



New South Wales

PARLIAMENTARY COUNSEL

Opinion

Civil Procedure Act 2005
Proposed Civil Procedure Amendment (Fees) Regulation 2011

Your ref: Nick Sandrejko
Our ref: FHG s2011-173-d14

In my opinion the attached draft Regulation may legally be made.

The Regulation should be published on the NSW legislation website on or before 1 August 2011.

A handwritten signature in blue ink, appearing to be "D Colagiuri".

(D COLAGIURI)
Parliamentary Counsel
19 July 2011

The Director-General
Department of Attorney General and Justice



New South Wales

Civil Procedure Amendment (Fees) Regulation 2011

under the

Civil Procedure Act 2005

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Civil Procedure Act 2005*.

Attorney General

Explanatory note

The object of this Regulation is to increase certain fees payable in relation to civil proceedings generally and other fees that are payable to the Sheriff.

This Regulation is made under the *Civil Procedure Act 2005*, including section 18 (Fees).

Civil Procedure Amendment (Fees) Regulation 2011

under the

Civil Procedure Act 2005

1 Name of Regulation

This Regulation is the *Civil Procedure Amendment (Fees) Regulation 2011*.

2 Commencement

This Regulation commences on 1 August 2011 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Civil Procedure Regulation 2005

Schedules 1 and 2

Omit the Schedules. Insert instead:

Schedule 1 Court fees

(Clause 4)

Part 1 Supreme Court

	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Filing an originating process (other than an originating process referred to in items 2–6)	\$926	\$2,219
2	Filing an originating process by which an application for a grant or resealing of probate in respect of an estate the sworn gross value of which:		
	(a) is less than \$50,000	Nil	—
	(b) is \$50,000 or more but less than \$250,000	\$711	—
	(c) is \$250,000 or more but less than \$500,000	\$898	—
	(d) is \$500,000 or more but less than \$1,000,000	\$1,355	—
	(e) is \$1,000,000 or more	\$1,803	—
3	Filing in the Court of Appeal a notice of intention to appeal	\$265	\$530
4	Filing in the Court of Appeal a summons seeking leave to appeal or a cross-summons seeking leave to cross-appeal in proceedings where a notice of intention to appeal has been filed	\$947	\$1,622

Civil Procedure Amendment (Fees) Regulation 2011

Schedule 1 Amendment of Civil Procedure Regulation 2005

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
5	Filing in the Court of Appeal a notice of appeal or notice of cross-appeal:		
	(a) in proceedings where leave to appeal has been granted	\$1,869	\$3,315
	(b) in proceedings where a notice of intention to appeal has been filed	\$2,850	\$4,892
	(c) in any other proceedings	\$3,115	\$5,526
6	Filing in the Court of Appeal a summons seeking leave to appeal in proceedings where a notice of intention to appeal has not been filed	\$1,246	\$2,211
7	Allocating a date for hearing of the proceedings by one or more judges, a judge and jury or an associate judge	\$1,850	\$3,697
8	Filing a requisition for trial by jury	\$979	\$1,958
9	Retaining a jury after the first day of trial Note. The fees under this item are to be paid by the party requesting a jury for the trial.	\$447 per day	\$894 per day
10	Referring proceedings for arbitration under Division 2 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$732	—
11	Filing an application for an order for the rehearing of proceedings under Division 3 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$558	\$1,117
12	Hearing of proceedings by one or more judges, for each day of hearing or part of a day of hearing:		
	(a) on the 2nd, 3rd or 4th day	\$737	\$1,479
	(b) on the 5th, 6th, 7th, 8th or 9th day	\$1,184	\$2,568
	(c) on or after the 10th day	\$2,384	\$5,068
13	Hearing of proceedings by an associate judge, for each day of hearing or part of a day of hearing on or after the 2nd day	\$664	\$1,328
14	Preparing appeal papers (for such number of copies as the registrar orders to be printed) in volumes of not more than 250 pages	\$641 per volume	\$1,282 per volume
15	Filing a notice of motion	\$340	\$680

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
16	Preparing a copy of a will	\$53	—
17	Conducting a genealogical search on a probate file (for each file searched)	\$102	—
18	Conducting a search for an application for a grant or resealing of probate (for each file searched)	\$53	—
19	Lodging a caveat against an application for a grant or resealing of probate	\$37	\$74
20	Conducting an adoption search (for each file searched)	\$53	—
21	Issuing a registrar's certificate as to the signature of a public notary	\$53	—

Part 2 Land and Environment Court

Note. Fees that are payable in relation to proceedings before the Land and Environment Court in Class 5, 6 or 7 of its jurisdiction are set out in Part 1 of Schedule 2 to the *Criminal Procedure Regulation 2010*.

