

South Australia

Magistrates Court (Fees) Regulations 2004

under the *Magistrates Court Act 1991*

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Legislative history

1—Short title

These regulations may be cited as the *Magistrates Court (Fees) Regulations 2004*.

3—Interpretation

In these regulations—

Act means the *Magistrates Court Act 1991*;

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

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;
- (c) South Australia Police; or
- (d) the National Heavy Vehicle Regulator established under the *Heavy Vehicle National Law (South Australia)*;

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

- (1) The fees set out in Schedule 1 are payable to the Court in relation to proceedings in—
 - (a) the Civil (General Claims) Division; or
 - (b) the Civil (Minor Claims) Division; or
 - (c) the Civil (Consumer and Business) Division.
- (1a) The following provisions apply to the listing fees set out in clause 8A of Schedule 1:
 - (a) except where the Court or a registrar otherwise directs, the fee—
 - (i) is payable by the plaintiff; and
 - (ii) must be paid within the period of 14 days after the day on which the trial date is set;
 - (b) if there is more than 1 plaintiff, the Court or a registrar may direct that the fee is to be paid in equal portions by each of the plaintiffs;
 - (c) the trial will not proceed on the day set for that purpose unless the fee has been paid in accordance with this subregulation.
- (1b) If an attempt to settle an action by mediation under section 27 of the Act has been made, the fee payable under clause 8A of Schedule 1 may, if the mediator so certifies, be discounted by 50%.
- (2) 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 Division

- (1) The fees set out in Schedule 2 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 Criminal Division; 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).

6—Fees generally

- (1) The fees to be charged by the Court for inspection or copying of material under section 51 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 (General Claims) Division and Civil (Minor Claims) Division

1	On issuing a Final Notice of Claim under the rules	
	(a) in the case of a Notice of Claim filed using the online portal	\$21.10
	(b) in any other case	\$51.00
2	On commencement of minor civil action	\$143.00
3	On lodging a counterclaim or a third party notice in a minor civil action	\$143.00
4	On filing a document to commence any other action under the <i>Magistrates Court Act 1991</i> —	
	(a) where the claim is not for money—	
	(i) in the case of a prescribed corporation	\$526.00
	(ii) in any other case	\$311.00
	(b) where the amount claimed, or the value of the property the subject of the claim, exceeds \$12 000.00 but does not exceed \$25 000.00—	
	(i) in the case of a prescribed corporation	\$526.00
	(ii) in any other case	\$311.00
	(c) where the amount claimed, or the value of the property the subject of the claim, exceeds \$25 000.00 but does not exceed \$50 000.00—	
	(i) in the case of a prescribed corporation	\$750.00
	(ii) in any other case	\$400.00
	(d) where the amount claimed, or the value of the property the subject of the claim, exceeds \$50 000.00—	
	(i) in the case of a prescribed corporation	\$1 100.00
	(ii) in any other case	\$750.00
5	On lodging a counterclaim or third party notice in any other action under the <i>Magistrates Court Act 1991</i> —	
	(a) where the claim is not for money—	
	(i) in the case of a prescribed corporation	\$526.00

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 Schedule 1—Fees in Civil (General Claims) Division and Civil (Minor Claims) Division

	(ii) in any other case	\$311.00
(b)	where the amount claimed, or the value of the property the subject of the claim, exceeds \$12 000.00 but does not exceed \$25 000.00—	
	(i) in the case of a prescribed corporation	\$526.00
	(ii) in any other case	\$311.00
(c)	where the amount claimed, or the value of the property the subject of the claim, exceeds \$25 000.00 but does not exceed \$50 000.00—	
	(i) in the case of a prescribed corporation	\$750.00
	(ii) in any other case	\$400.00
(d)	where the amount claimed, or the value of the property the subject of the claim, exceeds \$50 000.00—	
	(i) in the case of a prescribed corporation	\$1 100.00
	(ii) in any other case	\$750.00
6	For issuing and administering an investigation or examination summons under the <i>Magistrates Court Act 1991</i>	\$54.50
7	On commencement of action under any other Act or issuing a summons on such action	\$143.00
8	On lodging a counterclaim or a third party notice in any action under any other Act	\$143.00
8A	On setting a date for trial	
	(a) for a minor civil action—	
	(i) where the amount claimed does not exceed \$4 000.00	\$200.00
	(ii) in any other case	\$600.00
	(b) for any other action under the <i>Magistrates Court Act 1991</i> —	
	(i) in the case of a prescribed corporation	\$1 000.00
	(ii) in any other case	\$750.00
9	For publishing an advertisement	actual costs reasonably incurred
10	For each request to search and inspect a record of the Court	\$23.60
11	For copy of evidence—	
	(a) per page in electronic form	\$7.90
	(b) per page in hard-copy form	\$10.20
12	For copy of reasons for judgment—per page	\$7.90
	Note—	
	1 copy will be supplied to a party to the proceedings free of charge.	
13	For copy of any other document—per page	\$4.80
14	For production of transcript at request of a party where the Court does not require the transcript—per page	\$16.00

