

Attorney General (Fees) Amendment Determination 2004 (No 4)

Disallowable Instrument DI2004-273

made under the

Courts Procedures Act 2004, s 13 (Determination of fees)

Name

1. This determination is the Attorney General (Fees) Amendment Determination 2004 (No 4).

Commencement

2. This determination commences on 10 January 2005.

Instrument Amended

3. This instrument amends the Attorney-General (Fees) Determination 2004 (DI 2004-106) as amended.

Amendments

4. Amend Schedule 1 of the instrument to remove from the table:

Magistrates Court Act 1930	Subsection 248A(1)	175-200
Supreme Court Act 1933	Subsection 37(1)	201-229
Consumer and Trader Tribunal Act 2003	Subsection 63(1)	239

5. Amend Schedule 1 of the instrument to insert at the bottom of the table:

Court Procedures Act 2004	Subsection 13(1)	175-229.2
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6. Amend Schedule 2 of the instrument to remove paragraphs 175 – 229 and paragraph 239.
7. Amend Schedule 2 of the instrument to replace general explanatory notes paragraph C headed “Fees and charges – exemption, remission, refund or deferral” with:

C. Fees and charges - exemption, remission, refund or deferral

Court Procedures Act 2004

Section 15 of the Court Procedures Act 2004 provides that a determined fee may be remitted or refunded, or liability for its payment deferred, in accordance with the determination that determined the fee. In addition, this section provides for a number of exemptions from paying the determined fee.

8. Amend Schedule 2 of the instrument to insert new paragraphs 175 – 229.2, as set out in the schedule to this instrument.
9. The Parliamentary Counsel is authorised to reprint DI 2004-106 together with this amendment.
10. The Legislation Act, section 81 (4) applies to this determination.

Jon Stanhope
Attorney General
23 December 2004

Schedule to Attorney General (Fees) Amendment Determination 2004 (No 4)

Legislative Authority Court Procedures Act 2004

Proceedings in a Tribunal

175	On lodging an application for the review of a decision with the Administrative Appeals Tribunal under:	
	(i) section 12 of the Housing Assistance Act 1987;	Nil
	(ii) the Rates and Land Rent (Relief) Act 1970;	Nil
	(iii) section 60 of the Freedom of Information Act 1989, being a decision made in relation to a document that relates to a decision specified in (i) or (ii);	Nil
	(iv) the Land (Planning and Environment) Act 1991;	\$ 149.00
	(v) any other enactment other than the review of a decision	\$ 215.00

Explanatory Note: This item determines the fee payable on the lodging with the Administrative Appeals Tribunal of an application for the review of a decision. Last Financial Year the Fees were Nil, Nil, Nil, \$145.00 and \$210.00 respectively.

176	On lodging of an application with the Credit Tribunal.	\$ 215.00
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Explanatory Note: This item determines the fee payable on the lodging an application with the Credit Tribunal. Last Financial Year the fee was \$210.00.

177	On lodging an application with the Residential Tenancies Tribunal:	
	(i) where the amount in dispute is more than \$1000 or for a termination and possession order pursuant to Part IV of the Residential Tenancy Act 1997 where a bond has been deposited with the Territory in relation to the tenancy;	\$ 98.00
	(ii) for a termination and possession order pursuant to Part IV of the Residential Tenancy Act 1997 where a bond has not been deposited with the Territory in relation to the tenancy;	\$ 187.00
	(iii) for endorsement of a tenancy agreement by the Tribunal under s10 of the Residential Tenancies Act 1997	Nil
	(iv) where the amount in dispute is \$1000 or less or in any other case.	\$ 49.00

Where the application involves more than one of the above matters, the fee payable is the higher of the fees.

