

Legislative Council—No 232

As received from the House of Assembly and read a first time, 26 September 2017

South Australia

Statutes Amendment (Court Fees) Bill 2017

A BILL FOR

An Act to amend the *District Court Act 1991*; the *Magistrates Court Act 1991*; the *Sheriff's Act 1978*; and the *Supreme Court Act 1935*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Court Fees) Act 2017*.

5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 Part 2—Amendment of *District Court Act 1991*

4—Amendment of section 53—Court fees

- (1) Section 53(1)—after "Court" insert:

, or any step in such proceedings

- (2) Section 53—after subsection (1) insert:

- 15 (1a) Without limiting the generality of subsection (1), the regulations may provide for all or any of the following matters:

- (a) specific fees;
- (b) maximum fees;

(2) Section 50—after subsection (1) insert:

(1a) Without limiting the generality of subsection (1), the regulations may provide for all or any of the following matters:

- (a) specific fees;
- (b) maximum fees;
- (c) minimum fees;
- (d) fees that vary according to value, time, class of matter, or on any other basis;
- (e) fees that differ for different classes of proceedings, different classes of party or different jurisdictions of the Court;
- (f) the manner of payment of fees;
- (g) the time or times at which fees are to be paid,

and it is not necessary for a fee to be related to the actual administrative cost incurred.

(1b) The regulations may—

- (a) be of general or limited application; and
- (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
- (c) provide in a specified case or class of case for the exemption of any proceeding, person or thing, or a class of proceeding, person or thing, from any of the provisions of the regulations, whether—
 - (i) unconditionally or on specified conditions; and
 - (ii) either wholly or to such an extent as is specified; and
- (d) provide for the payment in advance of a fee or part of a fee prescribed under the regulations; and
- (e) provide for the reduction, waiver, postponement, remission or refund, in whole or in part, of a fee prescribed under the regulations; and
- (f) provide, in specified circumstances, for the reinstatement or payment, in whole or in part, of a fee prescribed under the regulations which was reduced, waived, postponed, remitted or refunded under the regulations; and
- (g) confer a discretionary authority or impose a duty on the Court, a member of the Court's judiciary or a Registrar.

Part 4—Amendment of *Sheriff's Act 1978*

6—Amendment of section 16—Regulations

Section 16—after subsection (4) insert:

5 (5) Regulations made for the purposes of subsection (4)(b) may provide for all or any of the following matters:

- 6 (a) specific fees;
- 7 (b) maximum fees;
- 8 (c) minimum fees;
- 9 (d) fees that vary according to value, time, class of matter, or on
- 10 any other basis;
- 11 (e) fees that differ for different classes of proceedings or
- 12 different classes of party;
- 13 (f) the manner of payment of fees and expenses;
- 14 (g) the time or times at which fees are to be paid,

15 and it is not necessary for a fee to be related to the actual administrative cost incurred.

Part 5—Amendment of *Supreme Court Act 1935*

7—Amendment of section 130—Court fees

(1) Section 130—after subsection (1) insert:

20 (1a) Without limiting the generality of subsection (1), the regulations may provide for all or any of the following matters:

- 21 (a) specific fees;
- 22 (b) maximum fees;
- 23 (c) minimum fees;
- 24 (d) fees that vary according to value, time, class of matter, or on
- 25 any other basis;
- 26 (e) fees that differ for different classes of proceedings, different
- 27 classes of party or different jurisdictions of the court;
- 28 (f) the manner of payment of fees;
- 29 (g) the time or times at which fees are to be paid,

30 and it is not necessary for a fee to be related to the actual administrative cost incurred.

(1b) The regulations may—

- 31 (a) be of general or limited application; and
- 32 (b) make different provision according to the persons, things or
- 33 circumstances to which they are expressed to apply; and
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- 35

(c) provide in a specified case or class of case for the exemption of any proceeding, person or thing, or a class of proceeding, person or thing, from any of the provisions of the regulations, whether—

- 5
- (i) unconditionally or on specified conditions; and
 - (ii) either wholly or to such an extent as is specified; and

(d) provide for the payment in advance of a fee or part of a fee prescribed under the regulations; and

10 (e) provide for the reduction, waiver, postponement, remission or refund, in whole or in part, of a fee prescribed under the regulations; and

15 (f) provide, in specified circumstances, for the reinstatement or payment, in whole or in part, of a fee prescribed under the regulations which was reduced, waived, postponed, remitted or refunded under the regulations; and

(g) confer a discretionary authority or impose a duty on the court, a member of the court's judiciary or the registrar.

(2) Section 130(3)—delete subsection (3)