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Filing an originating process in Class 1 of the Court's jurisdiction (other than an originating process referred to in item 2)	\$807	\$1,614
2	Filing an originating process in Class 1 of the Court's jurisdiction under section 97 of the <i>Environmental Planning and Assessment Act 1979</i> where the matter relates to a development application (other than a development application relating to the subdivision of land) or to a building application, and where the value of the development or building:		
(a)	is less than \$500,000	\$807	\$1,614
(b)	is \$500,000 or more but less than \$1,000,000	\$3,692	\$4,902
(c)	is \$1,000,000 or more	\$4,611	\$6,126

Civil Procedure Amendment (Fees) Regulation 2011

Schedule 1 Amendment of Civil Procedure Regulation 2005

	Column 1	Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
3	Filing an originating process in Class 2 of the Court's jurisdiction (other than an originating process referred to in item 4)	\$807	\$1,614
4	Filing an originating process in Class 2 of the Court's jurisdiction where the matter relates to an application under the <i>Trees (Disputes Between Neighbours) Act 2006</i>	\$212	\$424
5	Filing an originating process in Class 3 of the Court's jurisdiction (other than an originating process referred to in item 6 or 7)	\$807	\$1,614
6	Filing an originating process in Class 3 of the Court's jurisdiction where the matter relates to an appeal or objection against a valuation of land, and where the value of the land, as determined by the respondent valuing authority:		
	(a) is less than \$500,000	\$284	\$568
	(b) is \$500,000 or more but less than \$1,000,000	\$447	\$894
	(c) is \$1,000,000 or more	\$807	\$1,614
7	Filing an originating process in Class 3 of the Court's jurisdiction where the matter relates to a claim for compensation for the compulsory acquisition of land, as referred to in section 24 of the <i>Land and Environment Court Act 1979</i> , and where the amount offered as compensation by the resuming or constructing authority:		
	(a) is less than \$500,000	\$807	\$1,614
	(b) is \$500,000 or more but less than \$1,000,000	\$3,692	\$4,902
	(c) is \$1,000,000 or more	\$4,611	\$6,126
8	Filing an originating process in Class 4 of the Court's jurisdiction	\$807	\$1,614
9	Filing an originating process in Class 8 of the Court's jurisdiction	\$212	\$424

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
10	Filing a process to commence an appeal to the Court under section 56A of the <i>Land and Environment Court Act 1979</i>	\$1,887	\$3,774
11	Filing a notice of motion	\$187	\$374

Part 3 District Court

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Filing an originating process (other than an originating process referred to in item 2)	\$575	\$1,150
2	Filing an originating process in relation to an appeal	\$238	\$476
3	Allocating a date for hearing of the proceedings by a judge, a judge and jury or a judicial registrar	\$615	\$1,230
4	Filing a requisition for trial by jury	\$984	\$1,968
5	Retaining a jury after the first day of trial Note. The fees under this item are to be paid by the party requesting a jury for the trial.	\$447 per day	\$894 per day
6	Referring proceedings for arbitration under Division 2 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$728	—
7	Filing an application for an order for the rehearing of proceedings under Division 3 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$558	\$1,117
8	Filing a notice of motion	\$74	\$148

Part 4 Local Court

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Filing an originating process, under Part 3 of the <i>Local Court Act 2007</i> , in the Local Court sitting in its General Division	\$212	\$424
2	Filing an originating process, under Part 3 of the <i>Local Court Act 2007</i> , in the Local Court sitting in its Small Claims Division	\$86	\$172
3	Filing an application notice under Part 4 of the <i>Local Court Act 2007</i>	\$81	—
4	Filing an application for an order for the rehearing of proceedings under Division 3 of Part 5 of the <i>Civil Procedure Act 2005</i>	\$369	\$738
5	Serving or attempting service by post of originating process by the Local Court	\$36 for each address to which process posted	—
6	Filing a notice of motion	\$74	\$148
7	Filing a notice of appeal, or application for leave to appeal, to the District Court under Part 3 of the <i>Crimes (Appeal and Review) Act 2001</i> , as applied to proceedings under Part 4 of the <i>Local Court Act 2007</i> :		
	(a) in relation to a single notice	\$100	—
	(b) in relation to more than 1 notice arising from the same court appearance	\$53	—