Explanatory Note: The determination sets out the amount of various fees in the Residential Tenancy Tribunal. The application fee for a termination and possession order is higher in respect of a property where no bond has been provided. As the scheme is funded by interest from bond revenue and the retention of fees, the imposition of a higher fee in respect of such a class partially addresses a funding inequity that might otherwise exist. Note that a fee was not previously set in relation to application for endorsement by the Tribunal under s10 of the Residential Tenancies Act 1997 (see item (iii) above) because the former fee setting power did not extend to applications which did not involve a dispute for the purposes of s73 of that Act. Note that no fee is set by this determination but that if a fee is set in a future year, only one fee would be payable in relation to a series of applications made at the same time and raising the same issue, say, by the lessor and all the tenants in a co-operative for an endorsement. Last Financial Year the Fees were \$96.00, \$182.00, Nil and, \$48.00 respectively.

178	On making an application under section 17 of the Consumer and Trader Tribunal Act 2003.	The amount payable is A/2 where A is equal to the fee that would be payable for the license or registration (the subject of the application to the Tribunal) at the time of the application to the Tribunal.
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Example: A person applies unsuccessfully for a Security Master Licence. At the time of applying to the Tribunal for a review of the decision the licence fee is \$500, accordingly, the application fee to the Tribunal is \$500/2 or \$250.

Explanatory Note: This fee structure has applied since the commencement of the Consumer and Trader Tribunal on 9 October 2003.

Proceedings in the Magistrates Court

PART A: Proceedings

179	On laying an information for an offence	\$ 54.00
	<i>Explanatory Note: An information may be laid before a Magistrate where a person has committed, or is suspected of having committed, certain offences. Last Financial Year the fee was \$53.00</i>	
180	On institution of civil proceedings under the <i>Magistrates Court Act 1930</i> :	
	(i) where the amount in dispute is more than \$10,000;	\$ 341.00
	(ii) where the amount in dispute is \$10,000 or less or for a determination under the Common Boundaries Act 1981 or where no amount is in dispute;	\$ 98.00
	(iii) where the amount in dispute in the Small Claims Court is \$2,000 or less or where no amount is in dispute.	\$ 39.00
	<i>Explanatory Note: This item sets the fees for instituting a proceeding before the Magistrates Court (including small claims proceedings). Last Financial Year the Fees were \$333.00, \$96.00, and \$38.00 respectively.</i>	
181	On lodging for enforcement a judgment obtained in another court.	\$ 54.00
	<i>Explanatory Note: Last Financial Year the fee was \$53.00.</i>	
182	On an application for the review of an order, direction or other act of the Registrar of the Magistrates Court other than the review of an order, direction or other act of the Registrar in relation to proceedings in the Small Claims Court.	\$ 98.00
	<i>Explanatory Note: This fee applies when the Magistrates Court, on application from a party to proceedings, reviews an order, direction or other act of the Registrar of that Court. No fee is payable for a review of an order, direction or other act of the Registrar in relation to small claims proceedings or a Tribunal. Last Financial Year the fee was \$96.00.</i>	
183	On filing for taxation a bill of costs as between party and party that, as filed, exceeds \$2,000 (other than in the Small Claims Court).	\$ 258.00
	<i>Explanatory Note: This item determines the fee payable for a party/party taxation. No fee is payable in respect of small claims proceedings. Last Financial Year the fee was \$252.00.</i>	
184	For a cross-claim or counter-claim under the <i>Magistrates Court Act 1930</i> :	
	(i) where the amount is more than \$10,000;	\$ 341.00
	(ii) where the amount is \$10,000 or less or where no amount is in dispute;	\$ 98.00
	(iii) where the amount in dispute in the Small Claims Court is \$2,000 or less or where no amount is in dispute.	\$ 39.00
	<i>Explanatory Note: This item sets the fees for instituting a proceeding before the Magistrates Court (including small claims proceedings). Last Financial Year the Fees were \$333.00, \$96.00, \$38.00 respectively</i>	
185	For the purposes of paragraph 150(1)(a) of the <i>Magistrates Court Act 1930</i> .	\$ 67.00
	<i>Explanatory Note: Last Financial Year the fee was \$65.00.</i>	

PART B: Certificates, copies, inspections, searches and transcripts

186	Provision of a document or a copy of a document under subsection 143(1) of the <i>Magistrates Court Act 1930</i> or paragraphs 144(1)(a), (c) or (d) of the <i>Magistrates Court Act 1930</i> where the request for the document or copy requires the preparation of the document.	\$ 29.00
	<i>Explanatory Note: Last Financial Year the fee was \$28.00.</i>	

