

Supreme Court Act 1935

**Supreme Court (Fees) Amendment
Regulations 2005**

Made by the Governor in Executive Council.

1. Citation

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

2. Commencement

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

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 April 2005 see Western Australian Legislation Information Tables for 2003, Table 4, p. 378.]

4. Regulation 4 amended

Regulation 4(1) is amended by deleting “and poundage”.

5. Regulation 5 amended

Regulation 5 is amended as follows:

- (a) after paragraph (f) by deleting “or”;
- (b) after paragraph (g) by deleting the full stop and inserting instead —

“

; or

- (h) proceedings under the *Civil Judgments Enforcement Act 2004*.

”.

6. Regulation 5A inserted

After regulation 5 the following regulation is inserted —

“

5A. Disputes regarding fees

- (1) An application for a determination under section 171(3) of the Act is to be in the form of Schedule 4 Form 3.
- (2) Despite the provisions of these regulations, a fee is not to be charged in respect of an application referred to in subregulation (1).

”

7. Regulation 7 amended

- (1) Regulation 7(1) is amended by deleting “or poundage” in the 3 places where it occurs.
- (2) After regulation 7(1a) the following subregulation is inserted —

“

- (1aa) This regulation does not apply to fees specified in Schedule 2.

”

- (3) Regulation 7(1c) is amended by deleting “or poundage” in the 2 places where it occurs.
- (4) Regulation 7(2) is amended by deleting “or poundage”.
- (5) After regulation 7(3a) the following subregulation is inserted —

“

- (3b) A fee, payment of which has been deferred until an event occurs, becomes payable when that event occurs.

”

- (6) Regulation 7(5) is repealed and the following subregulation is inserted instead —

“

- (5) If a fee payable by a person is waived, reduced, refunded or deferred in accordance with a direction under subregulation (1) 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 (2) 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 11.

”

8. Regulation 9 replaced

Regulation 9 is repealed and the following regulation is inserted instead —

“

9. Allocation of hearing date — Schedule 1 item 6

- (1) In this regulation —
“**fee**” means the fee referred to in Schedule 1 item 6.
- (2) The fee is not payable in relation to interlocutory proceedings.
- (3) The number of days for which the fee is payable is —
 - (a) the number of days estimated for the hearing in the certificate of readiness; or
 - (b) if at a directions hearing a greater number of days is allocated for the hearing, the number of days allocated for the hearing at the 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 estimated for the hearing in the certificate of readiness, must be paid when the fee referred to in Schedule 1 item 5 is paid.
- (6) If, at a directions hearing after the cause or matter has been entered for hearing, the number of days allocated for the hearing is increased, the fee for the additional days is to be paid immediately after the directions hearing.
- (7) The fee paid is not refundable except as provided in subregulations (8), (9) and (10).
- (8) If the cause or matter is settled and the Court 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%.
- (9) If the hearing 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 Registrar is satisfied 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%.
- (10) If the hearing is adjourned after it has commenced and the Court or Registrar is satisfied 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.

”.

9. Regulation 11 replaced

Regulation 11 is repealed and the following regulation is inserted instead —

“

11. 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.

”.

10. Schedule 1 amended

- (1) Schedule 1 item 6 is deleted and the following item is inserted instead —

“

6. Allocation of hearing date,
for each day allocated 420 840

NOTE:

See regulation 9.

”.

- (2) Schedule 1 item 8(a) and “or” after it is deleted and the following paragraph is inserted instead —

“

- (a) On filing an —
- (i) interlocutory application or summons returnable;
 - (ii) application for assessment of damages; or
 - (iii) application for summary judgment,
before a Judge, Master or Registrar in Chambers; or

”.

- (3) Schedule 1 item 9 is amended by deleting “an interlocutory application, summons or reference before a Judge, Master or Registrar” and inserting instead —

“ a matter to which item 8 applies ”.

- (4) Schedule 1 item 10 is amended by deleting “*Legal Practitioners Act 1893*” and inserting instead —

“ *Legal Practice Act 2003* ”.

11. Schedule 2 replaced

Schedule 2 is repealed and the following Schedule is inserted instead —

“

Schedule 2 — Fees to be taken by the sheriff

[r. 4]

Item	Matter	Fee \$
1.	For the execution of an arrest warrant of any kind	136.00
	NOTE 1 The fee includes all duties associated with executing an arrest warrant including —	
	(a) arresting the person;	
	(b) conveying the person to a court or a custodial place;	
	(c) ongoing custody of the person;	
	(d) releasing the person from arrest.	
	NOTE 2 This fee covers up to 2½ hours of the sheriff’s time. If in any case the execution of the warrant exceeds 2½ hours, the Court may grant the sheriff an additional allowance.	
2.	For the service of any writ, application, summons, originating process, notice or order of the Court or any other process requiring service	37.50
	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 writ, summons, order of the Court, other process or document, or on making an arrest or for all attempts, attendances and inspections, from the sheriff’s office or nearest bailiff’s office —	
	(a) for each kilometre travelled (one way) in the metropolitan area	0.95
	(b) for each kilometre travelled (one way) outside the metropolitan area ...	1.05
	NOTE If more than one process or document is executed or served by the sheriff or a bailiff at the same time on the same person or on different persons at the same address, only one allowance for kilometres is chargeable.	
4.	Fee to the sheriff for attending a view — per hour or part of an hour	35.00
5.	(a) For striking a jury and preparing jury panel	118.00
	(b) For attendance of sheriff’s officer at hearing (per day or part of a day) ...	The sum actually and reasonably paid.

”.

Sentencing Act 1995

Sentencing Amendment Regulations 2005

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Sentencing Amendment Regulations 2005*.

2. Commencement

These regulations come into operation on 2 May 2005.

3. The regulations amended

The amendments in these regulations are to the *Sentencing Regulations 1996**.

[* Reprinted as at 3 September 2002.

For amendments to 14 April 2005 see *Western Australian Legislation Information Tables for 2003, Table 4, p. 351, and Gazette 14 May, 3 August and 31 December 2004.*]

4. Regulation 13 amended

- (1) Regulation 13(2), (3) and (4) are repealed and the following subregulations are inserted instead —

“

- (2) The prescribed form for an arrest warrant for the purposes of sections 14, 33J, 33P, 50, 79, 84E and 129 of the Act is Form 1 in the *Criminal Procedure Regulations 2005* Schedule 1.
- (3) The prescribed form for a remand warrant for the purposes of section 17 of the Act is Form 2 in the *Criminal Procedure Regulations 2005* Schedule 1.
- (4) The prescribed form for a warrant to commit a person to another court for the purposes of sections 78, 128 and 132 of the Act is Form 2 in the *Criminal Procedure Regulations 2005* Schedule 1.

”.

- (2) The Table to regulation 13 is amended by deleting the item relating to section “33J and 33P” of the Act.

5. Schedule 1 amended

Form 1A in Schedule 1 is deleted.

By Command of the Governor,

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