

AUSTRALIAN CAPITAL TERRITORY

Supreme Court Act 1933

DETERMINATION OF FEES AND CHARGES APPLICABLE IN THE SUPREME COURT

INSTRUMENT NO. 22 OF 1998

EXPLANATORY STATEMENT

Subsection 37(1) of the *Supreme Court Act 1933* (the Act) provides that the Attorney-General may, by notice in writing published in the *Gazette*, determine fees and charges for any of the following purposes:

- (a) proceedings in the Court, and matters incidental to such proceedings, including -
 - (i) the admission and enrolment of barristers and solicitors;
 - (ii) the service and execution of the process of the Court; and
 - (iii) the taxation of costs by officers of the Court;
- (b) facilities and services provided by the Court, including the service and execution of the process of any court of the Commonwealth, a State or another Territory, or of any court of a foreign country;
- (c) the general purposes of the Act, the Regulations or the Rules of Court.

Subsection 37(2) of the Act provides that a Determination made under subsection 37(1) may provide for matters such as the exemption from liability to pay certain fees, in whole or in part, and for the remission or refund and the deferral of liability for the payment of fees and charges, in whole or in part, by the Registrar in particular circumstances.

Commencement of Determination

This Determination comes into effect on 2 February 1998 and upon its coming into effect Determination No. 105 of 1997 will cease to have effect.

Overview of changes

The new Determination incorporates several changes to Determination No. 105 of 1997.

A fee of \$250 for the making of an application for the removal or transfer to the Supreme Court of proceedings commenced in the Magistrates Court is introduced (see Item 15). The Determination requires the Registrar to remit or refund the fee, as appropriate, where no filing fee was payable for the commencement of the proceedings in the Magistrates Court.

The fees for the commencement of proceedings (Item 1), the commencement of an appeal from the Master or Registrar (Items 2 and 3), the taxation of a bill of costs (Item 8) and in respect of a notice of motion for admission to practise (Item 13) are presently expressed to apply on the filing of the relevant document. The incidence of these fees will be changed slightly. In respect of the commencement of proceedings and the commencement of an appeal from the Master or Registrar, the fee will be imposed on the lodgement for filing of the relevant document. In the case of the taxation of a bill of

costs and a notice of motion for admission to practise, the fee will be imposed on the lodgement of the relevant document.

All other fees and charges are unchanged.

Revenue/cost implications

Additional revenue of about \$25,000 in a full year.

Details

These are set out in the Attachment.

Circulated by authority of
Gary Humphries MLA
Attorney-General

The previous fee is set out in brackets immediately after each item.

- | | | |
|----|--|--------------------|
| 1. | On lodging for filing a document to commence a proceeding in the Court, including a proceeding relating to probate, other than: | |
| | (a) in respect of a matter referred to in item 2, 3, 13 or 15; or | |
| | (b) an interlocutory or incidental proceeding in the course of, or in connection with, a proceeding | 494.00
(494.00) |
| 2. | On lodging for filing a document to commence an appeal from the Master or the Registrar in an interlocutory proceeding | 109.00
(109.00) |
| 3. | On lodging for filing a document to commence an appeal from the Master or the Registrar in a proceeding other than an interlocutory proceeding | 494.00
(494.00) |
| 4. | For each request for a copy or copies of a document or documents (regardless of the number of documents to which the request relates) | 2.00
(2.00) |
| 5. | For each page of copy provided in accordance with a request referred to in item 4 | 1.00
(1.00) |
| 6. | For each page of copy of a document or documents copied by a person, other than an officer of the Court, using a Court photocopier | 0.20
(0.20) |
| 7. | For the issue under Order 39 Rule 25 of the Supreme Court Rules of a subpoena in a civil proceeding: | |
| | (a) to give evidence | 23.00
(23.00) |
| | (b) for production and to give evidence | 45.00
(45.00) |
| | (c) for production | 45.00
(45.00) |

No fee is payable under this item if no fee for filing a document in relation to the proceeding is payable

Item	Matter in respect of which fee is payable	Fee Payable \$
8.	On lodging for taxation a bill of costs as between party and party that, as lodged, exceeds \$2,000	218.00 (218.00)
9.	For up to 3 attempts to serve process at the same address, whether or not the service is successful	57.00 (57.00)
10.	For up to 3 attempts to execute process at the same address, whether or not the execution is successful	183.00 (183.00)
11.	For expenses reasonably incurred by the Court in the execution of process or attempted execution of process for which a fee is payable under item 10	The amount of the expenses
12.	For opening the offices of the Court - (a) between 9.00 am and 9.15 am or between 4.15 pm and 5.00 pm on a day other than a Saturday, Sunday or public holiday	57.00 (57.00)
	(b) at any time - (i) on a Saturday, Sunday or public holiday; or (ii) outside the hours of 9.00 am to 5.00 pm on a day of the week other than a day referred to in subparagraph 12(b)(i)	112.00 (112.00)
13.	On lodging a notice of motion for admission to practise or for enrolment under the <i>Legal Practitioners Act 1970</i> or on lodging a notice seeking registration under the <i>Mutual Recognition (Australian Capital Territory) Act 1992</i>	224.00 (224.00)
14.	For the supply of each certificate of enrolment additional to a certificate provided on the admission, enrolment or registration referred to in item 13	34.00 (34.00)

Item	Matter in respect of which fee is payable	Fee Payable \$
15.	For the making of an application for the removal or transfer to the Supreme Court of proceedings commenced in the Magistrates Court	250.00 (Nil)
	The Registrar shall remit or refund the fee, as appropriate, where no filing fee was payable for the commencement of the proceedings in the Magistrates Court.	

EXEMPTION FROM LIABILITY FOR PAYMENT

The Determination provides an exemption from payment of a filing fee or fee for the service or execution of process in relation to proceedings under the *Birth (Equality of Status) Act 1988*.

DEFERRAL OF LIABILITY FOR PAYMENT

Paragraph 37(2)(d) of the *Supreme Court Act 1933* provide that a determination may provide for the deferral of liability by the Registrar for the payment of fees and charges, in whole or in part, in particular circumstances. The Determination provides that the Registrar of the Supreme Court may defer liability for payment for a period not in excess of 14 days if, in the Registrar's opinion, payment cannot be made at the time that a request is made for the performance of a function or the provision of a facility or service, but payment could be made within 14 days after the request being made. The Registrar will be able to defer payment, for example, where a person wishes to institute proceedings, but has not brought sufficient funds with him or her.