

South Australia

District Court Regulations 2018

under the *District Court Act 1991*

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Legislative history

1—Short title

These regulations may be cited as the *District Court Regulations 2018*.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *District Court Act 1991*;

ADD means the Administrative and Disciplinary Division of the Court;

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)*;

National Credit Code means the *National Credit Code* in Schedule 1 of the *National Consumer Credit Protection Act 2009* of the Commonwealth;

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;

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—Fees in civil proceedings

- (1) The fees set out in Schedule 1 are payable to the Court in relation to proceedings in the Civil Division.
- (2) The following provisions apply to the listing fees set out in clause 8 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 19 of Schedule 1:
 - (a) the fee for a trial is the fee prescribed under clause 19 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 8 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 fees set out in Schedule 2 are payable to the Court in relation to proceedings in the Criminal Injuries Division.
- (5) Section 15 of the *Crown Proceedings Act 1992* makes provision in relation to the Crown's liability for fees and charges in civil proceedings in the Court.

5—Fees in criminal proceedings

- (1) The fees set out in Schedule 3 are payable to the Court in relation to proceedings in the Criminal Division.
- (2) A government agency is not required to pay any fee or charge—
 - (a) for commencing, or taking any step in, proceedings in the Court to which this regulation applies; or
 - (b) for obtaining a transcript of any such proceedings to which it is a party; or
 - (c) for obtaining a copy of evidence in any such proceedings to which it is a party.
- (3) 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 (2).
- (4) This regulation applies to criminal proceedings in the Court.

6—Fees generally

- (1) The fees to be charged by the Court for inspection or copying of material under section 54 of the Act are the appropriate fees set out in each of the Schedules.
- (2) The Court may require a non-refundable deposit as security for the payment of fees for the production of a transcript of the hearing of a case at the request of a party where the Court does not require the transcript.

Schedule 1—Fees in Civil Division

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	\$240.00
	(b) for any other person	\$171.00
3	On filing a document to commence a proceeding in the District 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	\$1 633.00
	(ii) for any other person	\$1 158.00
	(b) in any other case—	
	(i) for a prescribed corporation	\$1 873.00
	(ii) for any other person	\$1 329.00

4	On transferring a proceeding commenced in the Magistrates Court to the Court—	
	(a) in the case of a prescribed corporation	\$1 873.00 less the fees already paid in respect of the proceeding in the Magistrates Court
	(b) in any other case	\$1 329.00 less the fees already paid in respect of the proceeding in the Magistrates Court
5	On filing an application under the <i>National Credit Code</i>	\$263.00
6	On filing a cross action in the nature of a counter claim or third party claim—	
	(a) for a prescribed corporation	\$1 873.00
	(b) for any other person	\$1 329.00
7	On transferring a cross action in the nature of a counter claim or third party claim commenced in the Magistrates Court to the Court—	
	(a) in the case of a prescribed corporation	\$1 873.00 less the fees already paid in respect of the cross action in the Magistrates Court
	(b) in any other case	\$1 329.00 less the fees already paid in respect of the cross action in the Magistrates Court
8	On setting a date for trial—	
	(a) for a prescribed corporation	\$1 873.00
	(b) for any other person	\$1 329.00
9	On filing a notice of appeal or notice of cross appeal to the Court constituted of a Judge (other than a notice of appeal to the ADD)—	
	(a) for a prescribed corporation	\$1 873.00
	(b) for any other person	\$1 329.00
10	On 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 preceding clauses—	
	(a) for a prescribed corporation	\$240.00
	(b) for any other person	\$171.00
11	For sealing a certificate or certifying under seal that a document is a true copy	\$79.50
12	For each request to search and/or inspect a record of the Court	\$25.30
13	For an unsealed copy of the record of the Court	\$25.30
14	For a sealed copy of the record of the Court	\$79.50
15	For copy of evidence—	
	(a) per page in electronic form	\$8.50

