

## Reprint

as at 20 November 2009

# District Courts Fees Regulations 2001

(SR 2001/106)

District Courts Fees Regulations 2001: revoked, on 20 November 2009, by regulation 12(1) of the District Courts Fees Regulations 2009 (SR 2009/318).

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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#### Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

**These regulations are administered in the Department for Courts.**

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	<b>Fees payable in respect of proceedings in District Courts</b>	

## 1 Title

These regulations are the District Courts Fees Regulations 2001.

## 2 Commencement

These regulations come into force on 15 October 2001.

Regulation 2: amended, on 28 September 2001, by regulation 3 of the District Courts Fees Amendment Regulations (No 2) 2001 (SR 2001/293).

## 3 Application

- (1) These regulations apply to—
- (a) any civil proceedings taken in a District Court under the District Courts Act 1947; and
  - (b) any proceedings under section 357 of the Property Law Act 2007 (which relates to orders dispensing with, or directing the manner of, service of notices, cross-notices, or other documents).
- (2) Subject to subclause (1), these regulations do not apply to proceedings under an enactment other than the District Courts Act 1947 unless the enactment otherwise provides.

Regulation 3(1)(b): substituted, on 1 January 2008, by regulation 4 of the District Courts Fees (Property Law Act 2007) Amendment Regulations 2007 (SR 2007/388).

## 4 Fees of court

- (1) The fees payable for proceedings to which these regulations apply are those specified in the Schedule; and all those fees must be prepaid.
- (2) Subclause (1) is subject to regulations 4A and 4B.

Regulation 4(2): added, on 15 October 2001, by regulation 3 of the District Courts Fees Amendment Regulations (No 3) 2001 (SR 2001/311).

#### **4A 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 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 War Pensions Act 1954; 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 signifi-

- cant 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.

Regulation 4A: inserted, on 15 October 2001, by regulation 4 of the District Courts Fees Amendment Regulations (No 3) 2001 (SR 2001/311).

Regulation 4A(3): substituted, on 1 July 2004, by regulation 3 of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Regulation 4A(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).

#### **4B 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 4A(1) or section 123A of the District Courts Act 1947, 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.

Regulation 4B: inserted, on 15 October 2001, by regulation 4 of the District Courts Fees Amendment Regulations (No 3) 2001 (SR 2001/311).

**4C Recovery of postponed fee**

- (1) This regulation applies to a fee (the **fee**) that has been postponed under regulation 4B.
- (2) If the effect of a determination under regulation 4A or section 123A of the District Courts Act 1947 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 4B during any period that the question of the waiver of the fee is the subject of a pending application under section 123A of the District Courts Act 1947.

Regulation 4C: inserted, on 15 October 2001, by regulation 4 of the District Courts Fees Amendment Regulations (No 3) 2001 (SR 2001/311).

**4D 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 4A, for a waiver of the fee was made; and
  - (b) the fee would have been waived, in accordance with regulation 4A, had such an 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.

Regulation 4D: inserted, on 15 October 2001, by regulation 4 of the District Courts Fees Amendment Regulations (No 3) 2001 (SR 2001/311).

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

If any District Court makes an order under rule 432 of the District Courts Rules 1992 in respect of any proceeding (other than a proceeding for which the fee specified in item 6 of the Schedule has been paid), the fee specified in that item is payable for that proceeding not later than the earlier of—

- (a) the commencement of the hearing; or
- (b) the expiration of the period of 7 days beginning with the day after the day on which the order is made.

Regulation 5: amended, on 1 July 2004, by regulation 4 of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

## **6 Manner in which hearing fees to be prepaid**

- (1) The hearing fees specified in item 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 in the proceeding who files an application for a fixture under rule 426 of the District Courts Rules 1992 or who makes an application under rule 432 of the District Courts Rules 1992 is responsible for the payment of the hearing fee or fees.
- (3) If a claim in any proceeding is discontinued but a counterclaim remains to be heard, the party still requiring the hearing is responsible for the payment of the hearing fee or fees for that hearing.
- (4) If 2 or more proceedings are to be heard together, hearing fees must be paid for each proceeding unless the Court otherwise directs.

