

South Australia

Magistrates Court (Fees) Regulations 2019

under the *Magistrates Court Act 1991*

Contents

1	Short title
3	Interpretation
4	Fees
5	Fees in Criminal Division
6	Fee in Petty Sessions Division
7	Fee in Commonwealth Fair Work Act 2009 jurisdiction
8	Fees generally

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

Schedule 2—Fees in Criminal Division

Schedule 3—Fee in Petty Sessions Division

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

Legislative history

1—Short title

These regulations may be cited as the *Magistrates Court (Fees) Regulations 2019*.

3—Interpretation

In these regulations, unless the contrary intention appears—

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;

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;

- (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.
- (2) The following provisions apply to the listing fees set out in Schedule 1 clause 9:
 - (a) except where the Court or a registrar otherwise directs, 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) if there is more than 1 applicant, the Court or a registrar may direct that the fee is to be paid in equal portions by each of the applicants;
 - (c) the trial will not proceed on the day set for that purpose unless the fee has been paid in accordance with this subregulation.
- (3) If an attempt to settle a proceeding by mediation under section 27 of the Act has been made, the fee payable under Schedule 1 clause 9 may, if the mediator so certifies, be discounted by 50%.
- (4) 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—Fee in Petty Sessions Division

The fee set out in Schedule 3 is payable to the Court in relation to proceedings in the Petty Sessions Division.

7—Fee in Commonwealth Fair Work Act 2009 jurisdiction

The fee set out in Schedule 4 is payable to the Court in relation to proceedings under the *Fair Work Act 2009* of the Commonwealth.

8—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 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 a minor civil action	\$153.00
3	On filing a cross action in the nature of a counter claim or a third party claim in a minor civil action	\$153.00
4	On filing a document to commence any other proceeding under the <i>Magistrates Court Act 1991</i> —	
	(a) where the claim is not for money—	
	(i) in the case of a prescribed corporation	\$565.00
	(ii) in any other case	\$334.00
	(b) where the amount claimed, or the value of the property the subject of the proceeding, exceeds \$12 000.00 but does not exceed \$25 000.00—	
	(i) in the case of a prescribed corporation	\$565.00
	(ii) in any other case	\$334.00
	(c) where the amount claimed, or the value of the property the subject of the proceeding, exceeds \$25 000.00 but does not exceed \$50 000.00—	

Magistrates Court (Fees) Regulations 2019—27.4.2020 to 30.6.2020
 Schedule 1—Fees in Civil (General Claims) Division and Civil (Minor Claims) Division

	(i) in the case of a prescribed corporation	\$805.00
	(ii) in any other case	\$429.00
	(d) where the amount claimed, or the value of the property the subject of the proceeding, exceeds \$50 000.00—	
	(i) in the case of a prescribed corporation	\$1 180.00
	(ii) in any other case	\$805.00
5	On filing a cross action in the nature of a counter claim or third party claim in any other proceeding under the <i>Magistrates Court Act 1991</i> —	
	(a) where the claim is not for money—	
	(i) in the case of a prescribed corporation	\$565.00
	(ii) in any other case	\$334.00
	(b) where the amount claimed, or the value of the property the subject of the proceeding, exceeds \$12 000.00 but does not exceed \$25 000.00—	
	(i) in the case of a prescribed corporation	\$565.00
	(ii) in any other case	\$334.00
	(c) where the amount claimed, or the value of the property the subject of the proceeding, exceeds \$25 000.00 but does not exceed \$50 000.00—	
	(i) in the case of a prescribed corporation	\$805.00
	(ii) in any other case	\$429.00
	(d) where the amount claimed, or the value of the property the subject of the proceeding, exceeds \$50 000.00—	
	(i) in the case of a prescribed corporation	\$1 180.00
	(ii) in any other case	\$805.00
6	For issuing and administering an investigation or examination summons under the <i>Magistrates Court Act 1991</i>	\$58.50
7	On commencement of a proceeding under any other Act	\$153.00
8	On filing a cross action in the nature of a counter claim or a third party claim in any proceeding under any other Act	\$153.00
9	On setting a date for trial—	
	(a) for a minor civil action—	
	(i) where the amount claimed does not exceed \$4 000.00	\$214.00
	(ii) in any other case	\$644.00
	(b) for any other proceeding under the <i>Magistrates Court Act 1991</i> —	
	(i) in the case of a prescribed corporation	\$1 073.00
	(ii) in any other case	\$805.00
10	For publishing an advertisement	actual costs reasonably incurred

27.4.2020 to 30.6.2020—Magistrates Court (Fees) Regulations 2019
Fees in Civil (General Claims) Division and Civil (Minor Claims) Division—Schedule 1

11	For each request to search and/or inspect a record of the Court	\$25.30
12	For an unsealed copy of the record of the Court	\$25.30
13	For a sealed copy of the record of the Court	\$79.50
14	For copy of evidence—	
	(a) per page in electronic form	\$8.50
	(b) per page in hard-copy form	\$10.90
15	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.	
16	For copy of any other document—per page	\$5.10
17	For production of transcript at request of a party where the Court does not require the transcript—per page	\$17.20
18	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
19	Taxation of costs: on lodging a claim for costs in an existing proceeding (other than in a minor civil action)	\$79.50
20	For opening Registry (or Registry remaining open) after hours for urgent execution of process—for each hour or part of an hour	\$407.00
21	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 Division

1	On commencement of proceedings for summary applications, summary offences, minor indictable offences or indictable offences	\$286.00 plus if the information alleges more than 1 offence—\$52.00
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

Schedule 3—Fee in Petty Sessions Division

1	On an application under section 23 of the <i>Fines Enforcement and Debt Recovery Act 2017</i> for a review of a decision to refuse to revoke an enforcement determination	\$58.50
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Schedule 4—Fee in Commonwealth *Fair Work Act 2009* jurisdiction

1	On 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.
- 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 2019* revoked the following:

Magistrates Court (Fees) Regulations 2004

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2019	101	<i>Gazette 13.6.2019 p1943</i>	1.7.2019: r 2
2020	31	<i>Gazette 2.4.2020 p645</i>	27.4.2020: r 2
2020	115	<i>Gazette 4.6.2020 p2938</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>27.4.2020</i>
r 3		
Electronic System	inserted by 31/2020 r 4	27.4.2020
r 4		
r 4(2)	varied by 31/2020 r 5(1)—(3)	27.4.2020
r 4(3)	varied by 31/2020 r 5(4)	27.4.2020
Sch 1	substituted by 31/2020 r 6	27.4.2020
Sch 2	substituted by 31/2020 r 7	27.4.2020
<i>Sch 5</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>27.4.2020</i>