	(b) per page in hard-copy form	\$10.90
16	For copy of reasons for judgment—per page	\$8.50
	Note—	
	1 copy will be supplied to a party to the proceeding free of charge.	
17	For copy of any other document—per page	\$5.10
18	For production of transcript at request of a party where the Court does not require the transcript—per page	\$17.20
19	Trial fee—for each day or part of a day on which the trial is heard by the Court	
	(a) for a prescribed corporation	\$1 873.00
	(b) for any other person	\$1 329.00
20	Suitors' Fund—on interest collected on funds in Court or credited to an account, payable on transfer of interest out of the fund or account or at such earlier time or times as required by the Court	
	(a) if the interest is \$10.00 or less	no fee
	(b) in any other case	3% of amount of interest
21	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)
22	For opening Registry (or Registry remaining open) after hours for urgent execution of process—for each hour or part of an hour	\$407.00
23	For opening Court (or Court remaining open) after hours for urgent hearing—for each hour or part of an hour	\$1 227.00

Schedule 2—Fees in Criminal Injuries Division

1	On filing a document by which a proceeding is commenced—	
	(a) for a prescribed corporation	\$240.00
	(b) for any other person	\$171.00
2	For each request to search and/or inspect a record of the Court	\$25.30
3	For an unsealed copy of the record of the Court	\$25.30
4	For a sealed copy of the record of the Court	\$79.50
	Note—	
	No fee is payable under clauses 2, 3 or 4 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.	
5	For copy of evidence—	
	(a) per page in electronic form	\$8.50

	(b) per page in hard-copy form	\$10.90
6	For copy of reasons for judgment—per page	\$8.50
	Note—	
	1 copy will be supplied to a party to the proceeding free of charge.	
7	For copy of any other document—per page	\$5.10
8	For production of transcript at request of a party where the Court does not require the transcript—per page	\$17.20
9	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)
10	For opening Registry (or Registry remaining open) after hours for urgent execution of process—per hour or part of an hour	\$407.00
11	For opening Court (or Court remaining open) after hours for urgent hearing—per hour or part of an hour	\$1 227.00

Schedule 3—Fees in Criminal Division

1	For each request to search and/or inspect a record of the Court	\$25.30
2	For an unsealed copy of the record of the Court	\$25.30
3	For a sealed copy of the record of the Court	\$79.50
	Note—	
	No fee is payable under clauses 1, 2 or 3 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.	
4	For sealing a certificate or certifying under seal that a document is a true copy	\$79.50
5	For copy of evidence—	
	(a) per page in electronic form	\$8.50
	(b) per page in hard-copy form	\$10.90
6	For copy of reasons for judgment—per page	\$8.50
	Note—	
	1 copy will be supplied to a party to the proceeding free of charge.	
7	For copy of any other document—per page	\$5.10

Schedule 4—Fee in Commonwealth *Fair Work Act 2009* jurisdiction

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|---|---|--------|
| 1 | An application in relation to the jurisdiction of the Court under the <i>Fair Work Act 2009</i> of the Commonwealth | no fee |
|---|---|--------|

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 *District Court Regulations 2018* revoked the following:

District Court (Fees) Regulations 2004

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2018	33	<i>Gazette 13.2.2018 p756</i>	13.2.2018: r 2
2018	84	<i>Gazette 21.6.2018 p2200</i>	1.7.2018: r 2
2019	99	<i>Gazette 13.6.2019 p1932</i>	1.7.2019: r 2
2020	30	<i>Gazette 2.4.2020 p639</i>	27.4.2020: r 2
2020	101	<i>Gazette 4.6.2020 p2911</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 30/2020 r 4	27.4.2020
r 4		
r 4(2)	varied by 30/2020 r 5(1)	27.4.2020
r 4(3)	varied by 30/2020 r 5(2)—(4)	27.4.2020
Schs 1—3	substituted by 84/2018 r 4	1.7.2018
	substituted by 99/2019 r 4	1.7.2019
	substituted by 30/2020 rr 6—8	27.4.2020

Sch 5

*omitted under Legislation Revision and
Publication Act 2002*

1.7.2018

Historical versions

1.7.2018

1.7.2019