

Supreme Court Act 1935

**Supreme Court (Fees) Amendment Regulations
(No. 2) 2005**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Supreme Court (Fees) Amendment Regulations (No. 2) 2005*.

2. Commencement

These regulations come into operation on 1 July 2005.

3. The regulations amended

The amendments in these regulations are to the *Supreme Court (Fees) Regulations 2002**.

[* *Published in Gazette 27 December 2001, p. 6583-616.*
For amendments to 7 June 2005 see Western Australian Legislation Information Tables for 2004, Table 4, p. 394, and Gazette 28 April 2005.]

4. Regulation 5 amended

Regulation 5(a) is amended by deleting “Part VIII of the *Justices Act 1902*,” and inserting instead —

“ the *Criminal Appeals Act 2004*; ”.

5. Regulation 9 amended

Regulation 9 is amended by inserting after “Schedule 1” in each place where it occurs —

“ Division 1 ”.

6. Regulation 9A inserted

After regulation 9 the following regulation is inserted —

“

**9A. Court of Appeal allocation of hearing date —
Schedule 1 Division 2 item 6**

(1) In this regulation —

“**fee**” means the fee referred to in Schedule 1
Division 2 item 6.

- (2) The fee is not payable in relation to an application for an interim order or to amend or cancel an interim order.
- (3) The number of days for which the fee is payable is —
 - (a) the number of days in excess of the first hearing day estimated for the hearing by the Court of Appeal Registrar; or
 - (b) if at a directions hearing a greater number of days than those estimated by the Registrar is allocated for the hearing, the number of days in excess of the first hearing day allocated at a directions hearing.
- (4) If the number of days for which the fee is payable is half a day or less, the fee is reduced by half.
- (5) The fee, calculated on the basis of the number of days for which the fee is payable under subregulation (3), must be paid within 7 days —
 - (a) of the *Supreme Court (Court of Appeal) Rules 2005* Form 15 being sent to the parties; or
 - (b) if a greater number of days is allocated at a directions hearing, of the allocation of those days.
- (6) The fee paid is not refundable except as provided in subregulations (7), (8) and (9).
- (7) If the appeal is settled and the Court of Appeal Office receives written notice of the settlement the following percentage of the fee paid is to be refunded —
 - (a) if notice is received 42 days or more before the first date allocated for the hearing date, 75%;
 - (b) if notice is received 28 days or more before that date, 50%.
- (8) If the hearing of the appeal is adjourned before the first date allocated for the hearing the following percentage of the fee paid is to be refunded or transferred to the date or dates allocated for the adjourned hearing —
 - (a) if the Court or Court of Appeal Registrar is satisfied that the reason for the adjournment is beyond the control of the parties, 100%;
 - (b) otherwise, if the adjournment occurs —
 - (i) 42 days or more before the first date allocated for the hearing, 75%; or
 - (ii) 28 days or more before that date, 50%.
- (9) If the hearing is adjourned after it has commenced and the Court or Court of Appeal Registrar is satisfied that the reason for the adjournment is beyond the control of the parties, the fee paid in respect of dates after the date

of the adjournment is to be refunded or transferred to the date or dates allocated for the adjourned hearing.

”.

7. Regulation 10 amended

Regulation 10 is amended by deleting “item 7” and inserting instead —

“ Division 1 item 7 or Division 2 item 7 ”.

8. Schedule 1 amended

- (1) The heading to Schedule 1 and the shoulder clause is deleted and the following is inserted instead —

“

Schedule 1 — Fees

[r. 4]

Division 1 — General Division Fees

”.

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

“

1. On filing —

- | | | | |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|--------|
| (a) | any originating process by which a cause, matter or other proceeding in the Court is commenced, other than proceedings of the kind referred to in item 2, 3, or 8; or | | |
| (b) | a notice of appeal (whether in draft form or not) | 654.00 | 981.00 |

”.

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

“

2. On filing —

- | | | | |
|-----|--------------------------------------------------------------------------------------------------------------------|--------|--------|
| (a) | a counterclaim | 654.00 | 981.00 |
| (b) | a third party notice or a notice under Order 19 rule 8 of the <i>Rules of the Supreme Court 1971</i> | 654.00 | 981.00 |
| (c) | an application — | | |
| (i) | to extend a period of time fixed by law, including an application to extend time before proceedings are commenced; | | |

	(ii)	to limit a period of time within which proceedings may be taken;		
	(iii)	for leave to serve a writ or notice of a writ out of jurisdiction;		
	(iv)	to swear to the death of a person;		
	(v)	for leave to appeal;		
	(vi)	for inclusion in the Expedited list of the Court; or		
	(vii)	in a pending cause or matter in Admiralty whether by summons or motion, other than an application by the Marshal	218.00	327.00
(d)		any other application for which no fee has been provided in this Division	218.00	327.00

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

Table

Column 1 Item No.	Column 2 Delete	Column 3 Insert instead
3	420.00	436.00
3	630.00	654.00
4	84.00	65.00
4	126.00	87.00
5	420	654.00
5	630	981.00
6	420	436.00
6	840	872.00
7	420.00	436.00
7	840.00	872.00
8	147.00	153.00
8	221.00	229.00
10	147.00	153.00
10	221.00	229.00
11	21.00 (in both places)	22.00
12(a)	32.00 (in both places)	33.00

