



Queensland

# Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation (No. 1) 2011

## Subordinate Legislation 2011 No. 166

made under the

*Recording of Evidence Act 1962*

*Supreme Court of Queensland Act 1991*

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation (No. 1) 2011*.

### **2 Commencement**

This regulation commences on 1 September 2011.

## **Part 2 Amendment of Uniform Civil Procedure (Fees) Regulation 2009**

### **3 Regulation amended**

This part amends the *Uniform Civil Procedure (Fees) Regulation 2009*.

### **4 Insertion of new pt 2, div 1 hdg**

Part 2, before section 4—

*insert—*

### **‘Division 1 Supreme Court and District Court’.**

### **5 Amendment of s 4 (Fees for Supreme Court and District Court)**

(1) Section 4, heading, after ‘District Court’—

*insert—*

**‘generally’.**

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(2) Section 4(1), from ‘applies’ to ‘sets’—

*omit, insert—*

‘and this part apply for the Supreme Court and the District Court and set’.

(3) Section 4(4) and (5)—

*omit, insert—*

‘(4) To remove any doubt, it is declared that for applying schedule 1 and this part, a liquidator, receiver, administrator or other person acting for, or on behalf of, a corporation in a proceeding must pay the fee payable by a corporation.’.

## **6 Insertion of new ss 4A–4C**

Part 2, after section 4—

*insert—*

### **‘4A Setting down fee and hearing fee**

‘(1) A setting down fee and hearing fee are payable for a trial or hearing of a proceeding under this section, unless—

- (a) the trial or hearing is set down for 1 day or less; or
- (b) the hearing relates to an interlocutory application.

‘(2) The fees are payable by the following, unless a court, on application by a party to the proceeding, orders otherwise—

- (a) for a claim for which a request for trial date is filed under the *Uniform Civil Procedure Rules 1999*, rule 467—the plaintiff;
- (b) for an application that is an originating process—the applicant;
- (c) for an appeal to the District Court for which a certificate of readiness is filed under the *Uniform Civil Procedure Rules 1999*, rule 790—the appellant;
- (d) for an appeal to the Court of Appeal—the appellant.

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- ‘(3) However, another person may pay the fees without affecting the power of the court to make an order for costs in relation to the fees.
- ‘(4) The fees must be paid—
- (a) for a proceeding mentioned in subsection (2)(a) or (c)—when the request for trial date or certificate of readiness is filed; or
  - (b) for a proceeding mentioned in subsection (2)(b) or (d), by the earlier of the following—
    - (i) the date that is 10 business days after the registrar sets a date for the hearing or trial of the proceeding or adds the appeal to a list of appeals under the *Uniform Civil Procedure Rules 1999*, rule 790(2);
    - (ii) 9.30a.m. on the first day set for the hearing or trial of the proceeding.
- ‘(5) If additional hearing or trial dates are set down for the proceeding, a hearing fee for the additional hearing or trial dates is payable by the earlier of the following—
- (a) the date that is 10 business days after the additional hearing or trial dates are set;
  - (b) 9.30a.m. on the first day set for the additional hearing or trial dates.

#### **‘4B Non-payment of setting down fee and hearing fee**

- ‘(1) If a party fails to pay the setting down fee or hearing fee under section 4A—
- (a) the registrar may list the matter of non-payment for hearing before the court and on hearing the matter the court may make an order or give directions it considers appropriate about the matter; or
  - (b) the court may order that a hearing or trial relating to the proceeding is not to take place except with the court’s leave; or

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- (c) the court may vacate any hearing date previously set down for the proceeding.
- ‘(2) This section does not limit the power of the court to make an order in relation to the proceeding.

#### **‘4C Refund of setting down fee and hearing fee**

‘The registrar must refund 75% of the setting down fee and hearing fee paid by a party to a proceeding if—

- (a) the party gives the registrar a request for refund of fees in the approved form, at least 10 business days before the first day set down for the hearing or trial of the proceeding, stating the hearing or trial will not occur; and
- (b) the hearing or trial of the proceeding does not occur.

### **‘Division 2 Magistrates Courts’.**

#### **7 Insertion of new pt 2, div 3**

Part 2, after section 5—

*insert—*

### **‘Division 3 General**

#### **‘5A Fees if state-related party**

- ‘(1) In a proceeding to which a state-related person is a party the state-related person is not required to prepay any fees of court.
- ‘(2) However, if judgment is given against another party in the proceeding and the state-related person has paid fees of court, the state-related person may recover the fees of court with costs from the other party.
- ‘(3) In this section—

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*state-related person* means the Sovereign, the State, a person acting for the State, an entity whose expenditure is payable, in whole or part, out of amounts from the consolidated fund, or a person acting for the entity.’.

