



High Court Fees Regulations 2001

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 9th day of October 2001

Present:

Her Excellency the Governor-General in Council

Pursuant to section 100A of the Judicature Act 1908, 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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Schedule
Fees payable in respect of proceedings in Court

Regulations

1 Title

These regulations are the High Court Fees Regulations 2001.

2 Commencement

These regulations come into force on 15 October 2001.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Judicature Act 1908

Court means the High Court

public law proceeding means—

- (a) any appeal to the Court under any enactment other than—
 - (i) an appeal under the Arbitration Act 1996; or
 - (ii) an appeal under the District Courts Act 1947; or
 - (iii) an appeal under the Land Valuation Proceedings Act 1948; or
 - (iv) an appeal against a decision or report and recommendation of the Environment Court; or
- (b) an application for review under Part I of the Judicature Amendment Act 1972 or an application under Part VII of the High Court Rules

Registrar means a Registrar of the Court; and includes a Deputy Registrar of the Court.

4 Application

These regulations apply to civil proceedings in the Court.

5 Fees of Court

- (1) The fees specified in the Schedule are payable, and must be taken by the proper officer of the Court, in proceedings to which these regulations apply in respect of the matters so specified.
- (2) A fee prescribed by subclause (1) in respect of a matter is not payable if another fee is payable in respect of that matter under any Act, regulation, Order in Council, or notice.
- (3) No fees other than those specified in the Schedule are payable in the Court in respect of—
 - (a) any proceedings in the Court to which these regulations apply; or
 - (b) any caveat.
- (4) Subclause (3) is subject to the Sheriffs' Fees Regulations 1988 and any provision contained in any Act, regulation, Order in

Council, or notice that prescribes fees payable in the High Court.

6 Power to waive fees

- (1) A person (the **applicant**) otherwise responsible for the payment of a fee required in connection with a proceeding or an intended proceeding may apply to a Registrar for a waiver of the fee.
- (2) The Registrar may waive the fee payable by the applicant if satisfied,—
 - (a) on the basis of 1 of the criteria specified in subclause (3), that the applicant is unable to pay the fee; or
 - (b) that the proceeding,—
 - (i) on the basis of 1 of the criteria specified in subclause (4), concerns a matter of genuine public interest; and
 - (ii) is unlikely to be commenced or continued unless the fee is waived.
- (3) For the purposes of these regulations, an applicant is unable to pay the fee sought to be waived if—
 - (a) the applicant has not been granted legal aid in respect of the matter for which the fee is payable; and
 - (b) 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 or a veteran's pension under the Social Welfare (Transitional Provisions) Act 1990; or
 - (iii) would otherwise suffer undue financial hardship if he or she paid the fee.
- (4) For the purposes of these regulations, a proceeding that concerns a matter of genuine public interest is—
 - (a) a proceeding that has been or is intended to be commenced to determine a question of law that is of significant interest to the public or to a substantial section of the public; or
 - (b) a proceeding that—

- (i) raises issues of significant interest to the public or to a substantial section of the public; and
 - (ii) has been or is intended to be commenced by an organisation that, by its governing enactment, constitution, or rules, is expressly or by necessary implication required to promote matters in the public interest.
- (5) An application under subclause (1) must be made in a form approved for the purpose by the chief executive of the Department for Courts unless, in a particular case, the Registrar considers that an application in that form is not necessary.

7 Payment of fee may be postponed pending determination of application for waiver or review

- (1) A Registrar may, on application by a person who is awaiting the determination of an application under regulation 6(1) or section 100B of the Act, postpone the payment of the fee to which the application relates until the date on which the person is notified of the determination.
- (2) A Registrar may exercise the power under subclause (1) if satisfied that the person awaiting the determination of his or her application would be prejudiced if the matter to which the fee relates did not proceed before the determination.
- (3) An application under subclause (1) must be made in a form approved for the purpose by the chief executive of the Department for Courts unless, in a particular case, the Registrar considers that an application in that form is not necessary.

8 Recovery of postponed fee

- (1) This regulation applies to a fee (the **fee**) that has been postponed under regulation 7.
- (2) If the effect of a determination under regulation 6 or section 100B of the Act is that the fee is not to be waived, the fee—
 - (a) must be paid, without delay, to the Registrar; and
 - (b) is recoverable as a debt due to the Crown in any court of competent jurisdiction.
- (3) Following a determination that has the effect referred to in subclause (2), the person responsible for paying the fee may not take a step in the proceeding to which the fee relates unless the fee is paid.

