



## District Courts Fees Amendment Regulations 2004

Silvia Cartwright, Governor-General

### Order in Council

At Wellington this 26th day of May 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to section 123 of the District Courts Act 1947, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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### Regulations

#### 1 Title

- (1) These regulations are the District Courts Fees Amendment Regulations 2004.
- (2) In these regulations, the District Courts Fees Regulations 2001<sup>1</sup> are called “the principal regulations”.

<sup>1</sup> SR 2001/106

## 2 Commencement

These regulations come into force on 1 July 2004.

## 3 Power to waive fees

Regulation 4A of the principal regulations is amended by revoking subclause (3), and substituting the following subclause:

- “(3) For the purposes of these regulations, an applicant is unable to pay the fee sought to be waived if—
- “(a) the applicant has been granted legal aid in respect of the matter for which the fee is payable; or
  - “(b) the applicant has not been granted legal aid in respect of the matter for which the fee is payable and the applicant—
    - “(i) is dependent for the payment of his or her living expenses on a benefit of a kind specified in any of paragraphs (a) to (e), (h), and (j) of the definition of **income-tested benefit** in section 3(1) of the Social Security Act 1964; or
    - “(ii) is wholly dependent for the payment of his or her living expenses on New Zealand superannuation under the New Zealand Superannuation Act 2001 or a veteran’s pension under the War Pensions Act 1954; or
    - “(iii) would otherwise suffer undue financial hardship if he or she paid the fee.”

## 4 Fee if court directs that proceeding be set down for hearing

Regulation 5 of the principal regulations is amended by omitting the expression “item 5”, and substituting the expression “item 6”.

## 5 Manner in which hearing fees to be prepaid

Regulation 6(1) of the principal regulations is amended by omitting the expression “item 7”, and substituting the expression “item 8”.

**6 Schedule amended**

The Schedule of the principal regulations is amended by—

- (a) omitting items 1 to 8, and substituting the items set out in the Schedule; and
- (b) omitting from the second column of item 20, the expression “5.00”, and substituting the words “actual and reasonable costs”.

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**Schedule**

**New items 1 to 8 in Schedule of principal regulations**

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1	Filing of the original document commencing any proceeding (other than an interlocutory proceeding) to which these regulations apply, unless otherwise provided for	140
	For the purposes of this item, the original document commencing any proceeding is,—	
	(a) in the case of a proceeding commenced by statement of claim, the statement of claim; and	
	(b) in the case of an appeal or cross-appeal, the notice of appeal or other document by which the appeal or cross-appeal is instituted; and	
	(c) in every other case, the first document (other than a caveat or an application for directions as to service) filed in the proceeding by the plaintiff that gives to the Court and to the opposite party (if any) particulars of the claim made or other relief sought by the plaintiff	
2	Filing an interlocutory application (including an application for summary judgment)	185
3	Filing—	
	(a) a statement of defence; or	
	(b) an amended statement of defence; or	
	(c) an amended statement of claim; or	
	(d) an appearance	60
4	Filing a counterclaim, or statement of defence and counterclaim if both are included in the 1 document	90
5	Filing the first affidavit filed by a party in answer to an affidavit filed in support of an interlocutory application for summary judgment	70
6	Filing an application for a fixture for the hearing of any proceeding (other than for an interlocutory proceeding or an appeal or cross-appeal or a hearing for an undefended demand for an unliquidated amount)	750
7	Setting down appeal or cross-appeal for hearing	750
8	Hearing fee for each half-day or part of a half-day, after the first half-day	750
	This item applies, unless otherwise provided, in respect of the hearing of every proceeding, including—	
	(a) the hearing of every appeal and every cross-appeal; and	
	(b) the hearing of every interlocutory application	

Diane Morcom,  
Clerk of the Executive Council.

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### **Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 July 2004, amend the District Courts Fees Regulations 2001.

*Regulation 3* amends regulation 4A of the principal regulations, which relates to the Registrar's power to waive fees. The criteria by which a Registrar determines a fee waiver application are amended so that a person who has been granted legal aid is eligible for a fee waiver. Previously, a grant of legal aid was not in itself a ground for a fee waiver.

*Regulations 4 to 6* relate to fees payable in the District Court. *Regulation 6* amends the existing Schedule of fees. The principal changes are as follows:

- fees for proceedings in the District Court are increased in relation to—
    - documents commencing proceedings, counterclaims, and interlocutory applications:
    - fixing dates for proceedings, including appeals:
    - hearings:
  - the fee for setting down a hearing for an undefended demand for an unliquidated amount is revoked:
  - the fee for copying documents (other than notes of the Judge or Registrar or judgment or order), per page, is now actual and reasonable costs.
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These regulations are administered in the Ministry of Justice.

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