## **8 Insertion of new ss 9–10C**

Part 2—

*insert*—

## **‘9 Payment of reduced fee and exemption from setting down fee and hearing fee**

- ‘(1) A party to a proceeding may apply under section 10, 10A or 10B to pay the reduced fee instead of one of the following for the proceeding (the *relevant fee*)—
- (a) a fee mentioned in schedule 1, item 1 on filing a document starting the proceeding;
  - (b) for a party other than a corporation—a fee mentioned in schedule 1, item 2 on filing a document starting the proceeding;
  - (c) a setting down fee;
  - (d) a hearing fee.
- ‘(2) The reduced fee is payable on or before the date specified in the order under section 10, 10A or 10B.
- ‘(3) If the registrar approves payment by the party of the reduced fee instead of a fee mentioned in subsection (1)(a) or (b), a setting down fee and hearing fee are not payable for the proceeding.
- ‘(4) If the registrar approves payment by the party of the reduced fee instead of the setting down fee for the proceeding, a hearing fee is not payable for the proceeding.

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**‘10 Application for payment of reduced fee—when registrar must approve application**

- ‘(1) This section applies to a party to a proceeding who is an individual if the party—
- (a) has been granted legal aid under the *Legal Aid Queensland Act 1997* for the proceeding; or
  - (b) is the holder of any of the following cards under the *Social Security Act 1991* (Cwlth)—
    - (i) a current health care card;
    - (ii) a current pensioner concession card;
    - (iii) a current Commonwealth seniors health card; or
  - (c) is the holder of a current repatriation health card or repatriation pharmaceutical benefits card issued by the Commonwealth department administering the *Veterans’ Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth); or
  - (d) is receiving youth allowance, Austudy payments or a benefit under the ABSTUDY scheme under the *Social Security Act 1991* (Cwlth).
- ‘(2) The party may apply to the registrar for an order that the party pay the reduced fee instead of the relevant fee for the proceeding.
- ‘(3) The application must—
- (a) be in the approved form; and
  - (b) be accompanied by proof of a matter mentioned in subsection (1).
- ‘(4) On receipt of an application properly made under this section, the registrar must, by order, approve that the party pay the reduced fee instead of the relevant fee.
- ‘(5) The order must include the date by which the reduced fee must be paid.



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**‘10A Application for payment of reduced fee—hardship**

- ‘(1) This section applies to a party to a proceeding who is an individual if the party has not made an application under section 10.
- ‘(2) The party may apply in the approved form to the registrar for an order that the party pay the reduced fee instead of the relevant fee on the ground of financial hardship.
- ‘(3) In considering the application, the registrar must have regard to the party’s income, day-to-day living expenses, bank balances and cash on hand.
- ‘(4) If the registrar reasonably believes there is a ground of financial hardship, the registrar may, by order, approve that the party pay the reduced fee instead of the relevant fee.
- ‘(5) The registrar may decide the application summarily and without extensive investigation.
- ‘(6) The order must include the date by which the reduced fee must be paid.

**‘10B Application for payment of reduced fee—corporation**

- ‘(1) A party to a proceeding who is a corporation may apply in the approved form to the registrar for an order that the party pay the reduced fee instead of the relevant fee.
- ‘(2) The registrar may, by order, approve that the party pay the reduced fee instead of the relevant fee only if the registrar reasonably believes the party does not have, and can not reasonably obtain from another source, sufficient funds to pay the relevant fee.
- ‘(3) The order must include the date by which the reduced fee must be paid.

**‘10C Payment of reduced fee—review of registrar’s decision**

- ‘(1) A party who has made an application under section 10, 10A or 10B and is dissatisfied with the registrar’s decision on the

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application may apply to the court for a review of the registrar's decision.

- (2) On an application for a review of the registrar's decision, the court conducting the review may—
- (a) consider the application with or without a hearing; and
  - (b) consider anything the registrar was required to consider when making the decision; and
  - (c) make any order the court considers appropriate.'

## 9 Insertion of new pt 6

After section 22—

*insert—*

## 'Part 6 Transitional provision

### '23 Transitional provision for Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation (No. ..) 2011

'This regulation, as amended by the *Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation (No. 1) 2011*, applies only to proceedings started after the commencement of this section.'

### 10 Amendment of sch 1 (Fees payable in the Supreme Court and District Court)

- (1) Schedule 1, item 1—

*omit, insert—*

#### 'Originating process

- 1 (1) Filing any claim, including a counterclaim or writ in admiralty, under the Corporations Act or the *Admiralty Act 1988* (Cwlth)—

- (a) if at least 1 plaintiff is a corporation . . . 2 142.00 <sup>not</sup> applicable

	(b) otherwise . . . . .	894.00	not applicable
(2)	Filing any application that is an originating process under the Corporations Act or the <i>Admiralty Act 1988</i> (Cwlth)—		
	(a) if at least 1 applicant is a corporation . . . . .	2 142.00	not applicable
	(b) otherwise . . . . .	894.00	not applicable
(3)	Filing any claim, including a counterclaim, other than a claim or counterclaim mentioned in subitem (1)—		
	(a) if at least 1 plaintiff is a corporation . . . . .	1 500.00	1 350.00
	(b) otherwise . . . . .	750.00	675.00
(4)	Filing any application, other than an application mentioned in subitem (2) or item 2, that is an originating process—		
	(a) if at least 1 applicant is a corporation . . . . .	1 500.00	1 350.00
	(b) otherwise . . . . .	750.00	675.00
(5)	Filing any document initiating any appeal, including a case stated, an application for leave to appeal or a cross appeal—		
	(a) if at least 1 party initiating the appeal is a corporation . . . . .	2 250.00	2 025.00
	(b) otherwise . . . . .	1 125.00	1 010.00
(2)	Schedule 1, after item 3—		

