misconduct restraining order under the <i>Restraining Orders Act 1997</i>	117.00	35.10
2.	On the execution of an arrest warrant of any kind —		
	(a) for arresting the person	128.00	128.00
	(b) for conveying the person to a court or a custodial place and releasing the person from arrest or custody	128.00	128.00
	(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	33.90	33.90

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.

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.

Children's Court (Fees) Regulations 2005

Schedule 1 Fees

Division 3 Criminal jurisdiction

Item	Matter	Column A	Column B
		Fee for individual	Fee for eligible individual
		\$	\$
3.	For an application for an extraordinary drivers licence	193.00	60.50

[Division 2 inserted in Gazette 14 Jun 2016 p. 1866-7.]

Division 3 — Criminal jurisdiction

[Heading inserted in Gazette 14 Jun 2016 p. 1868.]

Item	Matter	Column A	Column B
		Fee for individual	Fee for eligible individual
		\$	\$
1.	On filing —		
	(a) a prosecution notice	98.50	29.40
	(b) an application under the <i>Criminal Procedure Act 2004</i> section 71	98.50	29.40
2.	For the issue of a summons or court hearing notice to an accused	18.80	5.60
3.	For a warrant of any kind —		
	(a) issue of it	98.50	29.40
	(b) execution of it	128.00	128.00

[Division 3 inserted in Gazette 14 Jun 2016 p. 1868.]

[Schedule 2 deleted in Gazette 14 Jun 2016 p. 1868.]

Notes

¹ 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

Citation	Gazettal	Commencement
<i>Children's Court (Fees) Regulations 2005</i>	28 Apr 2005 p. 1415-33	1 May 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Children's Court (Fees) Amendment Regulations 2005</i>	30 Aug 2005 p. 4054	30 Aug 2005
<i>Children's Court (Fees) Amendment Regulations 2006</i>	23 Jun 2006 p. 2181-3	1 Jul 2006 (see r. 2)
<i>Children's Court (Fees) Amendment Regulations 2007</i>	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))
<i>Children's Court (Fees) Amendment Regulations 2008</i>	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))
<i>Children's Court (Fees) Amendment Regulations (No. 2) 2008</i>	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))
Reprint 1: The Children's Court (Fees) Regulations 2005 as at 5 Sep 2008 (includes amendments listed above)		
<i>Children's Court (Fees) Amendment Regulations 2009</i>	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))
<i>Children's Court (Fees) Amendment Regulations (No. 2) 2009</i>	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))
<i>Children's Court (Fees) Amendment Regulations 2011</i>	8 Mar 2011 p. 791-2	r. 1 and 2: 8 Mar 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Mar 2011 (see r. 2(b))

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Citation	Gazettal	Commencement
<i>Children's Court (Fees) Amendment Regulations (No. 2) 2011</i>	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))
<i>Children's Court (Fees) Amendment Regulations 2012</i>	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 Children's Court (Fees) Regulations 2005 as at 15 Jun 2012 (includes amendments listed above)		
<i>Children's Court (Fees) Amendment Regulations (No. 2) 2012</i>	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))
<i>Children's Court (Fees) Amendment Regulations 2013</i>	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))
<i>Children's Court (Fees) Amendment Regulations (No. 2) 2014</i>	27 Jun 2014 p. 2333-4	r. 1 and 2: 27 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2014 (see r. 2(b)(i))
<i>Children's Court (Fees) Amendment Regulations 2015</i>	19 Jun 2015 p. 2114-15	r. 1 and 2: 19 Jun 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2015 (see r. 2(b)(i))
<i>Attorney General Regulations Amendment (Fees) Regulations 2016 Pt. 2</i>	14 Jun 2016 p. 1849-986	4 Jul 2016 (see r. 2(b))

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
approved form.....	3
Centrelink	8(1)
civil jurisdiction	3
criminal jurisdiction	3
deputy registrar	3
eligible individual	3
eligible individual fee	3
enforcement officer.....	3
prosecution notice	3
respondent.....	6(2)