15	Adjudication of costs: on lodging a bill of costs (other than in a minor civil action)	\$74.00
16	For opening Registry (or Registry remaining open) after hours for urgent execution of process—for each hour or part of an hour	\$380.00
17	For opening Court (or Court remaining open) after hours for urgent hearing—for each hour or part of an hour	\$1 144.00

Schedule 2—Fees in Criminal Division

1	On commencement of proceedings for summary applications, summary offences, minor indictable offences or indictable offences	\$266.00 plus if the complaint or information alleges more than 1 offence—\$48.50
2	For issuing a warrant of commitment	\$52.50
3	For copy of evidence— (a) per page in electronic form (b) per page in hard-copy form	 \$7.90 \$10.20
4	For copy of reasons for judgment—per page (1 copy will be supplied to a party to the proceedings free of charge.)	\$7.90
5	For copy of any other document—per page	\$4.80
6	For production of transcript at request of a party where the Court does not require the transcript—per page	\$16.00
7	For each request to search and inspect a record of the Court	\$23.60

Schedule 3—Fees in Petty Sessions Division

1	On lodging an appeal against an enforcement determination under section 14 of the <i>Expiation of Offences Act 1996</i>	\$54.50
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Schedule 4—Fee in Commonwealth *Fair Work Act 2009* jurisdiction

1	An application in relation to the jurisdiction of the Court under the <i>Fair Work Act 2009</i> of the Commonwealth	no fee
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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 *Magistrates Court (Fees) Regulations 2004* revoked the following:

