

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*.

2—Commencement

These regulations come into operation on the day on which they are made.

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;

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 8 of Schedule 1:
 - (a) except where the court or a registrar directs otherwise, 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) 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 17 of Schedule 1:
 - (a) the fee for a trial is the fee prescribed under clause 17 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 plaintiff or appellant in the proceedings;
 - (d) if the court or a registrar so directs, the fee is payable by another party to the proceedings or by the parties to the proceedings in the proportions directed.
- (4) The Registrar may require a party to proceedings 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

General Fees

- | | | |
|---|--|---|
| 1 | On filing an application for disclosure of documents before the commencement of a proceeding | |
| | (a) for a prescribed corporation | \$595.00 |
| | (b) for any other person | \$420.00 |
| 2 | 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 disclosure of documents relating to the subject-matter of the proceeding— | |
| | (i) for a prescribed corporation | \$2 894.00 |
| | (ii) for any other person | \$2 052.00 |
| | (b) in any other case— | |
| | (i) for a prescribed corporation | \$3 489.00 |
| | (ii) for any other person | \$2 472.00 |
| 3 | On filing a counterclaim or third party action | |
| | (a) for a prescribed corporation | \$3 489.00 |
| | (b) for any other person | \$2 472.00 |
| 4 | On transferring an action commenced in another court to the Supreme Court | |
| | (a) in the case of a prescribed corporation | \$3 489.00 less the file commencement fees already paid in respect of the action in the other court |
| | (b) in any other case | \$2 472.00 less the file commencement fees already paid in respect of the action in the other court |
| 5 | On filing a summons for permission to appeal | |

| | | |
|----|--|--|
| | (a) for a prescribed corporation | \$595.00 |
| | (b) for any other person | \$420.00 |
| 6 | On filing a notice of appeal for which permission to appeal is required | |
| | (a) for a prescribed corporation | \$2 894.00 |
| | (b) for any other person | \$2 052.00 |
| 7 | On transferring a counterclaim or third party action commenced in another court to the Supreme Court | |
| | (a) in the case of a prescribed corporation | \$3 489.00 less the counterclaim or third party action fees already paid in respect of the action in the other court |
| | (b) in any other case | \$2 472.00 less the counterclaim or third party action fees already paid in respect of the action in the other court |
| 8 | On setting a date for trial | |
| | (a) for a prescribed corporation | \$3 489.00 |
| | (b) for any other person | \$2 472.00 |
| 9 | On filing a notice of appeal in respect of an appeal as of right | |
| | (a) for a prescribed corporation | \$3 489.00 |
| | (b) for any other person | \$2 472.00 |
| | Note— | |
| | No further fee is payable for filing pleadings or particulars or for any interlocutory application, interlocutory motion, application for directions or application for immediate relief, for signing judgment or for any necessary affidavit or document. | |
| 10 | 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> | \$232.00 |
| 11 | 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 | \$74.00 |
| | (b) sealing a certificate | \$74.00 |
| | (c) certifying under seal that a document is a true copy | \$74.00 |

Supreme Court Regulations 2018—13.2.2018 to 30.6.2018**Schedule 1—Fees in general jurisdiction**

- 12 For each request to search and/or inspect a record of the court, other than a Divorce or Matrimonial Causes record \$23.60

Note—

No fee is payable under this clause 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.

- 13 For a copy of a document (other than a copy of evidence)—per page \$4.80

- 14 For a copy of evidence

(a) per page in electronic form \$7.90

(b) per page in hard-copy form \$10.20

- 15 For a copy of the reasons for judgment—per page \$7.90

Note—

1 copy will be supplied to a party to the proceedings free of charge.