- (4) This regulation has effect subject to regulation 7 during any period that the question of the waiver of the fee is the subject of a pending application under section 100B of the Act.

9 Power to refund fees

- (1) A Registrar may, on application made to him or her, refund a fee that has already been paid if satisfied that—
- (a) no application, under regulation 6, for a waiver of the fee was made; and
 - (b) the fee would have been waived, in accordance with regulation 6, had that application been made; and
 - (c) the criteria that would have justified that waiver still apply at the date of the application for the refund.
- (2) An application under subclause (1) must be made in a form approved for the purpose by the chief executive of the Department for Courts unless, in a particular case, the Registrar considers that an application in that form is not necessary.

10 Fees payable by liquidators of companies without assets

If the liquidator of a company gives a Registrar a certificate stating that the company has no immediately available assets out of which to pay the full fees for a proceeding or matter relating to the liquidation of the company, no fee (other than sheriffs' fees and the fee referred to in item 1 of the Schedule for an application to put a company into liquidation) is payable in the High Court for that proceeding or matter.

11 Setting down fees to be prepaid

- (1) If a praecipe is filed under rule 431 of the High Court Rules, the fee specified in item 5 of the Schedule is payable on the filing of that praecipe.
- (2) If an order for trial is made under rule 436 of the High Court Rules in respect of any proceeding (other than a proceeding in respect of which the relevant fee specified in item 5 of the Schedule has been paid), the relevant fee specified in that item is payable in respect of that proceeding not later than the earlier of—
- (a) the commencement of the trial; and
 - (b) the expiration of the period of 7 days beginning with the day after the day on which the order is made.
- (3) This regulation is subject to regulations 6 and 7.

12 Hearing fees to be prepaid

- (1) The hearing fees specified in items 7 and 8 of the Schedule must be prepaid not later than the beginning of the hearing on the day or half-day to which they relate.
- (2) The party to the proceeding who files a praecipe under rule 426 of the High Court Rules, or who makes an application under rule 436 of the High Court Rules, is responsible for the payment of the hearing fee or fees.
- (3) If a claim in any proceeding is discontinued but a counter-claim remains to be heard, the party still requiring the hearing is responsible for the payment of the hearing fee or fees in respect of that hearing.
- (4) If 2 or more proceedings are to be tried together, hearing fees must be paid in respect of each proceeding unless the Court otherwise directs.
- (5) This regulation is subject to regulations 6 and 7.

13 GST included

The fees fixed by these regulations are inclusive of goods and services tax.

14 Revocation

- (1) The High Court Fees Regulations 1997 (SR 1997/332) are consequentially revoked.
 - (2) In respect of proceedings commenced before the date on which these regulations come into force, no further fee is payable under the High Court Fees Regulations 1997, and the appropriate fees, if any, set out in the Schedule of these regulations are payable in respect of any step taken on or after that date.
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Schedule

Fees payable in respect of proceedings in Court

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1	Filing (including sealing if necessary) the original document commencing a proceeding (other than an interlocutory proceeding) to which these regulations apply, unless otherwise provided for,—	
	(a) in the case of a public law proceeding:	120
	(b) in the case of any other proceeding:	900
	For the purposes of this item, the original document commencing any proceeding is,—	
	(c) in the case of a proceeding commenced by statement of claim, including an application to put a company into liquidation, the statement of claim; and	
	(d) 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	
	(e) in every other case (including a proceeding to which Part IV or Part IVA of the High Court Rules applies), 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 of the order or other relief sought, by the plaintiff.	
2	Filing an interlocutory application,—	
	(a) in the case of an interlocutory application for an interim injunction,—	
	(i) if made in a public law proceeding:	155
	(ii) if made in any other proceeding:	400
	(b) in the case of any other interlocutory application (including an interlocutory application for summary judgment),—	
	(i) if made in a public law proceeding:	100
	(ii) if made in any other proceeding:	260
3	Filing—	
	(a) statement of defence; or	
	(b) amended statement of defence; or	
	(c) counterclaim; or	
	(d) statement of defence and counterclaim if both are included in the 1 document; or	
	(e) amended statement of claim; or	
	(f) appearance:	65
4	Filing, under rule 141 of the High Court Rules, the first affidavit filed by a party in answer to an affidavit filed in support of an interlocutory application for summary judgment:	90
5	Setting down proceeding (other than an interlocutory proceeding or an appeal or cross-appeal) for hearing—	
	(a) in the case of a public law proceeding:	650
	(b) in the case of any other proceeding:	2,200