Magistrates Court (Fees) Regulations 1992

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2004	51	<i>Gazette 27.5.2004 p1447</i>	1.7.2004: r 2
2005	127	<i>Gazette 26.5.2005 p1609</i> (Erratum <i>Gazette 16.6.2005 p1830</i>)	1.7.2005: r 2
2006	146	<i>Gazette 15.6.2006 p1902</i>	1.7.2006: r 2
2007	97	<i>Gazette 7.6.2007 p2411</i>	1.7.2007: r 2
2008	86	<i>Gazette 5.6.2008 p2013</i>	1.7.2008: r 2
2009	103	<i>Gazette 4.6.2009 p2521</i>	1.7.2009: r 2
2010	132	<i>Gazette 10.6.2010 p2965</i>	1.7.2010: r 2
2011	146	<i>Gazette 9.6.2011 p2399</i>	1.7.2011: r 2
2012	145	<i>Gazette 31.5.2012 p2535</i>	1.7.2012: r 2
2013	7	<i>Gazette 7.2.2013 p265</i>	7.2.2013: r 2
2013	119	<i>Gazette 6.6.2013 p2288</i>	1.7.2013: r 2
2014	30	<i>Gazette 30.1.2014 p462</i>	3.2.2014: r 2
2014	127	<i>Gazette 19.6.2014 p2633</i>	1.7.2014: r 2
2015	76	<i>Gazette 18.6.2015 p2596</i>	1.7.2015: r 2
2016	151	<i>Gazette 23.6.2016 p2405</i>	1.7.2016 except Pt 3 (rr 5 & 6)—1.9.2016: r 2
2016	272	<i>Gazette 1.12.2016 p4586</i>	4.12.2016: r 2
2017	158	<i>Gazette 22.6.2017 p2429</i>	1.7.2017: r 2
2018	3	<i>Gazette 23.1.2018 p297</i>	5.3.2018: r 2
2018	4	<i>Gazette 23.1.2018 p299</i>	1.5.2018: r 2
2018	34	<i>Gazette 13.2.2018 p762</i>	13.2.2018: r 2
2018	86	<i>Gazette 21.6.2018 p2211</i>	1.7.2018: 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 the Legislation Revision and Publication Act 2002</i>	<i>1.7.2005</i>
r 3		
corporation	inserted by 146/2011 r 4	1.7.2011
Crown	inserted by 34/2018 r 4	13.2.2018
government agency	inserted by 34/2018 r 4	13.2.2018
not-for-profit organisation	inserted by 146/2011 r 4	1.7.2011
prescribed corporation	inserted by 146/2011 r 4	1.7.2011
small business	inserted by 146/2011 r 4	1.7.2011
subsidiary	inserted by 146/2011 r 4	1.7.2011
r 4		
r 4(1a) and (1b)	inserted by 3/2018 r 4	5.3.2018
r 4		
r 4(2)	substituted by 34/2018 r 5	13.2.2018
<i>r 4(3) and 4(4)</i>	<i>deleted by 34/2018 r 5</i>	<i>13.2.2018</i>
rr 5 and 6	inserted by 34/2018 r 6	13.2.2018
Sch 1	substituted by 127/2005 r 4	1.7.2005
	substituted by 146/2006 r 4	1.7.2006
	substituted by 97/2007 r 4	1.7.2007
	substituted by 86/2008 r 4	1.7.2008
	substituted by 103/2009 r 4	1.7.2009
	substituted by 132/2010 r 4	1.7.2010
	substituted by 146/2011 r 5	1.7.2011
	substituted by 145/2012 r 4	1.7.2012
	substituted by 119/2013 r 4	1.7.2013
	substituted by 127/2014 r 4	1.7.2014
	substituted by 76/2015 r 4	1.7.2015
	substituted by 151/2016 r 4	1.7.2016
	varied by 151/2016 r 5	1.9.2016
	varied by 272/2016 r 4	4.12.2016
	substituted by 158/2017 r 4	1.7.2017
cl 4	substituted by 4/2018 r 4(1)	1.5.2018
cl 5	substituted by 4/2018 r 4(2)	1.5.2018
cl 8A	inserted by 3/2018 r 5	5.3.2018
Sch 2	substituted by 127/2005 r 4	1.7.2005
	substituted by 146/2006 r 4	1.7.2006
	substituted by 97/2007 r 4	1.7.2007

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	substituted by 86/2008 r 4	1.7.2008
	substituted by 103/2009 r 4	1.7.2009
	substituted by 132/2010 r 4	1.7.2010
	substituted by 146/2011 r 5	1.7.2011
	substituted by 145/2012 r 4	1.7.2012
	varied by 7/2013 r 4(1), (2)	7.2.2013
	substituted by 119/2013 r 4	1.7.2013
	substituted by 127/2014 r 4	1.7.2014
	substituted by 76/2015 r 4	1.7.2015
	substituted by 151/2016 r 4	1.7.2016
	varied by 151/2016 r 6	1.9.2016
	substituted by 158/2017 r 4	1.7.2017
Sch 3	omitted under the <i>Legislation Revision and Publication Act 2002</i>	1.7.2005
	inserted by 30/2014 r 4	3.2.2014
	substituted by 127/2014 r 4	1.7.2014
	substituted by 76/2015 r 4	1.7.2015
	substituted by 151/2016 r 4	1.7.2016
	substituted by 158/2017 r 4	1.7.2017
Sch 4	inserted by 34/2018 r 7	13.2.2018

Historical versions

1.7.2005
1.7.2006
1.7.2007
1.7.2008
1.7.2009
1.7.2010
1.7.2011
1.7.2012
7.2.2013
1.7.2013
3.2.2014
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1.7.2015
1.7.2016
1.9.2016
4.12.2016
1.7.2017
13.2.2018
5.3.2018