Column 1 Item No.	Column 2 Delete	Column 3 Insert instead
12(b)	53.00 (in both places)	55.00
13(b)(i)	7.50 (in both places)	8.00
13(c)	10.50 (in both places)	11.00
13(d)	42.00 (in both places)	44.00
13(e)	42.00 (in both places)	44.00
13A(b)	10.00 (in both places)	10.50
14(b)	210.00	218.00

- (5) After Schedule 1 item 14 the following Division is inserted in Schedule 1 —

Division 2 — Court of Appeal fees

Item	Matter	Fee for individual \$	Fee for person other than an individual \$
			[r. 4]
1.	On filing an appeal notice	109.00	218.00
2.	On filing —		
	(a) Appellant's case; or		
	(b) Respondent's answer	1 635.00	3 270.00
3.	On filing an application to transfer an appeal from the District Court to the Court of Appeal under section 41 of the <i>Magistrates Court (Civil Proceedings) Act 2004</i>	218.00	327.00
4.	(a) On filing an application in an appeal for an interim order or to amend or cancel an interim order; or		
	(b) On an appointment before —		
	(i) a Judge or Registrar to settle the appeal book index; or		
	(ii) a Registrar for mediation	153.00	229.00

NOTES:

- (1) The fee includes the first day of the hearing of the matter and any adjournment of the matter.
- (2) If the hearing of a matter is listed for more than one day and proceeds for more than the number of days listed, the fee prescribed by this item is payable for each additional day or part of a day of a hearing.

Item	Matter	Fee for individual \$	Fee for person other than an individual \$
	(3) A fee payable in the circumstances referred to in Note 2 is payable on a day to day basis before the daily reconvening of the hearing.		
5.	Setting down fee	545.00	818.00
	NOTES:		
	(1) This fee is payable when the appeal book is filed.		
	(2) This fee includes the fee for the first day of hearing.		
6.	Allocation of hearing date, for each day estimated	436.00	872.00
	NOTE: This fee is payable on the number of days in excess of the first hearing day estimated for the hearing by the Court of Appeal Registrar.		
7.	Daily hearing fee	436.00	872.00
	NOTES:		
	(1) This fee is not payable in relation to an application for, or to amend or cancel an interim order.		
	(2) This fee is payable for each additional day or part day that a hearing proceeds beyond the number of days for which a fee has been paid.		
	(3) If the Court allocates a half day or less for the continuation of the hearing, a fee equal to half the prescribed amount is payable for that period.		
	(4) The daily hearing fee is payable on a day to day basis and is payable before the daily reconvening of the hearing.		
8.	For searching any proceeding or record other than a search made by or on behalf of a party to an appeal	22.00	22.00
	NOTE: But if the search is made by a recognised service approved by Attorney General: \$1.00.		
9.	(a) For a copy of a document of any kind or an exhibit, including marking as an office copy if required, for each page or part thereof	3.00	3.00

Item	Matter	Fee for individual \$	Fee for person other than an individual \$
	(b) For a copy of reasons for judgment —		
	(i) for each copy consisting of 10 pages or less issued to a person not a party to the appeal and for each copy in excess of one copy issued to a party to the appeal	8.00	8.00
	(ii) for each copy consisting of more than 10 pages an additional fee per page of.....	1.00	1.00
	(c) For certifying under seal that a document is a true copy, an additional fee of	11.00	11.00
	(d) For a certificate under the hand of a Registrar	44.00	44.00
10.	(a) For a copy of a transcript, for each page or part of a page	4.50	4.50
	(b) For each copy of a transcript in electronic format if a fee has been paid under paragraph (a) by the applicant, for a copy of the transcript, for each day of transcript	10.50	10.50
	(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	1.50

”.

9. Schedule 2 amended

- (1) The heading to Schedule 2 is amended by deleting “Fees to be taken by the sheriff” and inserting instead —
“ **Sheriff’s Fees** ”.
- (2) Schedule 2 item 4 is amended by deleting “35.00” and inserting instead —
“ 36.50 ”.
- (3) Schedule 2 item 5(a) is amended by deleting “118.00” and inserting instead —
“ 123.00 ”.

10. Schedule 3 amended

- (1) The heading to Schedule 3 is amended by deleting “Fees to be taken in the Probate Office” and inserting instead —

“ **Probate Fees** ”.

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

Table

Column 1	Column 2	Column 3
Item No.	Delete	Insert instead
1(a)	131.00	136.00
1(b)	262.00	272.00
1(c)	524.00	544.00
2	42.00	44.00
3(b)	10.50	11.00
4(b)	52.50	54.50
5	21.00	22.00

11. Schedule 4 amended

- (1) Schedule 4 Form 1 is amended as follows:

- (a) by deleting “Plaintiff:” and inserting instead —

“

Plaintiff/Appellant*:

(*strike out word that is not applicable)

”.

- (b) by deleting “Defendant:” and inserting instead —

“

Defendant/Respondent*:

(*strike out word that is not applicable)

”.

- (2) Schedule 4 Form 2 is amended as follows:

- (a) by deleting “Plaintiff:” and inserting instead —

“

Plaintiff/Appellant*:

(*strike out word that is not applicable)

”.

- (b) by deleting “Defendant:” and inserting instead —

“

Defendant/Respondent*:

(*strike out word that is not applicable)

”.

(3) Schedule 4 Form 3 is amended as follows:

(a) by deleting "Plaintiff:" and inserting instead —

“

Plaintiff/Appellant*:

(*strike out word that is not applicable)

”;

(b) by deleting "Defendant:" and inserting instead —

“

Defendant/Respondent*:

(*strike out word that is not applicable)

”.

By Command of the Governor,

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