187	Provision of a transcript of proceedings where the request for the transcript requires the preparation of the document.	\$ 10.60 same day \$ 9.90 per page next day \$ 9.30 per page 2-3 days \$ 9.20 per page 3-5 days \$ 8.70 per page within 20 days
	<i>Explanatory Note: The contract price may only be varied in accordance with increases to the consumer price index during the Contract period. It is the responsibility of the Contractor to request price variations. The Contractor must justify all requests for price variations in writing to the Territory. The Territory is not obligated to accept any price variations requested by the Contractor or make any price variation where the Contractor does not submit a request. Last Financial Year the Fees were \$10.30, \$9.70, \$9.10, \$9.00 & \$8.50 respectively.</i>	
188	Provision of a copy of a document where a copy or a certified copy can be provided by photocopying another document already in existence and, where necessary, certifying the photocopy:	
	(i) in respect of the application for a copy;	\$ 2.00
	(ii) for each page of copy provided.	\$ 1.00
	<i>Explanatory Note: This item determines the fees payable for the provision of a copy of a document, where all that is required in order to provide the copy is to photocopy an existing document (eg, such as a transcript, certificate or a certified copy of a judgement or order or a document filed in proceedings). Last Financial Year the Fees were the same</i>	
189	For an inspection of:	
	(i) a record of the Magistrates Court that contains particulars of a judgment that has been entered;	\$ 15.00 per item or \$ 116.00 per hour of search time carried out by registry staff on behalf of the applicant
	(ii) a record of the Magistrates Court that contains particulars of the setting aside of such a judgment;	\$ 15.00 per item or \$ 116.00 per hour of search time carried out by registry staff on behalf of the applicant
	(iii) a record of the Magistrates Court that contains particulars of a Default Judgment entered in the Small Claims Court or a Restoration Order setting aside such a judgment; or	\$ 15.00 per item or \$ 116.00 per hour of search time carried out by registry staff on behalf of the applicant
	(iv) any other record of the Magistrates Court by a person, not being a party to those proceedings, provided that the Registrar is satisfied that the applicant has a good reason for carrying out such search.	\$ 15.00 per item or \$ 116.00 per hour of search time carried out by registry staff on behalf of the applicant
	<i>Explanatory Note: Any person may inspect a record of the Magistrates Court, including in relation to small claims proceedings, containing particulars of judgments entered in default or special claims or where such judgment has been set aside. This item sets the fee for inspection on a per item or hourly basis. Last Financial Year the Fees were \$15.00, \$113.00, \$15.00, \$113.00, \$15.00, \$113.00, \$15.00 & \$113.00 respectively.</i>	
190	For the supply of a duplicate audio tape recording of a proceeding or of part of a proceeding or of a matter incidental to a proceeding.	\$ 39.00 (per cassette)
	<i>Explanatory Note: Last Financial Year the fee was \$38.00. Note that tapes are 90 minutes long.</i>	
191	For the supply of a duplicate video tape recording of a proceeding or of part of a proceeding or of a matter incidental to a proceeding.	\$ 49.00 (per tape)
	<i>Explanatory Note: Last Financial Year the fee was \$48.00.</i>	
192	For the supply of a computer disk containing a record of a proceeding or of part of a proceeding or of a matter incidental to a proceeding.	\$ 15.00 (per disk) \$ 29.00 (per CD-Rom)
	<i>Explanatory Note: Last Financial Year the Fees were \$15.00 & \$28.00 respectively</i>	
193	For each page of copy of a document or documents copied by a person, other than an officer of the Magistrates Court, using a Court photocopier	\$ 0.20
	<i>Explanatory Note: Last Financial Year the fee was the same.</i>	

