

Western Australia

Children's Court (Fees) Regulations 2005

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Children's Court (Fees) Regulations 2005

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Children's Court (Fees) Regulations 2005

1. Citation

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

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.

3. Terms used in these regulations

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;

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“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.]

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 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. 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*.
- (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 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

- (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. Court, registrar or deputy 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 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;
 - (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 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 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.
- (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, 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).

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. 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 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).

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.

Schedule 1 — Fees

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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.

Children's Court (Fees) Regulations 2005

Schedule 1 Fees

Division 1 General

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

Children's Court (Fees) Regulations 2005

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

Item	Matter	\$
7.	(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 7(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. 2182; 26 Jun 2007 p. 3040-1.]

Division 2 — Civil jurisdiction

Item	Matter	\$
1.	On filing an application for a misconduct restraining order under the <i>Restraining Orders Act 1997</i>	69.00
2.	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 the person 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.

Children's Court (Fees) Regulations 2005

Schedule 1 Fees

Division 3 Criminal jurisdiction

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.	
3.	For an application for an extraordinary drivers licence	177.00

[Division 2 amended in Gazette 30 Aug 2005 p. 4054; 23 Jun 2006 p. 2183; 26 Jun 2007 p. 3041.]

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. 2183; 26 Jun 2007 p. 3041.]

Schedule 2 — Forms

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

1. Application to remit fees

<p>Form 1 <i>Children's Court (Fees) Regulations 2005</i> (Regulation 8) Application to remit fees</p>			
Children's Court of Western Australia	No. of 2		
Applicant: Full name		
 Address		
	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">..... Date of birth</td> <td style="width: 50%; border: none;">..... MDL No.</td> </tr> </table> Date of birth MDL No.
..... Date of birth MDL No.		
The following reason is the reason ¹ for applying to have the above fee waived/ reduced/ refunded/ deferred*.			
1 <i>The reasons available are financial hardship or that it is in the interests of justice to do so.</i> * <i>Strike out those that are not applicable.</i>			
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.			
I am employed as a by Their business address is			
I am unemployed/ a pensioner* and registered with the Department of Social Security at			

Children's Court (Fees) Regulations 2005
Schedule 2 Forms

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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	\$
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		

cl. 2

LIABILITIES		
Mortgage to	for \$	
Other to	for \$	
Time to pay order	for \$	
TOTAL		
Signature of applicant:		
Date:		
<p>* Strike out words that are not applicable. <i>Note: It is an offence under the Children's 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>		

2. Application for determination of dispute about fees

Form 2	
Application for determination of dispute about fees	
In the Children's Court of Western Australia	No. of..... 20.....
Applicant:	
Respondent:	
Application:	To a registrar for a determination under the <i>Children's Court (Fees) Regulations 2005</i> regulation 10(1) of a question regarding fees.
Applicant: Full name
 Address
 Date of birth
Disputed fee:	The disputed fee is for
 Payable under the <i>Children's Court (Fees)</i> <i>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 <i>[give details]</i>
I dispute the fee because	
Signature of applicant:
Date:/...../20.....
* <i>Strike out numbers that are not applicable.</i>	

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

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.

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 2005 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))