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6	Setting down appeal or cross-appeal for hearing—	
	(a) if arising out of a public law proceeding:	470
	(b) if arising out of any other proceeding:	1,900
7	Hearing fee for each half-day or part of a half-day after the first day—	
	(a) if required for a public law proceeding:	270
	(b) if required for any other proceeding:	1,100
	This item applies, unless otherwise provided, in respect of the hearing of every proceeding, including—	
	(c) the hearing of every appeal and every cross-appeal; and	
	(d) the hearing of every interlocutory application (other than an interlocutory application for summary judgment in respect of which an affidavit in answer has been filed).	
8	Hearing an interlocutory application for summary judgment in respect of which an affidavit in answer has been filed (fee for each half-day or part of a half-day after the first half-day):	1,100
9	Sealing the original copy of any judgment, order, rule, memorial, certificate, commission, letters of request, or judgment not otherwise provided for:	35
	However, no sealing fee is payable in respect of—	
	(a) any order made in interlocutory proceedings; or	
	(b) any probate or letters of administration; or	
	(c) any order for admission as a barrister and solicitor.	
10	Issue of certified copy of any document or any Registrar's certificate:	35
11	Filing an application for admission as a barrister and solicitor:	325
12	Filing an application for probate or letters of administration:	50
	If a fee is paid under this item, no fee is payable in respect of any application for leave to swear death in respect of the testator or other person in respect of whom the grant of administration is sought.	
13	Sealing exemplifications or duplicates (probate or letters of administration) or resealing under section 71 of the Administration Act 1969:	20
14	Filing a notice of appeal against a decision of a Land Valuation Tribunal:	350
15	Filing a notice of appeal under section 148 of the Law Practitioners Act 1982:	365
16	Attendance before a Registrar in inquiry or reference, or examination of witnesses by Registrar under order of the Court:	365
17	Copy of judgment (other than copy supplied to a party to the proceeding)—	
	(a) not exceeding 5 pages:	15
	(b) exceeding 5 pages but not exceeding 50 pages:	30
	(c) exceeding 50 pages but not exceeding 75 pages:	40

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(d) exceeding 75 pages:	50
18 For faxing documents at the request of a party (except if documents have to be faxed for operational reasons):	2
plus per page faxed:	1
19 Copy of a document, other than a judgment, per page:	5
20 Search of Court records (including a search relating to 1 or more files),— for each search:	25
21 Search of a register or file that relates to an application for a grant of administration under the Administration Act 1969 or any corresponding former Act or to proceedings for the recall of any such grant,— for each file searched:	40
The fee payable under this item in respect of any file includes the cost of obtaining a copy of any document on that file.	
22 Appointment of Commissioner to take affidavits:	265

Marie Shroff,
Clerk of the Executive Council.

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 15 October 2001, prescribe new fees for proceedings in the High Court. They incorporate, with modifications, fee increases prescribed by regulations made in May 2001 (High Court Fees Amendment Regulations 2001 (SR 2001/103)), which have not come into force and are now superseded by the current regulations.

The fee increases will not apply to public law proceedings. These are applications for judicial review and also include most appeals from tribunals to the High Court.

The regulations also prescribe the criteria for determining whether court fees may be waived. A person is eligible for a waiver if he or she is not legally aided and depends on an income-tested benefit, or depends wholly on New Zealand superannuation or on a veteran's pension, or if he or she would otherwise suffer undue financial hardship if required to pay the fee. Fees may also be waived in the

case of proceedings that concern matters of genuine public interest and that would be unlikely to be commenced or continued without a waiver. For the purposes of the regulations, a proceeding of that nature is one that is to determine a question of law of significant public interest, or one that is brought by a public-interest organisation and that raises issues of significant public interest.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 11 October 2001.

These regulations are administered in the Department for Courts.