PART C: Subpoenas, service, execution and examinations

194	For serving, and for each attempt to serve, by post, originating process. (This item does not apply to the service of an application in the Small Claims Court).	\$ 15.00
	<i>Explanatory Note: A plaintiff in proceedings may apply for postal service of an originating process. The Registrar may serve the process by post on the defendant. This item determines a fee for the purposes of that provision. The fee does not apply to small claims proceedings as section 24 does not apply to proceedings under that Part - see subsection 395(2). Last Financial Year the fee was the same.</i>	
195	For up to 3 attempts to serve at the same address, otherwise than by post, an originating process, a summons, a notice or other civil process, whether or not the service is successful. (This item does not apply to the service of an application in the Small Claims Court.)	\$ 67.00
	<i>Explanatory Note: Where the Magistrates Court arranges service of an originating process, etc, for a plaintiff, other than by post, the fee set out above is payable for that service. The fee covers up to three attempts at service at the same address. No fee is payable in relation to small claims proceedings. Last Financial Year the fee was \$65.00.</i>	
196	For up to 3 attempts to execute process at the same address, whether or not the execution is successful:	
	(i) other than the execution of process in relation to proceedings in the Small Claims Court;	\$ 220.00
	(ii) in relation to proceedings in the Small Claims Court.	\$ 67.00
	<i>Explanatory Note: This item relates to the enforcement of the Court's judgements. The fees in this item relate to the administrative expenses of officers of the Court involved in the execution and are additional to those in the Act. The fee for execution of process covers up to three attempts at execution at the same address. Last Financial Year the Fees were \$215.00 and \$65.00 respectively.</i>	
197	Subject to the paragraph below, for the issue of a subpoena in any civil proceedings or under section 40 of the Administrative Appeals Tribunal Act 1989:	
	(i) to give evidence;	\$ 15.00
	(ii) for production and to give evidence;	\$ 29.00
	(iii) for production.	\$ 29.00
	No fee is payable under this item if no fee for filing a document in the proceeding is payable.	
	<i>Explanatory Note: This item relates to the fees for the issue of subpoenas to give evidence and produce documents or things in proceedings under the Magistrates Court Act 1930. No fee is payable if no fee for the filing of a document in the proceeding is payable. Last Financial Year the Fees were \$15.00, \$28.00 & \$28.00, respectively.</i>	
198	For the court undertaking the oral examination of a debtor.	\$ 54.00
	<i>Explanatory Note: Last Financial Year the fee was \$53.00.</i>	

PART D: Miscellaneous

199	No fee for filing a document or fee for the service or execution of process is payable by any person in relation to proceedings under the Birth (Equality of Status) Act 1988.	Nil
	<i>Explanatory Note: Last Financial Year this exemption was the same.</i>	
200	The Registrar of a court or tribunal may defer liability for the payment of a fee or charge for the performance of a function or the provision of a facility or service, in whole or in part, for a period not in excess of 14 days if, in the Registrar's opinion, payment cannot be made at the time of the request for the function, facility or service, but payment could be made within 14 days after the making of the request.	Nil
	<i>Explanatory Note: This power remains similar to that in previous determinations. Note that general exemptions from the payment of fees are set out in the Court Procedures Act 2004.</i>	
201	In relation to an application made to a Tribunal, a single application fee is payable in respect of 2 or more applications which relate to the same applicant (or where one of the applicants is the same) and which, in the opinion of the Registrar, may be conveniently heard together by the Tribunal. Where an application fee in respect of each or some of those applications has been paid, the Registrar may refund all but the first of those application fees.	Nil

Explanatory Note: This provision now applies beneficially to all tribunal applicants.

