

Reprint
as at 21 November 2016



Supreme Court Fees Regulations 2003 (SR 2003/359)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 8th day of December 2003

Present:

Her Excellency the Governor-General in Council

Pursuant to section 39(1) of the Supreme Court Act 2003, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

	Page
1 Title	2
2 Commencement	2
3 Interpretation	2
4 Fees of court	2
5 Power to waive fees	2
6 Payment of fee may be postponed pending determination of application for waiver or review	4
7 Recovery of postponed fee	4
8 Power to refund fees	4

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Justice.

9	GST included	5
10	Appeals to which regulations do not apply	5
11	Transitional provision	5

	Schedule	5
	Fees payable in respect of appeals to court	

Regulations

1 Title

These regulations are the Supreme Court Fees Regulations 2003.

2 Commencement

These regulations come into force on 1 January 2004.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Supreme Court Act 2003

appeal includes, except in items 1, 3, and 4 of the Schedule, an application for leave to appeal

court means the Supreme Court of New Zealand

Registrar means the Registrar of the court, and includes a Deputy Registrar of the court.

Regulation 3 **appeal**: amended, on 1 July 2013, by regulation 4 of the Supreme Court Fees Amendment Regulations 2013 (SR 2013/223).

4 Fees of court

- (1) The fees specified in the Schedule are payable, and must be taken by the Registrar, in appeals to the court in respect of the matters specified in that schedule.
- (2) All fees must be prepaid.
- (3) Subclause (2) is subject to regulations 5 and 6.

5 Power to waive fees

- (1) A person (the **applicant**) otherwise responsible for the payment of a fee required in connection with an appeal or an intended appeal may apply to the 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 one of the criteria specified in subclause (3), that the applicant is unable to pay the fee; or
 - (b) that the appeal,—

- (i) on the basis of one 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 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 and Retirement Income Act 2001 or a veteran's pension under the Veterans' Support Act 2014; or
 - (iii) would otherwise suffer undue financial hardship if he or she paid the fee.
- (4) For the purposes of these regulations, an appeal that concerns a matter of genuine public interest is—
 - (a) an appeal 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) an appeal that—
 - (i) raises issues of significant interest to the public or to a substantial section of the public; and
 - (ii) is against a judgment, decree, or order given or made in a proceeding 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 Secretary for Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

Regulation 5(3): substituted, on 1 July 2004, by regulation 3 of the Supreme Court Fees Amendment Regulations 2004 (SR 2004/170).

Regulation 5(3)(b)(ii): amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Regulation 5(3)(b)(ii): amended, on 21 April 2005, by section 9(2) of the New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42).

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

- (1) The Registrar may, on application by a person who is awaiting the determination of an application under regulation 5(1) or section 40 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) The 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 Secretary for Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

7 Recovery of postponed fee

- (1) This regulation applies to a fee (the **fee**) that has been postponed under regulation 6.
- (2) If the effect of a determination under regulation 5 or section 40 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 appeal to which the fee relates unless the fee is paid.
- (4) This regulation has effect subject to regulation 6 during any period that the question of the waiver of the fee is the subject of a pending application under section 40 of the Act.

8 Power to refund fees

- (1) The 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 5, for a waiver of the fee was made; and
 - (b) the fee would have been waived, in accordance with regulation 5, 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 Secretary for Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

9 GST included

The fees prescribed by these regulations include goods and services tax.

10 Appeals to which regulations do not apply

These regulations do not apply to—

- (a) criminal appeals; or
- (b) civil appeals under the Criminal Proceeds (Recovery) Act 2009; or
- (c) appeals under the Bail Act 2000; or
- (d) appeals under the Harmful Digital Communications Act 2015.

Regulation 10: replaced, on 1 July 2013, by regulation 5 of the Supreme Court Fees Amendment Regulations 2013 (SR 2013/223).

Regulation 10(c): replaced, on 21 November 2016, by regulation 4 of the Supreme Court Fees Amendment Regulations 2016 (LI 2016/231).

Regulation 10(d): inserted, on 21 November 2016, by regulation 4 of the Supreme Court Fees Amendment Regulations 2016 (LI 2016/231).

11 Transitional provision

In respect of proceedings commenced before 1 July 2013,—

- (a) these regulations as in force immediately before 1 July 2013 apply in respect of any step taken before that date; and
- (b) these regulations as in force on and from 1 July 2013 apply in respect of any step taken on or after that date.

Regulation 11: inserted, on 1 July 2013, by regulation 5 of the Supreme Court Fees Amendment Regulations 2013 (SR 2013/223).

Schedule Fees payable in respect of appeals to court

r 4

Schedule: replaced, on 1 July 2013, by regulation 6 of the Supreme Court Fees Amendment Regulations 2013 (SR 2013/223).

Category	Item	Matter for which fee is payable	Fee (\$)
<i>Filing fees</i>	1	Filing an application for leave to appeal	1,100
	2	Filing an interlocutory application,—	
	(a)	in the case of an application for a review of a Registrar's decision	no fee
	(b)	in any other case	400
<i>Scheduling</i>	3	Scheduling the hearing date for an appeal and hearing an appeal for the first day	1,000
<i>Hearings</i>	4	Hearing an appeal, for each half-day or part of a half-day after the first day	500

Category	Item	Matter for which fee is payable	Fee (\$)
<i>Administrative fees</i>	5	Sealing an order or a judgment and providing, at the same time, any duplicate or certified copy of that order or judgment	50
	6	Copying a judgment,—	
		(a) for the first copy that is provided to a party to the proceeding or that party's counsel	no fee
		(b) where paragraph (a) does not apply	30
	7	Copying any document (other than a judgment),—	
		(a) for the first copy of any part or parts of the court file, or any document relating to the appeal, that is provided to a party to the proceeding or that party's counsel	no fee
		(b) where paragraph (a) does not apply,—	
		(i) for each black and white page	0.20
		(ii) for each colour page	0.40
		(iii) for documents in electronic form	actual and reasonable costs

Diane Morcom,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 11 December 2003.

Reprints notes

1 *General*

This is a reprint of the Supreme Court Fees Regulations 2003 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Supreme Court Fees Amendment Regulations 2016 (LI 2016/231)

Veterans' Support Act 2014 (2014 No 56): section 278

Supreme Court Fees Amendment Regulations 2013 (SR 2013/223)

New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42): section 9(2)

Supreme Court Fees Amendment Regulations 2004 (SR 2004/170)