Part 5 Miscellaneous court fees

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
1	Issuing a subpoena (for production, to give evidence, or both)	\$72	\$144

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
2	Receipt by the registrar of a document or thing produced in compliance with a notice to produce under Part 34 of the <i>Uniform Civil Procedure Rules 2005</i>	\$72	\$144
3	Filing or registering a copy or certificate of a judgment, order, determination, decree, adjudication or award of any other court or person under section 133 of the <i>Civil Procedure Act 2005</i>	\$80	\$160
4	Opening or keeping open the registry or part of the registry: (a) on a Saturday, Sunday or public holiday (b) on any other day before 9 am or after 5 pm	\$636	\$1,272
5	Requesting production to the court of documents held by another court	\$53	\$106
6	Furnishing one or more sealed or certified copies of a judgment or order, or of the written opinion or reasons for opinion of any judicial or other officer of the court	\$53	—
7	Retrieving, providing access to and furnishing a copy of any document (otherwise than as provided for by items 6, 8 and 10)	\$11.10, plus \$5.50 for each 10 pages (or part of 10 pages) after the first 20 pages	—
8	Retrieving and providing access to, but not furnishing a copy of, any document	Nil	—
9	Supplying a duplicate recording of sound-recorded evidence—per cassette tape or disc	\$45.50	—

Civil Procedure Amendment (Fees) Regulation 2011

Schedule 1 Amendment of Civil Procedure Regulation 2005

Column 1		Column 2	Column 3
Item	Matter for which fee payable	Standard fee	Corporation fee
10	Supplying a copy of a transcript of any proceedings:		
	(a) where the matter being transcribed is under 3 months old	\$79, plus an additional \$9.70 for each page after the first 8 pages	—
	(b) where the matter being transcribed is 3 months old or older	\$97, plus an additional \$11 for each page after the first 8 pages	—
11	Providing any service for which a fee is not otherwise imposed by this Schedule Note. A fee may not be imposed under this item except with the approval of the registrar.	\$37	\$74

Schedule 2 Sheriff's fees

(Clause 5)

Column 1		Column 2
Item	Matter for which fee payable	Fee
1	Serving or attempting service of any document, including service by post and preparation of affidavit of service	\$58 for each address at which, and each occasion on which, service is effected or attempted
2	Executing or attempting execution of an arrest warrant under section 97 of the <i>Civil Procedure Act 2005</i>	\$72 for each address at which, and each occasion on which, execution is effected or attempted
3	Executing or attempting execution of a writ of possession under Part 8 of the <i>Civil Procedure Act 2005</i>	\$299 for each address at which, and each occasion on which, execution is effected or attempted
4	Executing or attempting execution of a writ of delivery under Part 8 of the <i>Civil Procedure Act 2005</i>	\$72 for each address at which, and each occasion on which, execution is effected or attempted

Column 1	Column 2	
Item	Matter for which fee payable	Fee
5	<p>Executing or attempting execution of a writ for the levy of property under Part 8 of the <i>Civil Procedure Act 2005</i></p> <p>Note. The 3% levy in Column 2 is not payable in relation to writs executed by the Marshal in Admiralty.</p>	\$72 for each address at which, and each occasion on which, execution is effected or attempted, plus 3% of the proceeds of enforcement
6	Executing or attempting execution of any court process (other than a warrant or writ referred to in item 2, 3, 4 or 5)	\$299 for each address at which, and each occasion on which, execution is effected or attempted
7	Preparing for sale of land following receipt of notice of sale from judgment creditor under rule 39.22 of the <i>Uniform Civil Procedure Rules 2005</i>	\$733
8	Furnishing a certified copy of a writ for the levy of property for registration under section 105A of the <i>Real Property Act 1900</i>	\$21
9	Providing Sheriff's officers to guard property seized under a writ of execution under Part 8 of the <i>Civil Procedure Act 2005</i>	\$400 per Sheriff's officer per day
10	Attending a view by a jury in civil proceedings	\$159
11	Opening or keeping open the Sheriff's office on a Saturday, Sunday or public holiday or on any other day before 9 am or after 5 pm	\$641
12	Retrieving, providing access to and furnishing a copy of any document (otherwise than as provided by item 8)	\$11.10, plus \$5.50 for each 10 pages (or part of 10 pages) after the first 20 pages