

South Australia

Supreme Court Regulations 2005

under the *Supreme Court Act 1935*

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Legislative history

1—Short title

These regulations may be cited as the *Supreme Court Regulations 2005*.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Supreme Court Act 1935*;

corporation has the same meaning as in the *Corporations Act 2001* of the Commonwealth;

gross value, of a deceased estate, means the value of the estate without deduction for debts, encumbrances or funeral expenses as disclosed to the Registrar in accordance with the rules of court made under the Act;

not-for-profit organisation means a corporation that is not for the purpose of trading or securing a pecuniary profit for its members from its transactions;

prescribed corporation means a corporation other than—

- (a) a small business; or
- (b) a not-for-profit organisation;

Registrar means a person holding, or acting in, the office of—

- (a) the Registrar of the court in its general jurisdiction; or
- (b) the Registrar of Probates,

as the case requires;

small business means a corporation that—

- (a) has less than 20 full-time equivalent employees; and
- (b) is not a subsidiary of a corporation that has 20 or more full-time employees;

subsidiary has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

4—Definition of prescribed court (section 39)

For the purposes of paragraph (d) of the definition of *prescribed court* in section 39(6) of the Act, the following tribunals are prescribed:

- (a) Legal Practitioners Disciplinary Tribunal;
- (b) South Australian Civil and Administrative Tribunal;
- (c) Equal Opportunity Tribunal.

5—Fees in general jurisdiction

- (1) The fees payable for proceedings in the court's general jurisdiction are—
 - (a) the fees set out in Schedule 1; and
 - (b) in addition, any costs reasonably incurred in the execution of process.

Examples—

- (a) sums expended in attending the discharge of a ship or goods;
 - (b) sums paid to a shipkeeper;
 - (c) sums paid for the safe custody of property;
 - (d) travelling expenses;
 - (e) necessary meals;
 - (f) sums paid to engage assistants;
 - (g) postage, telephone calls;
 - (h) fees paid to auctioneers or appraisers.
- (2) The Registrar may require a party to proceedings to pay a deposit on account of any amount to which the party may become liable under these regulations.
- (3) For the purposes of section 131 of the Act, the fees payable for inspection or copying of material in proceedings in the general jurisdiction are the appropriate fees set out in Schedule 1.

6—Fees in probate jurisdiction

- (1) The fees payable for proceedings in the court's probate jurisdiction are as specified in Schedule 2.
- (2) For the purposes of section 131 of the Act, the fees payable for inspection or copying of material in the probate jurisdiction are the appropriate fees set out in Schedule 2.

- (3) If, after an application has been lodged under clause 1, 1A or 1B of Schedule 2 in respect of a deceased estate, the Registrar determines, on further inquiry, that the gross value of the estate is other than disclosed at the time of the application, the Registrar must—
- (a) where the gross value of the estate is less than originally disclosed—refund to the applicant an amount equal to the difference between the application fee charged and the fee that would have been charged had the original gross value disclosed been accurate; or
 - (b) where the gross value of the estate is more than originally disclosed—require the applicant to pay an amount equal to the difference between the application fee charged and the fee that would have been charged had the original gross value disclosed been accurate.

Schedule 1—Fees in general jurisdiction

Part 1—General

General Fees

1	On filing an application for disclosure of documents before the commencement of a proceeding	
	(a) for a prescribed corporation	\$572.00
	(b) for any other person	\$404.00
2	On filing a document by which a proceeding in the court is commenced—	
	(a) in the case where a fee has previously been paid for filing an application for disclosure of documents relating to the subject-matter of the proceeding—	
	(i) for a prescribed corporation	\$2 785.00
	(ii) for any other person	\$1 975.00
	(b) in any other case—	
	(i) for a prescribed corporation	\$3 357.00
	(ii) for any other person	\$2 379.00
3	On filing a counterclaim or third party action	
	(a) for a prescribed corporation	\$3 357.00
	(b) for any other person	\$2 379.00
4	On filing a summons for permission to appeal	
	(a) for a prescribed corporation	\$572.00
	(b) for any other person	\$404.00
5	On filing a notice of appeal for which permission to appeal is required	
	(a) for a prescribed corporation	\$2 785.00
	(b) for any other person	\$1 975.00
6	On filing a notice of appeal in respect of an appeal as of right	
	(a) for a prescribed corporation	\$3 357.00
	(b) for any other person	\$2 379.00

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Schedule 1—Fees in general jurisdiction

Note—

No further fee is payable for filing pleadings or particulars or for any interlocutory application, interlocutory motion, application for directions or application for immediate relief, for signing judgment or for any necessary affidavit or document.