- 16 For production of a transcript on the request of a party where the court does not require the transcript—per page \$16.00

- 17 Trial fee—for each day or part of a day on which the trial is heard by the court—

(a) for a prescribed corporation \$3 489.00

(b) for any other person \$2 472.00

Suitors' Funds

- 18 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—

if the interest is \$10.00 or less no fee

in any other case 3% of amount of interest

Fees Payable on Adjudication of Costs

- 19 On filing—

an itemised schedule of costs \$74.00

an application for adjudication of legal costs \$74.00

- 20 For adjudicating an itemised schedule of costs 5% of amount allowed on adjudication (to nearest dollar)

Miscellaneous

- 21 For opening the Registry (or the Registry remaining open) after hours for urgent execution of process—for each hour or part of an hour \$380.00

- 22 For opening the court (or the court remaining open) after hours for urgent hearing—for each hour or part of an hour \$1 144.00

Part 2—Fees payable under rules regulating admission of practitioners

- 23 On application for admission or re-admission as a practitioner \$586.00

Part 3—Fees to be taken in marshal's office

| | | |
|----|---|----------|
| 24 | Receiving and entering a writ of summons, warrant of release, decree, order, commission or other instrument under the seal of the court | \$61.00 |
| 25 | For— | |
| | (a) service of a writ of summons | \$50.50 |
| | (b) execution of a warrant of arrest—for each person | \$105.00 |
| | but, if a writ is served and a warrant executed on a person at the same time | \$136.00 |
| 26 | For execution of a warrant for the seizure of a ship, cargo or other goods | \$105.00 |
| 27 | For the release of any ship, goods or person from seizure or arrest | \$50.50 |
| 28 | For the execution of a commission of appraisalment or sale | \$105.00 |
| 29 | For the execution of any decree, order, commission or instrument other than 1 otherwise specified in this Part | \$105.00 |
| 30 | For delivery of a ship or goods to a purchaser | \$105.00 |
| 31 | For attending the discharge of cargo or removal of a ship or goods—payable per day or part of a day | \$105.00 |
| 32 | For opening office (or office remaining open) after hours for urgent execution of process—payable per hour or part of an hour | \$380.00 |
| 33 | On the gross proceeds of any ship or goods sold— | |
| | (a) for every \$200 or part of \$200, up to \$20 000 | \$20.70 |
| | (b) for each additional \$200 or part of \$200 | \$12.60 |
| 34 | For retaining possession of a ship (with or without cargo) or of a ship's cargo—for each day or part of a day | \$61.00 |

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 | \$780.00 |
| | (b) is more than \$200 000 but less than or equal to \$500 000 | \$1 560.00 |
| | (c) is more than \$500 000 but less than or equal to \$1 million | \$2 079.00 |
| | (d) is more than \$1 million | \$3 118.00 |
| 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 | \$780.00 |
| | (b) is more than \$200 000 but less than or equal to \$500 000 | \$1 560.00 |
| | (c) is more than \$500 000 but less than or equal to \$1 million | \$2 079.00 |

Supreme Court Regulations 2018—13.2.2018 to 30.6.2018**Schedule 2—Fees in probate jurisdiction**

| | | |
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| | (d) is more than \$1 million | \$3 118.00 |
| 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 | \$780.00 |
| | (b) is more than \$200 000 but less than or equal to \$500 000 | \$1 560.00 |
| | (c) is more than \$500 000 but less than or equal to \$1 million | \$2 079.00 |
| | (d) is more than \$1 million | \$3 118.00 |

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 <i>Administration and Probate Act 1919</i> . | |
| 4 | For the entry or withdrawal of a caveat, for a warning to a caveat or for service of a warning to a caveat sent by the Registrar through the post | \$35.00 |
| 5 | On entering an appearance—for 1 or more persons | \$61.00 |
| 6 | For sealing a citation or a subpoena | \$35.00 |
| 7 | For a search for a will or other document filed in the Registry and the issue of a search copy (inclusive fee) | \$20.70 |
| | and, in addition, for handling a search by post—in respect of each will or other document | \$2.30 |
| 8 | For depositing the will of a deceased person in the Registry— | |
| | (a) for safe custody on renunciation of executor (inclusive fee) | \$35.00 |
| | (b) under the <i>Crown Lands Act 1929</i> (inclusive fee) | \$35.00 |
| 9 | 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) | \$117.00 |

Note—

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

| | | |
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| 10 | On sealing a summons without notice or an inter partes summons | \$295.00 |
| 11 | On sealing any other summons | \$57.00 |

Note—

The fee under clause 10 or 11 is not payable where a fee has been paid under clause 1.

Schedule 3—Revocation of *Supreme Court Regulations 2005*

The *Supreme Court Regulations 2005* are revoked.

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.

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 |