High Court Fees Amendment Regulations 2004

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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1 Title

(1) These regulations are the High Court Fees Amendment Regulations 2004.

(2) In these regulations, the High Court Fees Regulations 2001[1] are called "the principal regulations".

[1] SR 2001/310

2 Commencement

These regulations come into force on 1 July 2004.

3 Interpretation

Regulation 3 of the principal regulations is amended by revoking the definition of **public law proceeding** and inserting, in its appropriate alphabetical order, the following definition:

"**concession rate proceeding** means any of the following proceedings:—

"(a) an appeal to the Court under any enactment; or

"(b) an application for review under Part 1 of the Judicature Amendment Act 1972; or

"(c) a proceeding to which Part 4 of the High Court Rules applies; or

"(d) an originating application to which Part 4A of the High Court Rules applies; or

"(e) an application to which Part 7 of the High Court Rules applies; or

"(f) an application to put a company into liquidation to which Part 9A of the High Court Rules applies."

4 New regulation 4 substituted

The principal regulations are amended by revoking regulation 4, and substituting the following regulation:

"**4 Application**

"(1) These regulations apply to civil proceedings in the Court.

"(2) Nothing in these regulations applies to applications under the Proceeds of Crime Act 1991."

5 Power to waive fees

Regulation 6 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."

6 Payment of fees for determining setting down dates

Regulation 11(1) of the principal regulations is amended by omitting the expression "item 5", and substituting the expression "item 6".

7 Payment of fees for determining hearing dates for appeals

Regulation 11A(1) of the principal regulations is amended by omitting the expression "item 6", and substituting the expression "item 7".

8 Hearing fees to be prepaid

Regulation 12(1) of the principal regulations is amended by omitting the expression "item 7 or item 8", and substituting the expression "item 8 or item 9".

9 New Schedule substituted

The principal regulations are amended by revoking the Schedule, and substituting the Schedule set out in the Schedule of these regulations.

Schedule

r 9

New Schedule substituted in principal regulations

Schedule

r 5(1)

Fees payable in respect of proceedings in Court

		$
1	Filing (including sealing where necessary) the original document commencing any proceeding (other than an interlocutory proceeding) to which these regulations apply, unless otherwise provided for,—	
	(a) in the case of a concession rate proceeding:	400
	(b) in the case of any other proceeding:	1,100
	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 4 or Part 4A 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.	

Schedule—*continued*

2	Filing an interlocutory application (other than an application for summary judgment)—	
	(a) if made in a concession rate proceeding:	200
	(b) if made in any other proceeding:	600
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; or	
	(e) a third party notice; or	
	(f) a statement of claim between defendants; or	
	(g) a statement of defence between defendants:	90
4	Filing a counterclaim, or statement of defence and counterclaim where both are included in the 1 document—	
	(a) in the case of a concession rate proceeding:	400
	(b) in the case of any other proceeding:	1,100
5	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
6	Determination of setting down date for a proceeding on the standard track (other than an undefended demand for an unliquidated amount)—	

Schedule—*continued*

	(a) in the case of a concession rate proceeding:	1,000
	(b) in the case of any other proceeding on the standard track:	2,600
7	Determination of hearing date for appeal:	1,000
8	Hearing fee for each half-day or part half-day after the first day—	
	(a) if required for a concession rate proceeding:	500
	(b) if required for any other proceeding:	1,300
	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).	
9	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):	1,300
10	Sealing the original copy of any judgment, order, rule memorial, certificate, commission, letters of request, or judgment not otherwise provided for:	40
	However, no sealing fee is payable in respect of—	

Schedule—*continued*

	(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.	
11	Issue of certified copy of any document or any Registrar's certificate:	35
12	Filing an application for admission as a barrister and solicitor:	100
13	Filing an application for probate or letters of administration:	75
	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.	
14	Sealing exemplifications or duplicates (probate or letters of administration) or resealing under section 71 of the Administration Act 1969:	20
15	Attendance before a Registrar in an inquiry or reference, or an examination of witnesses by a Registrar under an order of the Court:	365
16	Copy of a judgment (other than a 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

Schedule—*continued*

	(d) exceeding 75 pages:	50
17	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
18	Copy of any document, other than a judgment, per page:	actual and reasonable costs
19	Search of Court records (including a search relating to 1 or more files)—	
	for each search:	25
20	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.	
21	Appointment of Commissioner to take affidavits:	265

Diane Morcom,
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 1 July 2004, amend the High Court Fees Regulations 2001.

Regulation *3* revokes the definition of **public law proceeding** and inserts a definition of **concession rate proceeding** that comprises appeals, applications for judicial review, company liquidations, and matters to which Part 4 (special cases), Part 4A (originating applications), and Part 7 (extraordinary remedies) of the High Court Rules apply. These proceedings will be entitled to a concession rate in the new Schedule of fees.

Regulation *4* provides that the principal regulations do not apply to applications under the Proceeds of Crime Act 1991.

Regulation *5* amends regulation 6 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 *6 to 9* relate to fees payable for proceedings in the High Court. Regulation *9* revokes the existing schedule of fees and substitutes a new schedule. The main changes to the fees are as follows:

- fees for proceedings in the High Court are increased in a number of areas, principally in relation to:
  - filing documents commencing proceedings, interlocutory applications, and counterclaims:
  - determination of setting down dates for proceedings, and hearing dates for appeals:
  - hearings, including the hearing of interlocutory applications for summary judgment:
- new fees are introduced for filing third party notices and cross-claims between defendants:
- the fee for an application for admission as a barrister and solicitor is reduced:
- no separate fee will now be payable for an application for summary judgment once the initial filing fee has been paid:
- it is made clear that no fee is payable for determining a setting down date for an undefended demand for an unliquidated amount:

- the fee for photocopying documents other than judgments, per page, is now actual and reasonable costs.

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