

South Australia

Supreme Court Regulations 2018

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 2018*.

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;

Crown means the Crown in right of this State;

Electronic System means the system made available by the Court that enables the electronic management of Court processes including the creation, filing and issue of Court documents;

government agency includes—

- (a) a Minister, instrumentality or agency of the Crown; or
- (b) a body or person subject to control or direction by the Governor, a Minister of the Crown or other instrumentality or agency of the Crown; or
- (c) South Australia Police; or
- (d) the National Heavy Vehicle Regulator established under the *Heavy Vehicle National Law (South Australia)*;

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.

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 following provisions apply to the listing fees set out in clause 11 of Schedule 1:
 - (a) except where the Court or a registrar directs otherwise, the fee—

- (i) is payable by the applicant; and
 - (ii) must be paid within the period of 14 days after the day on which the trial date is set;
- (b) the trial will not proceed on the day set for that purpose unless the fee has been paid in accordance with paragraph (a).
- (3) The following provisions apply to the trial fees set out in clause 20 of Schedule 1:
 - (a) the fee for a trial is the fee prescribed under clause 20 of the Schedule as in force on the day on which the trial commences;
 - (b) the fee is not payable for the first day of trial if the listing fee set out in clause 11 of the Schedule has been paid;
 - (c) subject to paragraph (d), the fee is payable by the applicant in the proceedings;
 - (d) if the Court or a registrar so directs, the fee is payable by another party to the proceeding or by the parties to the proceeding in the proportions directed.
- (4) The Registrar may require a party to a proceeding to pay a deposit on account of any amount to which the party may become liable under these regulations.
- (5) 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) Section 15 of the *Crown Proceedings Act 1992* makes provision in relation to the Crown's liability for fees and charges in civil proceedings.

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, 2 or 3 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.

7—Exemption for government agencies from certain fees

- (1) A government agency is not required to pay any fee or charge—
 - (a) for obtaining a transcript of any proceedings in the Court's criminal jurisdiction; or

- (b) for obtaining a copy of evidence in any such proceedings to which it is a party.
- (2) Any costs to which a government agency is entitled will be calculated as if the government agency were liable to pay, and had in fact paid, fees and charges from which it is exempt under subregulation (1).

Schedule 1—Fees in general jurisdiction

Part 1—General

- | | | |
|---|---|---|
| 1 | On filing a final notice of claim— | |
| | (a) in the case of a notice of claim filed using the Electronic System | \$22.70 |
| | (b) in any other case | \$54.50 |
| 2 | On filing an application for discovery of documents before the commencement of a proceeding— | |
| | (a) for a prescribed corporation | \$638.00 |
| | (b) for any other person | \$450.00 |
| 3 | On filing a document to commence a proceeding in the Supreme Court— | |
| | (a) in the case where a fee has previously been paid for filing an application for discovery of documents relating to the subject-matter of the proceeding— | |
| | (i) for a prescribed corporation | \$3 106.00 |
| | (ii) for any other person | \$2 202.00 |
| | (b) in any other case— | |
| | (i) for a prescribed corporation | \$3 744.00 |
| | (ii) for any other person | \$2 652.00 |
| 4 | On filing a cross action in the nature of a counter claim or third party claim— | |
| | (a) for a prescribed corporation | \$3 744.00 |
| | (b) for any other person | \$2 652.00 |
| 5 | On transferring a proceeding commenced in another court to the Supreme Court— | |
| | (a) in the case of a prescribed corporation | \$3 744.00 less the file commencement fees already paid in respect of the proceeding in the other court |
| | (b) in any other case | \$2 652.00 less the file commencement fees already paid in respect of the proceeding in the other court |
| 6 | On filing a notice of appeal or notice of cross appeal for which permission to appeal is required— | |
| | (a) for a prescribed corporation | \$638.00 |

	(b) for any other person	\$450.00
7	On the Court granting permission to appeal or cross appeal—	
	(a) for a prescribed corporation	\$3 106.00
	(b) for any other person	\$2 202.00
8	On filing a notice of appeal or notice of cross appeal in respect of an appeal as of right—	
	(a) for a prescribed corporation	\$3 744.00
	(b) for any other person	\$2 652.00
9	On filing 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>	\$249.00
10	On transferring a cross action in the nature of a counter claim or third party claim commenced in another court to the Supreme Court—	
	(a) in the case of a prescribed corporation	\$3 744.00 less the fees already paid in respect of the cross action in the other court
	(b) in any other case	\$2 652.00 less the fees already paid in respect of the cross action in the other court
11	On setting a date for trial—	
	(a) for a prescribed corporation	\$3 744.00
	(b) for any other person	\$2 652.00
12	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	\$79.50
	(b) sealing a certificate	\$79.50
	(c) certifying under seal that a document is a true copy	\$79.50
13	For each request to search and/or inspect a record of the Court, other than a Divorce or Matrimonial Causes record	\$25.30
14	For an unsealed copy of the record of the Court	\$25.30
15	For a sealed copy of the record of the Court	\$79.50
	Note—	
	No fee is payable under clauses 13, 14 or 15 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.	
16	For a copy of evidence—	
	(a) per page in electronic form	\$8.50
	(b) per page in hard-copy form	\$10.90