*insert—*

**‘Issuing subpoena**

3A	Issuing a subpoena under the <i>Uniform Civil Procedure Rules 1999</i> , rule 414, at the request of a party	73.00	73.00
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[s 10]

**Setting down**

3B (1)	Setting down for hearing or trial a proceeding under the Corporations Act or the <i>Admiralty Act 1988</i> (Cwlth)—		
(a)	if at least 1 plaintiff or appellant is a corporation . . . . .	3 569.00	not applicable
(b)	otherwise . . . . .	1 786.00	not applicable
(2)	Setting down for hearing or trial any other proceeding—		
(a)	if at least 1 plaintiff or appellant is a corporation . . . . .	2 500.00	2 250.00
(b)	otherwise . . . . .	1 250.00	1 125.00

**Hearing**

3C (1)	For the hearing or trial of a proceeding under the Corporations Act or the <i>Admiralty Act 1988</i> (Cwlth)—		
(a)	for each day or part of a day after the first day—		
(i)	if at least 1 plaintiff or appellant is a corporation . . . . .	1 428.00	not applicable
(ii)	otherwise . . . . .	712.00	not applicable
(b)	for each day or part of a day after the fourth day—		
(i)	if at least 1 plaintiff or appellant is a corporation . . . . .	2 568.00	not applicable
(ii)	otherwise . . . . .	1 184.00	not applicable
(c)	for each day or part of a day after the ninth day—		
(i)	if at least 1 plaintiff or appellant is a corporation . . . . .	5 068.00	not applicable
(ii)	otherwise . . . . .	2 384.00	not applicable

- (2) For the hearing or trial of any other proceeding—
- (a) for each day or part of a day after the first day—
    - (i) if at least 1 plaintiff or appellant is a corporation . . . . . 1 000.00 900.00
    - (ii) otherwise . . . . . 500.00 450.00
  - (b) for each day or part of a day after the fourth day—
    - (i) if at least 1 plaintiff or appellant is a corporation . . . . . 1 800.00 1 620.00
    - (ii) otherwise . . . . . 900.00 810.00
  - (c) for each day or part of a day after the ninth day—
    - (i) if at least 1 plaintiff or appellant is a corporation . . . . . 3 500.00 3 150.00
    - (ii) otherwise . . . . . 1 750.00 1 575.00

**Reduced fee**

3D Reduced fee—

- (a) for a corporation in relation to a fee payable under item 1(3), (4), (5), 5(2) or 6(2)—the fee that would be payable under the item if the corporation was a party other than a corporation;
  - (b) otherwise . . . . . 100.00 100.00’.
- (3) Schedule 1, item 6(2), ‘item 5’—  
*omit, insert—*  
 ‘item 9’.
- (4) Schedule 1, items 3A to 20—  
*renumber* as schedule 1, items 4 to 24.

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## 11 Amendment of sch 3 (Dictionary)

Schedule 3—

*insert—*

*‘hearing fee* means the fee payable under section 4A and schedule 1, item 6.

*reduced fee* means the fee mentioned in schedule 1, item 7.

*relevant fee* see section 9(1).

*setting down fee* means the fee payable under section 4A and schedule 1, item 5.’.

# Part 3 Amendment of Recording of Evidence Regulation 2008

## 12 Regulation amended

This part amends the *Recording of Evidence Regulation 2008*.

## 13 Amendment of sch 1 (Fees)

Schedule 1, items 2 and 3—

*omit, insert—*

‘2 For issuing a copy of a transcription, in printed or electronic form, of a record under the Act of another legal proceeding—

(a) first copy—

(i) the first 8 pages . . . . . 72.00

(ii) each extra page . . . . . 9.00

(b) additional copy issued to the same person—each page 1.14



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*state-related person* means the Sovereign, the State, a person acting for the State, an entity whose expenditure is payable, in whole or part, out of amounts from the consolidated fund, or a person acting for the entity.’.

**18 Amendment of r 975D (Responsibility for document electronically filed)**

Rule 975D(3), ‘Rule 971(1)’—

*omit, insert—*

‘Rule 971’.

**19 Insertion of new ch 24, pt 5**

Chapter 24—

*insert—*

**‘Part 5 Provision for Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation (No. 1) 2011**

**‘1000 Transitional provision**

‘Rule 971, as in force immediately before the commencement of this rule, continues to apply to proceedings started before the commencement of this rule.’.

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ENDNOTES

- 1 Made by the Governor in Council on 25 August 2011.
- 2 Notified in the gazette on 26 August 2011.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.



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