- 7 On—
- (a) filing or lodging an application, notice or other document that does not relate to a proceeding for which a fee has been paid under any of the previous clauses \$71.50
 - (b) sealing a certificate \$71.50
 - (c) certifying under seal that a document is a true copy \$71.50
- 8 For each request to search and/or inspect a record of the court, other than a Divorce or Matrimonial Causes record \$22.70

Note—

No fee is payable under this clause for a request made in respect of a record relating to criminal proceedings by or on behalf of the defendant or the victim of the offence that is the subject of those proceedings.

- 9 For a copy of a document (other than a copy of evidence)—per page \$4.60
- 10 For a copy of evidence—per page \$7.60
- 11 For a copy of the reasons for judgment—per page \$7.60

Note—

1 copy will be supplied to a party to the proceedings free of charge.

- 12 The fee for a data storage device containing a record of court proceedings (including reasons for judgment) is the fee that would be payable under these regulations for a printed copy of the record of the proceedings **plus** for each day or part of a day on which the proceedings were recorded \$121.00
- 13 For production of a transcript on the request of a party where the court does not require the transcript—per page \$15.40
- 14 Trial fee—for each day or part of a day on which the trial is heard by the court—
- (a) for a prescribed corporation \$3 357.00
 - (b) for any other person \$2 379.00

Note—

The fee for a trial is the fee fixed under clause 14 as in force on the day on which the trial commenced and is payable by the plaintiff or appellant in the proceedings. However, if the court or Registrar so orders, the fee is payable by another party to the proceedings or by the parties to the proceedings in the proportions ordered.

Suitors' Funds

- 15 On interest collected on funds in court or credited to an account, payable from time to time or prior to the payment or transfer of interest out of any fund or money in court—
- (a) if the interest is \$10.00 or less no fee
 - (b) in any other case 3% of amount of interest

Fees Payable on Adjudication of Costs

16	On filing—		
	(a)	an itemised schedule of costs	\$71.50
	(b)	an application for adjudication of legal costs	\$71.50
17	For adjudicating an itemised schedule of costs		5% of amount allowed on adjudication (to nearest dollar)

Miscellaneous

18	On serving on a Registrar of the Magistrates Court copies of a notice of appeal to the Supreme Court against a decision of the Magistrates Court pursuant to section 42 of the <i>Magistrates Court Act 1991</i>		\$223.00
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Note—

This fee is payable at the Magistrates Court when the appeal is lodged.

19	For opening the Registry (or the Registry remaining open) after hours for urgent execution of process—for each hour or part of an hour		\$366.00
20	For opening the court (or the court remaining open) after hours for urgent hearing—for each hour or part of an hour		\$1 100.00

Part 2—Fees payable under rules regulating admission of practitioners

21	On application for admission or re-admission as a practitioner		\$563.00
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Part 3—Fees to be taken by officers of the court or Commissioners for taking affidavits

22	On taking an affidavit or an affirmation or attestation upon honour or a declaration (for each person making the affidavit, affirmation, attestation upon honour or declaration)—		
	(a)	if taken by a Commissioner who has to travel more than 1 kilometre from his or her residence or office or, in the case of an officer of the court, 1 kilometre from the Registry	\$12.10
	(b)	in any other case—	
	(i)	if taken within the State	\$2.50
	(ii)	if taken outside the State	\$4.70
23	For attesting a document required to be attested by a Commissioner for taking affidavits		\$2.50
24	Commissioner's fee on execution of bail in the Admiralty jurisdiction, including any affidavit of justification		\$19.50

Part 4—Fees to be taken in marshal's office

25	Receiving and entering a writ of summons, warrant of release, decree, order, commission or other instrument under the seal of the court		\$58.50
26	For—		
	(a)	service of a writ of summons	\$48.75
	(b)	execution of a warrant of arrest—for each person	\$101.00
		but, if a writ is served and a warrant executed on a person at the same time	\$131.00
27	For execution of a warrant for the seizure of a ship, cargo or other goods		\$101.00

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Schedule 1—Fees in general jurisdiction

28	For the release of any ship, goods or person from seizure or arrest	\$48.75
29	For the execution of a commission of appraisement or sale	\$101.00
30	For the execution of any decree, order, commission or instrument other than 1 otherwise specified in this Part	\$101.00
31	For delivery of a ship or goods to a purchaser	\$101.00
32	For attending the discharge of cargo or removal of a ship or goods—payable per day or part of a day	\$101.00
33	For opening office (or office remaining open) after hours for urgent execution of process—payable per hour or part of an hour	\$366.00
34	On the gross proceeds of any ship or goods sold—	
	(a) for every \$200 or part of \$200, up to \$20 000	\$20.00
	(b) for each additional \$200 or part of \$200	\$12.10
35	For retaining possession of a ship (with or without cargo) or of a ship's cargo—for each day or part of a day	\$58.50

Note—

No fee is payable under this Part for the custody and possession of property seized if it consists of money with an ADI, or goods stored in a bonded warehouse, or if it is in the custody of a customs officer or other authorised person.