Regulation 6(1): amended, on 1 July 2004, by regulation 5 of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

## **7 GST included**

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

## **8 Revocation**

- (1) The District Courts Fees Regulations 1997 (SR 1997/324) are consequentially revoked.

- (2) No further fee is payable under the District Courts Fees Regulations 1997 for proceedings commenced before the date on which these regulations come into force, and the appropriate fees, if any, set out in the Schedule are payable in respect of any step taken on or after that date.

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**Schedule** r 4  
**Fees payable in respect of proceedings in**  
**District Courts**

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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	140
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	
9	Sealing the original copy of any document	40.00

However, no sealing fee is payable in respect of any order made in an interlocutory proceeding, other than an order made on a summary judgment application.

10	Attendance before Registrar in inquiry or reference or examination of witnesses by Registrar under an order of the Court	335.00
11	Filing application for an attachment order	80.00
12	Filing application under section 84B of the District Courts Act 1947 for an examination of judgment debtor	90.00
13	Filing application for warrant of distress or warrant for recovery of specific chattels or warrant for recovery of land	55.00
14	Filing application under rule 378 of the District Courts Rules 1992 for an order that a witness be examined otherwise than at the time and place appointed for the hearing of the proceeding	145.00
15	Filing application under rule 566 of the District Courts Rules 1992 for an order that any party be examined, for each party	135.00
16	Application for charging order nisi or charging order absolute	80.00
17	Filing affidavit in support of garnishee summons	105.00
18	Issue of certificate of judgment or order	30.00
19	For search in any Court book or of any documents	20.00

20	Copy of any document, other than a document specified in item 21, per page	actual and reasonable costs
21	Copy of notes of District Court Judge or Registrar, or of any judgment or order (other than a copy supplied to a party to the proceeding),—	
	(a) not exceeding 5 pages	15.00
	(b) exceeding 5 pages but not exceeding 50 pages	30.00
	(c) exceeding 50 pages but not exceeding 75 pages	40.00
	(d) exceeding 75 pages	50.00
22	For faxing documents at the request of a party (except where documents have to be faxed for operational reasons) \$2.00 plus, per page faxed, \$1.00	
23	For expenses of execution of any warrant of committal or writ of arrest: the actual expenses incurred by the bailiff or constable, including the costs of conveyance and lodging in prison of the person arrested	
24	For storage, cartage, and removal of goods, or advertising of goods for sale: actual and reasonable disbursements	
25	For each person left in possession of any premises: fees, allowances, and expenses as allowed to a witness in accordance with the Witnesses and Interpreters Fees Regulations 1974	

Schedule item 1: substituted, on 1 July 2004, by regulation 6(a) of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Schedule item 2: substituted, on 1 July 2004, by regulation 6(a) of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Schedule item 3: substituted, on 1 July 2004, by regulation 6(a) of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Schedule item 4: substituted, on 1 July 2004, by regulation 6(a) of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Schedule item 4: amended, on 1 July 2004, by regulation 3 of the District Courts Fees Amendment Regulations (No 2) 2004 (SR 2004/189).

Schedule item 5: substituted, on 1 July 2004, by regulation 6(a) of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Schedule item 6: substituted, on 1 July 2004, by regulation 6(a) of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Schedule item 7: substituted, on 1 July 2004, by regulation 6(a) of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Schedule item 8: substituted, on 1 July 2004, by regulation 6(a) of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Schedule item 20: amended, on 1 July 2004, by regulation 6(b) of the District Courts Fees Amendment Regulations 2004 (SR 2004/164).

Martin Bell,  
for Clerk of the Executive Council.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 31 May 2001.

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**Notes****1 General**

This is an eprint of the District Courts Fees Regulations 2001. It incorporates all the amendments to the regulations as at 20 November 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

**2 About this eprint**

This eprint has not been officialised. For more information about officialisation, please *see* “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

**3 List of amendments incorporated in this eprint (most recent first)**

District Courts Fees Regulations 2009 (SR 2009/318): regulation 12(1)  
District Courts Fees (Property Law Act 2007) Amendment Regulations 2007 (SR 2007/388)

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