



High Court of Australia (Fees) Amendment Regulations 2010 (No. 2)¹

Select Legislative Instrument 2010 No. 245

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Judiciary Act 1903*.

Dated 14 October 2010

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

ROBERT McCLELLAND
Attorney-General

1 Name of Regulations

These Regulations are the *High Court of Australia (Fees) Amendment Regulations 2010 (No. 2)*.

2 Commencement

These Regulations commence on 1 November 2010.

3 Amendment of *High Court of Australia (Fees) Regulations 2004*

Schedule 1 amends the *High Court of Australia (Fees) Regulations 2004*.

4 Transitional

Regulation 9 of the *High Court of Australia (Fees) Regulations 2004*, as in force on 31 October 2010, applies to proceedings commenced before 1 November 2010.

Schedule 1 Amendments

(regulation 3)

[1] Subregulation 5 (1), after definition of *corporation*

insert

full fee means a fee (other than the fee mentioned in item 110 of Schedule 1) that has not been reduced or waived in part.

[2] Subregulation 5 (1), after definition of *proceeding*

insert

reduced fee means the fee mentioned in item 110 of Schedule 1.

[3] After subregulation 6 (1)

insert

- (1A) If a reduced fee is payable instead of any other fee, the fee must be paid at the time that the other fee would have been payable.

[4] Subregulation 8 (5)

substitute

- (5) A person is not liable to pay a full fee mentioned in Part 1 or 3 of Schedule 1 if regulation 9 applies to the person.

[5] Regulation 9

substitute

9 Reduction of fees — general

- (1) This regulation applies to a person if:
- (a) the person has been granted legal aid (under a legal aid scheme or service established under Commonwealth, State or Territory law, or approved by the Attorney-General) for the proceeding; or
 - (b) the person is:
 - (i) the holder of any of the following cards issued by the Department of Families, Housing, Community Services and Indigenous Affairs:
 - (A) a health care card;
 - (B) a pensioner concession card;
 - (C) a Commonwealth seniors health card; or
 - (ii) the holder of any other card issued by the Department of Families, Housing, Community Services and Indigenous Affairs, or the Department of Veterans' Affairs, that certifies the holder's entitlement to Commonwealth health concessions; or
 - (iii) serving a sentence of imprisonment, or otherwise lawfully detained in a public institution; or

- (iv) aged less than 18 years; or
 - (v) receiving youth allowance or Austudy payment, within the meaning of the *Social Security Act 1991*; or
 - (vi) receiving benefit under ABSTUDY, within the meaning of the *Social Security Act 1991*.
- (2) In paragraph (1) (b), **holder**, of a card, does not include a dependant of the holder.
 - (3) The reduced fee is payable, instead of the full fee, on the first occasion the full fee would otherwise be payable by the person in a proceeding.
 - (4) When a fee mentioned in subregulation (3) is paid by the person in a proceeding, no other fees mentioned in Part 1 or 3 of Schedule 1 are payable by the person in connection with the proceeding.
 - (5) This regulation applies to each new proceeding that is commenced.

[6] After regulation 10

insert

10A Change in circumstances

- (1) Subregulation 9 (4) applies to a person as if the person had paid a reduced fee if:
 - (a) the person pays a full fee, or a fee under regulation 10, in a proceeding; and
 - (b) after the fee mentioned in paragraph (a) has been paid, the person becomes eligible under subregulation 9 (1) to pay a fee.
- (2) However, if a person's circumstances change so that subregulation 9 (1) no longer applies to the person, the person is liable to pay all fees that arise after the change in circumstances.

[7] Subregulation 13 (3)*substitute*

- (3) A person is entitled to a refund of the whole or part of a hearing fee (the *refund amount*) if the person pays more than the person is required to pay for the fee under these Regulations.
- (3A) The refund amount is the difference between the fee paid by the applicant and the amount the applicant is required to pay for the fee.

[8] Regulation 14*substitute***14 Biennial increase in fees**

The amount of each fee mentioned in Schedule 1 (other than the fee mentioned in item 110 of Schedule 1) is increased in accordance with Schedule 2 on each biennial anniversary of 1 July 2010.

[9] Schedule 1, item 104*omit*

\$97

insert

\$100

[10] Schedule 1, after item 109*insert*

110	Reduced fee	\$100
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[11] Schedule 1, note

substitute

Note The fees mentioned in this Part (other than the fee mentioned in item 110) are subject to increase under regulation 14.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.