Schedule 2—Fees in probate jurisdiction

1	On lodging an application for a grant of probate or administration in respect of a deceased estate the gross value of which—	
	(a) is \$200 000 or less	\$750.00
	(b) is more than \$200 000 but less than or equal to \$500 000	\$1 500.00
	(c) is more than \$500 000 but less than or equal to \$1 million	\$2 000.00
	(d) is more than \$1 million	\$3 000.00
1A	On lodging an application for the sealing of a grant under section 17 of the <i>Administration and Probate Act 1919</i> in respect of a deceased estate the gross value of which—	
	(a) is \$200 000 or less	\$750.00
	(b) is more than \$200 000 but less than or equal to \$500 000	\$1 500.00
	(c) is more than \$500 000 but less than or equal to \$1 million	\$2 000.00
	(d) is more than \$1 million	\$3 000.00
1B	On lodging an application for an order under section 9 of the <i>Public Trustee Act 1995</i> in respect of a deceased estate the gross value of which—	
	(a) is \$200 000 or less	\$750.00
	(b) is more than \$200 000 but less than or equal to \$500 000	\$1 500.00
	(c) is more than \$500 000 but less than or equal to \$1 million	\$2 000.00
	(d) is more than \$1 million	\$3 000.00

Note—

The fees under clauses 1 to 1B (inclusive) cover—

- (a) photocopies required of the will or other document (if any) for the grant and record or other purposes; and
- (b) preparing and sealing any probate or letters of administration, with or without the will annexed, and any order to the Public Trustee to administer; and
- (c) sealing any probate or letters of administration, with or without the will annexed, exemplification or other document under section 17 of the *Administration and Probate Act 1919*.

2	On lodging an application to amend a grant or for noting on a grant that the deceased died domiciled in South Australia if not so noted when the grant was issued (inclusive fee)	\$82.00
3	On lodging 2 certified photocopies of an order under the <i>Inheritance (Family Provision) Act 1972</i> for annexation to the grant and for the record (inclusive fee)	\$82.00
4	On lodging an application to revoke or impound a grant (inclusive fee)	\$82.00
5	For a photographic copy of a will or extract of a will or other document—for each photographic sheet supplied	\$3.90
6	For impressing a seal of the court on a copy	\$36.50

Note—

This fee is not payable where the fee under clause 8 is payable.

7	For the Registrar's certificate in verification of a copy	\$36.50
8	For an exemplification of probate or letters of administration, with or without the will annexed (in addition to the fee under clause 5)	\$82.00
9	For the entry or withdrawal of a caveat, for a warning to a caveat or for service of a warning to a caveat sent by the Registrar through the post	\$33.70
10	On entering an appearance—for 1 or more persons	\$58.50
11	For sealing a citation or a subpoena	\$33.70
12	For a search for a will or other document filed in the Registry and the issue of a search copy (inclusive fee)	\$20.00
	and, in addition, for handling a search by post—in respect of each will or other document	\$2.10
13	For depositing the will of a deceased person in the Registry—	
	(a) for safe custody on renunciation of executor (inclusive fee)	\$33.70
	(b) under the <i>Crown Lands Act 1929</i> (inclusive fee)	\$33.70
14	For depositing the will or codicil of a living person for safe custody in the Registry under section 13 of the <i>Administration and Probate Act 1919</i> (inclusive fee)	\$112.00
15	On withdrawal of a will under section 15 of the <i>Administration and Probate Act 1919</i> (inclusive fee)	\$55.00
16	For the examination of a person or witness before the Registrar for the purpose of an inquiry or investigation—for each hour or part of an hour	\$141.00
17	For perusing and settling citations, advertisements, oaths, affidavits or other documents—per document	\$42.80

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Schedule 2—Fees in probate jurisdiction

Note—

This fee is not payable on an application under section 16 of the *Administration and Probate Act 1919*.

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| 18 | On sealing a summons without notice or an inter partes summons | \$284.00 |
| 19 | On sealing any other summons | \$55.00 |

Note—

The fee under clause 18 or 19 is not payable where the fee under clause 1 is payable.

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|----|---|----------|
| 20 | On lodging an application for an order admitting to proof a nuncupative will, a will contained in a copy, a completed draft, a reconstruction or other evidence of its contents | \$284.00 |
| 21 | Hearing in chambers or in court where the hearing occupies more than 10 hours—for every additional period of 5 hours or part of 5 hours | \$141.00 |

Note—

The fees under clauses 18, 19 and 20 cover any necessary document, affidavit or search, any interlocutory summons and the entering and sealing of any judgment, decree or order given or made in court or in chambers.

