

SCHEDULE - FEES AND CHARGES TO BE PAID

General Explanatory Notes

A. Overview of increases in fees and charges

Fees have generally been increased by 2.25% and rounded to an appropriate value.

B. Commencement

Clauses 2 allows for this determination to come into effect on Gazettal of the instrument for items 1 to 11 (this is necessary to set various fees under the Agents Act 1968 that must come into operation before 1 July of each year). The rest of the Determination comes into effect on 1 July 2001. As the new fees and charges come into effect, earlier determinations of those fees and charges cease to have effect.

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

Magistrate's Court

Subsection 248A(2) of the Magistrates Court Act 1930 provides that a determination 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. Note that subsection 248C(2) provides for a number of exemptions (this is extracted for ease of access):

248C Remission, refund, deferral, waiver and exemption of fees

(2) A determined fee is not payable—

(a) if the person otherwise liable to pay the fee is—

(i) exempt from liability to pay the fee under the determination that determined the fee; or

(ii) exempt from paying the fee under subsection 93 (1) of the Legal Aid Act 1977; or

(iii) legally assisted under a scheme or service provided or approved by the Attorney-General; or

(b) if the registrar of the court or tribunal waives payment by a person of the fee in whole or part because the registrar considers that payment of the fee would impose hardship on the person—to the extent of the waiver; or

(c) for the laying of an information—

(i) by the director of public prosecutions acting in the performance of an official function under a Territory law; or

(ii) by a police officer acting in the performance of an official function under a Territory law; or

(iii) for an offence against subsection 255 (1) (which is about contempt in the face of the court).

Supreme Court

Subsection 37(1) of the Supreme Court Act 1933 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 legal practitioners;

(ii) the service and execution of the process of the Court; and

(iii) the taxation of costs by officers of the Court;

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- (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 Supreme Court Act 1933 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.

D. GST

With the exceptions noted below, fees and charges imposed in this instrument are to be exempted from GST by the "A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2000" by the Commonwealth Treasurer under section 81-5 of the "A New Tax System (Goods and Services Tax) Act 1999".

GST is payable in relation to a number of fees for services provided under the Trade Measurement (Administration) Act 1991 where provided in competition or in the course of hiring test equipment. In such cases, the determined fee has been made GST inclusive.

GST is also payable in relation to services provided under the Public Trustee Act 1985. Where the fee specified in items 77 – 100 is calculated based on a percentage contained in this determination, the resulting fee will be GST inclusive.