Proceedings in the Supreme Court

PART A: Proceedings

202	On lodging for filing a document to commence a proceeding in the Court, including an application for probate, other than: (a) In respect of a matter referred to in item 202, 203, 204, 205, 206, 207 208; or (b) an interlocutory or incidental proceeding in the course of, or in connection with, a proceeding.	\$ 589.00
	<i>Explanatory Note: Last Financial Year the Fees was \$575.00.</i>	
203	On the fixing of a date for the hearing of a proceeding (other than an interlocutory or incidental proceeding): (a) in a proceeding under the Criminal Injuries Compensation Act 1983; (b) in any other proceeding.	\$ 98.00 \$ 622.00
	The person liable to pay the fee is the plaintiff, the appellant or such other party to the application as is ordered by the Court (which for the purposes of this determination includes the Registrar and the Deputy Registrar) in such proportion ordered. Where the filing fee in respect of the proceedings has been waived or the person commencing the proceedings is exempt from payments of a filing fee (other than in respect of a proceeding under the Criminal Injuries Compensation Act 1983).	
	<i>Explanatory Note: See section 37B of the Supreme Court Act 1933 in relation to waivers, and exemptions. Last Financial Year the Fees were \$96.00 and \$607.00 respectively.</i>	
204	On filing a cross claim or counter claim in any proceeding.	\$ 589.00
	<i>Explanatory Note: Last Financial Year the fee was \$575.00.</i>	
205	On lodging for filing a document to commence an appeal from the Master or the Registrar in an interlocutory proceeding.	\$ 132.00
	<i>Explanatory Note: Last Financial Year the fee was \$129.00.</i>	
206	On lodging for filing a document to commence an appeal from the Registrar in a proceeding other than an interlocutory proceeding.	\$ 589.00
	<i>Explanatory Note: Last Financial Year the fee was \$575.00.</i>	
207	On lodging for taxation a bill of costs as between party and party that, as lodged, exceeds \$2,000.	\$ 258.00
	<i>Explanatory Note: Last Financial Year the fee was \$252.00.</i>	
208.1	On lodging: (a) an application for admission to practice or for enrolment under the Legal Practitioners Act 1970; or (b) a notice seeking registration in an occupation under the Mutual Recognition Scheme.	\$ 263.00
	<i>Explanatory Note: Note that registration in an occupation under the Mutual Recognition Scheme would include registration as a notary public under that scheme. Last Financial Year the Fees were \$257.00.</i>	
208.2	On lodging an application or notice under 208.1.	\$125.00
	<i>Explanatory Note: This is a charge for a co-contribution scheme towards the costs of the Supreme Court Library.</i>	
209	On lodging for the entry of judgment or consent order under order 42 of the Supreme Court Rules.	\$ 54.00
	<i>Explanatory Note: Last Financial Year the fee was \$53.00</i>	
210	On making an application for the removal or transfer to the Supreme Court of proceedings commenced in the Magistrates Court. No fee is payable in the Supreme Court where no filing fee was payable for the commencement of the proceedings in the Magistrates Court.	\$ 297.00
	<i>Explanatory Note: Last Financial Year the fee was \$290.00.</i>	

PART B: Certificates, copies, inspections, searches and transcripts

211	For the certification of (or the provision of certified copy of):	
	(a) a judgment, certificate of enrolment or registration; or	\$ 44.00
	(b) other documents.	\$ 23.00
	<i>Explanatory Note: Last Financial Year the Fees were \$43.00 & \$22.00 respectively</i>	
212	For each request for a copy or copies of a document or documents (regardless of the number of documents to which the request relates).	\$ 2.00
	<i>Explanatory Note: Last Financial Year the fee was the same.</i>	
213	For a copy provided in accordance with a request referred to in the previous item.	\$ 1.00 (per page)
	<i>Explanatory Note: Last Financial Year the fee was the same.</i>	
214	For undertaking a registry search (other than by a party to the proceedings to which the search relates).	\$ 23.00
	<i>Explanatory Note: Last Financial Year the fee was \$22.00.</i>	
215	Provision of a transcript of proceedings where the request for the transcript requires the preparation of the document.	\$10.60 same day \$ 9.90 per page next day \$ 9.30 per page 2-3 days \$ 9.20per page 3-5 days \$ 8.70 per page within 20 days
	<i>Explanatory Note: The provision of transcripts is now made through the Magistrates Court Registry. Copies are provided under the following items. Last Financial Year the Fees were - \$10.30, \$9.70, \$9.10, \$9.00 & \$8.50 respectively</i>	
216	For the supply of a duplicate audio tape recording of a proceeding or of part of a proceeding or of a matter incidental to a proceeding.	\$ 39.00 (per cassette)
	<i>Explanatory Note: Last Financial Year the fee was \$38.00.</i>	
217	For the supply of a duplicate video tape recording of a proceeding or of part of a proceeding or of a matter incidental to a proceeding.	\$ 49.00 (per tape)
	<i>Explanatory Note: Last Financial Year the fee was \$48.00.</i>	
218	For the supply of a computer disk containing a record of a proceeding or of part of a proceeding or of a matter incidental to a proceeding.	
	on Floppy Disk	\$ 15.00 (per disk)
	on CD Rom	\$ 29.00 (per CD-Rom)
	<i>Explanatory Note: Last Financial Year the Fees were \$15.00 & \$28.00 respectively</i>	
219	For each page of copy of a document or documents copied by a person, other than an officer of the Supreme Court, using a Court photocopier	\$0.20
	<i>Explanatory Note: Last Financial Year the fee was the same.</i>	