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|----|--|---------|
| 22 | For filing a renunciation after the issue of a grant by an executor to whom leave was reserved (inclusive fee) | \$55.00 |
| 23 | For— | |
| | (a) a certificate under the hand of the Registrar | \$33.70 |
| | (b) filing or depositing an affidavit or document in the Registry | \$10.10 |
| | (c) sealing an order of the court or the Registrar (inclusive fee) | \$55.00 |

Note—

These fees are not payable where the certificate or the filing, deposit or sealing of the order is included in an application or proceeding for which another fee is payable.

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| 24 | For administering an oath, taking an affirmation, superintending and attesting execution of a bond, or for adjudicating or moderating a bill of costs | The appropriate fee set out in Schedule 1 |
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Note—

The fee payable in respect of a document of foreign origin that is not strictly of a type referred to in this Schedule is that payable in respect of the document specified in this Schedule to which, in the opinion of the Registrar, the foreign document most closely corresponds.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Supreme Court Regulations 2005* revoked the following:

Supreme Court (Fees) Regulations 1999

Supreme Court (Probate Fees) Regulations 1999

Supreme Court Regulations 2005 (see Gazette 24.2.2005 p535)

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2005	104	<i>Gazette 26.5.2005 p1545</i>	1.7.2005: r 2
2006	143	<i>Gazette 15.6.2006 p1886</i>	1.7.2006: r 2
2007	18	<i>Gazette 8.3.2007 p748</i>	8.7.2007: r 2
2007	94	<i>Gazette 7.6.2007 p2395</i>	1.7.2007: r 2
2008	88	<i>Gazette 5.6.2008 p2018</i>	1.7.2008: r 2
2009	105	<i>Gazette 4.6.2009 p2526</i>	1.7.2009: r 2
2010	131	<i>Gazette 10.6.2010 p2958</i>	1.7.2010: r 2
2011	145	<i>Gazette 9.6.2011 p2391</i>	1.7.2011: r 2
2011	239	<i>Gazette 17.11.2011 p4630</i>	17.3.2012: r 2
2012	144	<i>Gazette 31.5.2012 p2528</i>	1.7.2012: r 2
2013	118	<i>Gazette 6.6.2013 p2281</i>	1.7.2013: r 2
2014	129	<i>Gazette 19.6.2014 p2638</i>	1.7.2014: r 2
2015	26	<i>Gazette 5.3.2015 p915</i>	29.3.2015: r 2
2015	75	<i>Gazette 18.6.2015 p2589</i>	1.7.2015: r 2
2016	10	<i>Gazette 4.2.2016 p375</i>	28.2.2016: r 2
2016	150	<i>Gazette 23.6.2016 p2397</i>	1.7.2016 except Pt 3 (r 5)—1.9.2016: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2006</i>
r 3		
corporation	inserted by 145/2011 r 4(1)	1.7.2011
gross value	inserted by 10/2016 r 4	28.2.2016
not-for-profit organisation	inserted by 145/2011 r 4(1)	1.7.2011
prescribed corporation	inserted by 145/2011 r 4(1)	1.7.2011
small business	inserted by 145/2011 r 4(2)	1.7.2011
subsidiary	inserted by 145/2011 r 4(2)	1.7.2011
r 4	varied by 18/2007 r 4	8.7.2007
	varied by 239/2011 r 4	17.3.2012
	varied by 26/2015 r 4	29.3.2015
r 6		
r 6(3)	inserted by 10/2016 r 5	28.2.2016
Sch 1	substituted by 143/2006 r 4	1.7.2006
	substituted by 94/2007 r 4	1.7.2007
	substituted by 88/2008 r 4	1.7.2008
	substituted by 105/2009 r 4	1.7.2009
	substituted by 131/2010 r 4	1.7.2010
	substituted by 145/2011 r 5	1.7.2011
	substituted by 144/2012 r 4	1.7.2012
	substituted by 118/2013 r 4	1.7.2013
	substituted by 129/2014 r 4	1.7.2014
	substituted by 75/2015 r 4	1.7.2015
Sch 2	substituted by 143/2006 r 4	1.7.2006
	substituted by 94/2007 r 4	1.7.2007
	substituted by 88/2008 r 4	1.7.2008
	substituted by 105/2009 r 4	1.7.2009
	substituted by 131/2010 r 4	1.7.2010
	substituted by 145/2011 r 5	1.7.2011
	substituted by 144/2012 r 4	1.7.2012
	substituted by 118/2013 r 4	1.7.2013
	substituted by 129/2014 r 4	1.7.2014
	substituted by 75/2015 r 4	1.7.2015
	varied by 10/2016 r 6	28.2.2016
Sch 3	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2006</i>

Historical versions

1.7.2006

1.7.2007 (electronic only)

8.7.2007

1.7.2008

1.7.2009

1.7.2010

1.7.2011

17.3.2012

1.7.2012

1.7.2013

1.7.2014

29.3.2015

1.7.2015