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17	For a copy of the reasons for judgment—per page	\$8.50
	Note—	
	1 copy will be supplied to a party to the proceeding free of charge.	
18	For a copy of a document (other than a copy of evidence)—per page	\$5.10
19	For production of transcript at request of a party where the Court does not require the transcript—per page	\$17.20
20	Trial fee—for each day or part of a day on which the trial is heard by the Court—	
	(a) for a prescribed corporation	\$3 744.00
	(b) for any other person	\$2 652.00
21	Suitors' Fund—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
22	Taxation of costs—	
	(a) on filing a claim for costs in an existing proceeding	\$79.50
	(b) on filing an originating application for taxation of legal costs	\$79.50
	(c) for taxing an itemised claim for costs	5% of amount allowed on taxation (to nearest dollar)
23	For opening the Registry (or the Registry remaining open) after hours for urgent execution of process—for each hour or part of an hour	\$407.00
24	For opening the Court (or the Court remaining open) after hours for urgent hearing—for each hour or part of an hour	\$1 227.00
	Part 2—Fees payable under rules regulating admission of practitioners	
25	On application for admission or re-admission as a practitioner	\$629.00
	Part 3—Fees to be taken in marshal's office	
26	Receiving and entering a writ of summons, warrant of release, decree, order, commission or other instrument under the seal of the Court	\$65.50
27	For—	
	(a) service of a writ of summons	\$54.00
	(b) execution of a warrant of arrest—for each person	\$112.00
	but, if a writ is served and a warrant executed on a person at the same time	\$146.00
28	For execution of a warrant for the seizure of a ship, cargo or other goods	\$112.00
29	For the release of any ship, goods or person from seizure or arrest	\$54.00
30	For the execution of a commission of appraisal or sale	\$112.00
31	For the execution of any decree, order, commission or instrument other than 1 otherwise specified in this Part	\$112.00
32	For delivery of a ship or goods to a purchaser	\$112.00

33	For attending the discharge of cargo or removal of a ship or goods—payable per day or part of a day	\$112.00
34	For opening office (or office remaining open) after hours for urgent execution of process—payable per hour or part of an hour	\$407.00
35	On the gross proceeds of any ship or goods sold—	
	(a) for every \$200 or part of \$200, up to \$20 000	\$22.30
	(b) for each additional \$200 or part of \$200	\$13.50
36	For retaining possession of a ship (with or without cargo) or of a ship's cargo—for each day or part of a day	\$65.50

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	\$837.00
	(b) is more than \$200 000 but less than or equal to \$500 000	\$1 674.00
	(c) is more than \$500 000 but less than or equal to \$1 million	\$2 231.00
	(d) is more than \$1 million	\$3 346.00
2	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	\$837.00
	(b) is more than \$200 000 but less than or equal to \$500 000	\$1 674.00
	(c) is more than \$500 000 but less than or equal to \$1 million	\$2 231.00
	(d) is more than \$1 million	\$3 346.00
3	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	\$837.00
	(b) is more than \$200 000 but less than or equal to \$500 000	\$1 674.00
	(c) is more than \$500 000 but less than or equal to \$1 million	\$2 231.00
	(d) is more than \$1 million	\$3 346.00

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Schedule 2—Fees in probate jurisdiction

Note—

The fees under the preceding clauses 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*.

4	For the entry or withdrawal of a caveat, or for issuing a warning to a caveat	\$37.50
5	On entering an appearance—for 1 or more persons	\$65.50
6	For issuing a citation or a subpoena	\$37.50
7	For depositing the will of a deceased person in the Registry for safe custody on renunciation of executor (inclusive fee)	\$37.50
8	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)	\$126.00

Note—

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

9	On 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 preceding clauses	\$316.00
10	On lodging an application, notice or other document that is subsequent and related to a proceeding for which a fee under clause 1, 2, 3 or 10 has been paid	\$61.50
11	For an unsealed copy of the record of the Court	\$25.30
12	For a sealed copy of the record of the Court	\$79.50

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 2018* revoked the following:

Supreme Court Regulations 2005

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2018	32	<i>Gazette 13.2.2018 p748</i>	13.2.2018: r 2
2018	85	<i>Gazette 21.6.2018 p2205</i>	1.7.2018: r 2
2018	225	<i>Gazette 8.11.2018 p3943</i>	26.11.2018: r 2
2019	100	<i>Gazette 13.6.2019 p1937</i>	1.7.2019: r 2
2019	184	<i>Gazette 27.6.2019 p2577</i>	1.7.2019 immediately after 100/2019: r 2
2020	29	<i>Gazette 2.4.2020 p633</i>	27.4.2020: r 2
2020	128	<i>Gazette 4.6.2020 p2963</i>	1.7.2020: 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>1.7.2018</i>
r 3		
Electronic System	inserted by 29/2020 r 4(1)	27.4.2020
Registrar	varied by 29/2020 r 4(2)	27.4.2020
r 5		
r 5(1)	varied by 29/2020 r 5(1)	27.4.2020
r 5(2)	varied by 29/2020 r 5(2)—(4)	27.4.2020

r 5(3)	varied by 29/2020 r 5(5)—(9)	27.4.2020
r 5(4)	varied by 29/2020 r 5(10)	27.4.2020
r 6		
r 6(1)	varied by 29/2020 r 6	27.4.2020
r 7		
r 7(1)	varied by 29/2020 r 7	27.4.2020
Sch 1	substituted by 85/2018 r 4	1.7.2018
	substituted by 100/2019 r 4	1.7.2019
	varied by 184/2019 r 4	1.7.2019
	substituted by 29/2020 r 8	27.4.2020
Sch 2	substituted by 85/2018 r 4	1.7.2018
	varied by 225/2018 r 4(1)—(4)	26.11.2018
	substituted by 100/2019 r 4	1.7.2019
	varied by 29/2020 r 9(1), (2)	27.4.2020
Sch 3	<i>omitted under Legislation Revision and Publication Act 2002</i>	1.7.2018

Historical versions

1.7.2018

26.11.2018

1.7.2019