PART C: Subpoenas, service, and execution

220	For the issue under the Supreme Court Rules of a subpoena in a civil proceeding:	
	(a) to give evidence;	\$ 29.00
	(b) for production and to give evidence;	\$ 54.00
	(c) for production.	\$ 54.00
	No fee is payable under this item if no fee for filing a document in relation to the proceeding is payable.	
	<i>Explanatory Note: Last Financial Year the Fees were \$28.00, \$53.00, \$53.00, respectively.</i>	
221	For up to 3 attempts to serve process at the same address, whether or not the service is successful.	\$ 67.00
	<i>Explanatory Note: Last Financial Year the fee was \$65.00.</i>	
222	For up to 3 attempts to execute process at the same address, whether or not the execution is successful.	\$ 220.00
	<i>Explanatory Note: Last Financial Year the fee was \$215.00.</i>	
223	For expenses reasonably incurred by the Court in the execution of process or attempted execution of	The amount of the expenses.

process for which a fee is payable under the previous item.

Explanatory Note: Last Financial Year the fee was the same.

224 For non-party production under order 34B of the Supreme Court Rules. \$ 30.00

Explanatory Note: Last Financial Year the fee was \$29.00.

PART D: Exemption and deferrals

225 No fee for lodging for filing a document or fee for the service or execution of process is payable by any person in relation to proceedings under the Birth (Equality of Status) Act 1988.

Explanatory Note: See section 37B of the Supreme Court Act 1933 in relation to waivers, and exemptions. This exemption is the same as previously provided.

226 The Registrar of the Supreme Court may defer liability for the payment of a fee or charge for the performance of a function or the provision of a facility or service, in whole or in part, for a period not in excess of 14 days if, in the Registrar's opinion, payment cannot be made at the time of the request for the function, facility or service but payment could be made within 14 days after the making of the request.

Explanatory Note: See Court Procedures Act 2004 in relation to waivers, and exemptions. This deferral is the same as previously provided.

PART E: Opening the Court

227 For opening the offices of the Court -

(a) between 9.00 am and 9.15 am or between 4.15 pm and 5.00 pm on a day other than a Saturday, Sunday or public holiday; \$ 67.00

(b) at any time - \$ 137.00

(i) on a Saturday, Sunday or public holiday; or

(ii) outside the hours of 9.00 am to 5.00 pm on a day of the week other than a day referred to in subparagraph (b)(i).

Explanatory Note: Last Financial Year the Fees were \$65.00 and \$134.00 respectively.

PART F: Proceedings - Court of Appeal

(all incidental fees and charges are the same as those in Part A for proceedings in the Supreme Court)

228 On lodging for filing a document to commence a proceeding in the Court of Appeal (this includes an application for leave to appeal and an application for extension of time to appeal - fees are not payable in criminal proceedings)

for a natural person \$ 1,051.00

for a corporation \$ 1,576.00

Explanatory Note: Last Financial Year Fees were \$1,025.00 & \$1,538.00 respectively.

229.1 On the fixing of a date for a hearing in the Court of Appeal (other than interlocutory hearings) - Note: This fee is payable by the appellant

for a natural person \$ 841.00

for a corporation \$ 1,051.00

Explanatory Note: Last Financial Year Fees were \$820.00 & \$1,025.00 respectively.

229.2 On lodging for taxation a bill of costs as between party and party (any amount) \$ 788.00

Explanatory Note: Last Financial Year Fee was \$769.00.