

AUSTRALIAN CAPITAL TERRITORY

Supreme Court Act 1933

DETERMINATION OF FEES AND CHARGES APPLICABLE IN THE SUPREME COURT

NO. 165 OF 1996

EXPLANATORY STATEMENT

BACKGROUND

POWER TO MAKE FEES AND CHARGES

Subsection 37(1) of the *Supreme Court Act 1933* (the Act) provides that the Attorney-General may, by notice in writing published in the *Gazette*, determine fees and charges for any of the following purposes:

- (a) proceedings in the Court, and matters incidental to such proceedings, including -
 - (i) the admission and enrolment of barristers and solicitors;
 - (ii) the service and execution of the process of the Court; and
 - (iii) the taxation of costs by officers of the Court;
- (b) facilities and services provided by the Court, including the service and execution of the process of any court of the Commonwealth, a State or another Territory, or of any court of a foreign country;
- (c) the general purposes of the Act, the Regulations or the Rules of Court.

Subsection 37(2) of the Act provides that a determination made under subsection 37(1) may provide for matters such as the exemption from liability to pay certain fees, in whole or in part, and for the remission or refund and the deferral of liability for the payment of fees and charges, in whole or in part, by the Registrar in particular circumstances.

Overview of increases in fees and charges and new fees

The fees determined are set out below with the previously determined fees shown in brackets. Where fees have been increased they have generally been increased by 3% and rounded off. The fee to commence a proceeding and the fee for execution have been brought in line with the comparable New South Wales

fees, see items 1 and 10, and fees for the issue of subpoenas, which are the same as those in the New South Wales Supreme Court, have been introduced, see item 7.

Commencement of Determination

This Determination comes into effect on 29 July 1996 and upon its coming into effect Determination No. 70 of 1995 will cease to have effect.

DETAILS OF FEES AND CHARGES

ITEM	MATTER IN RESPECT OF WHICH A FEE IS PAYABLE	FEE PAYABLE (\$)
1.	On filing a document to commence a proceeding in the Court, including a proceeding relating to probate, (other than in respect of a matter referred to in item 2, 3 or 13 or an interlocutory or incidental proceeding in the course of, or in connection with, a proceeding)	485 (416)
2.	On filing a document to commence an appeal from the Master or the Registrar in an interlocutory proceeding	107 (104)
3.	On filing a document to commence an appeal from the Master or the Registrar in a proceeding other than an interlocutory proceeding	485 (416)
4.	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 (2)
5.	For each page of copy provided in accordance with a request referred to in item 4	1 (1)
6.	For each page of copy of a document or documents copied by a person, other than an officer of the Court, using a Court photocopier	0.20 (0.20)
7.	For the issue under Order 39 Rule 25 of the Supreme Court Rules of a subpoena in a civil proceeding:	
	(a) to give evidence	22.00
	(b) for production and to give evidence	44.00
	(c) for production	44.00
	No fee is payable under this item if no fee for filing a document in relation to the proceeding is payable	
8.	On filing for taxation a bill of costs as between party and party that, as filed, exceeds \$2,000	214 (208)

3.

9.	For up to 3 attempts to serve process at the same address, whether or not the service is successful	56 (54)
10.	For up to 3 attempts to execute process at the same address, whether or not the execution is successful	180 (54)
11.	For expenses reasonably incurred by the Court in the execution of process or attempted execution of process for which a fee is payable under item 10	The amount of the expenses
12.	For opening the offices of the Court -	
	(a) between 9.00 a.m. and 9.15 a.m. or between 4.15 p.m. and 5.00 p.m. on a day other than a Saturday, Sunday or public holiday	56 (54)
	(b) at any time -	110
	(i) on a Saturday, Sunday or public holiday; or	(107)
	(ii) outside the hours of 9.00 a.m. to 5.00 p.m. on a day of the week other than a day referred to in subparagraph 12(b)(i)	
13.	On filing a notice of motion for admission to practise or for enrolment under the <i>Legal Practitioners Act 1970</i> or on lodging a notice seeking registration under the <i>Mutual Recognition (Australian Capital Territory) Act 1992</i>	220 (214)
14.	For the supply of each certificate of enrolment additional to a certificate provided on the admission, enrolment or registration referred to in item 13	33 (32)

EXEMPTION FROM LIABILITY FOR PAYMENT

The Determination provides an exemption from payment of a filing fee or fee for the service and execution of process in relation to proceedings under the *Birth (Equality of Status) Act 1988*. Previously, an exemption had also been provided in relation to proceedings under the *Infants' Custody and Settlement Act 1956* which has been repealed. An exemption previously included in relation to Part VIII of the *Legal Practitioners Act 1970* has also been omitted as an amendment of the *Supreme Court Act 1933* has made it unnecessary to provide for the exemption by way of the Determination.

DEFERRAL OF LIABILITY FOR PAYMENT

Paragraph 37(2)(d) of the Act provides that a determination may provide for the deferral of liability by the Registrar for the payment of fees and charges, in whole or in part, in particular circumstances. The Determination provides that the Registrar may defer liability for payment for a period not in excess of 14 days if, in the Registrar's opinion, payment cannot be made at the time that a request is made for the performance of a function or the provision of a facility or service, but payment could be made within 14 days after the request being made. The Registrar will be able to defer payment, for example, where a person wishes to file an initiating process, but has not brought sufficient funds with them.

REVENUE/COST IMPLICATIONS

The increase in fees and charges will result in about \$128,500 in additional revenue in a full year

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