

South Australia

# Supreme Court Regulations 2018

under the *Supreme Court Act 1935*

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## Legislative history

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### 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*;

**Crown** means the Crown in right of this State;

**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;

**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.

#### 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 prescribed for the purposes of the Act; 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 fees prescribed for setting a date for trial in the general jurisdiction:
  - (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 prescribed trial fees for each day or part of a day on which the trial is heard by the Court in the general jurisdiction:
  - (a) the fee for a trial is the prescribed fee 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 fee prescribed for setting a date for trial in the general jurisdiction 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.

- (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**

- (3) If, after a prescribed application has been lodged 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.
- (4) In this regulation—
- prescribed application* means—
- (a) an application for a grant of probate or administration in respect of a deceased estate; or
  - (b) an application for the sealing of a grant under section 17 of the *Administration and Probate Act 1919* in respect of a deceased estate; or
  - (c) an application for an order under section 9 of the *Public Trustee Act 1995* in respect of a deceased estate.

## **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).

## Legislative history

### Notes

- 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](http://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
<b>2020</b>	<b>128</b>	<b><i>Gazette 4.6.2020 p2963</i></b>	<b>1.7.2020: r 2</b>

### 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		
<b><i>corporation</i></b>	<b><i>deleted by 128/2020 r 4(1)</i></b>	<b><i>1.7.2020</i></b>
<i>Electronic System</i>	<i>inserted by 29/2020 r 4(1)</i>	<i>27.4.2020</i>
	<b><i>deleted by 128/2020 r 4(2)</i></b>	<b><i>1.7.2020</i></b>
<b><i>not-for-profit organisation</i></b>	<b><i>deleted by 128/2020 r 4(3)</i></b>	<b><i>1.7.2020</i></b>
<b><i>prescribed corporation</i></b>	<b><i>deleted by 128/2020 r 4(4)</i></b>	<b><i>1.7.2020</i></b>
Registrar	varied by 29/2020 r 4(2)	27.4.2020

<i>small business</i>	<i>deleted by 128/2020 r 4(5)</i>	<b>1.7.2020</b>
<i>subsidiary</i>	<i>deleted by 128/2020 r 4(6)</i>	<b>1.7.2020</b>
r 5		
r 5(1)	varied by 29/2020 r 5(1) <b>varied by 128/2020 r 5(1)</b>	27.4.2020 <b>1.7.2020</b>
r 5(2)	varied by 29/2020 r 5(2)—(4) <b>varied by 128/2020 r 5(2)</b>	27.4.2020 <b>1.7.2020</b>
r 5(3)	varied by 29/2020 r 5(5)—(9) <b>varied by 128/2020 r 5(3)—(5)</b>	27.4.2020 <b>1.7.2020</b>
r 5(4)	varied by 29/2020 r 5(10)	27.4.2020
<b>r 5(5)</b>	<b><i>deleted by 128/2020 r 5(6)</i></b>	<b>1.7.2020</b>
r 6		
r 6(1)	<i>varied by 29/2020 r 6</i> <b><i>deleted by 128/2020 r 6(1)</i></b>	27.4.2020 <b>1.7.2020</b>
<b>r 6(2)</b>	<b><i>deleted by 128/2020 r 6(1)</i></b>	<b>1.7.2020</b>
<b>r 6(3)</b>	<b><i>varied by 128/2020 r 6(2)</i></b>	<b>1.7.2020</b>
<b>r 6(4)</b>	<b><i>inserted by 128/2020 r 6(3)</i></b>	<b>1.7.2020</b>
r 7		
r 7(1)	varied by 29/2020 r 7	27.4.2020
<i>Sch 1</i>	<i>substituted by 85/2018 r 4</i> <i>substituted by 100/2019 r 4</i> <i>varied by 184/2019 r 4</i> <i>substituted by 29/2020 r 8</i> <b><i>deleted by 128/2020 r 7</i></b>	<b>1.7.2018</b> <b>1.7.2019</b> <b>1.7.2019</b> <b>27.4.2020</b> <b>1.7.2020</b>
<i>Sch 2</i>	<i>substituted by 85/2018 r 4</i> <i>varied by 225/2018 r 4(1)—(4)</i> <i>substituted by 100/2019 r 4</i> <i>varied by 29/2020 r 9(1), (2)</i> <b><i>deleted by 128/2020 r 7</i></b>	<b>1.7.2018</b> <b>26.11.2018</b> <b>1.7.2019</b> <b>27.4.2020</b> <b>1.7.2020</b>
<i>Sch 3</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<b>1.7.2018</b>

## Historical versions

1.7.2018  
26.11.2018  
1.7.2019  
27.4.2020