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Statutory Rules 1997 No. *h* 1

157/

## Family Law Regulations<sup>2</sup> (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,  
acting with the advice of the Federal Executive Council, make the  
following Regulations under the *Family Law Act 1975*.

Dated *h* 1997.

*25 June/*  
*h* WILLIAM DEANE/  
Governor-General

By His Excellency's Command,

*h* DARYL WILLIAMS/  
Attorney-General and Minister for Justice

### 1. Commencement

1.1 These Regulations commence on 1 July 1997.

### 2. Amendment

2.1 The Family Law Regulations are amended as set out in these  
Regulations.

**3. Regulation 21AA (Biennial increases)**

3.1 Omit "regulation 11 or 16", substitute "regulation 11, 16 or 75A".

**4. Regulation 21AB (Calculation of increase)**

4.1 Subregulation 21AB (1) (definition of "fee"):

Omit "regulation 11 or 16;"; substitute "regulation 11, 16 or 75A;".

**5. Part 5, new Division 4**

5.1 After regulation 73, insert in Part 5:

***"Division 4—Fees***

**Purpose of Division 4**

"74. This Division prescribes the fees payable for use of the counselling or mediation facilities of the Family Court.

**Application of Division 4**

"75. This Division does not apply to:

- (a) use of the counselling or mediation facilities of the Family Court if the use is directed or ordered under section 16A or subsection 62F (2), 62G (5), 65F (1), 65G (2) or 65L (1) of the Act; or
- (b) an attendance at the Family Court for counselling or mediation if the appointment for the counselling or mediation was made before 1 July 1997.

**Amount of fee and time for payment**

"75A. (1) The fee for each attendance for counselling (except for emergency telephone counselling) is \$30.

"(2) The fee for each attendance for mediation is \$50.

“(3) The fee must be paid before the counselling or mediation begins.

[NOTE: The fees prescribed by this regulation are intended to be increased under Part IIAA on 1 July 1998 and on each biennial anniversary of that date.]

### **Who must pay the fee**

“76. (1) The fee is payable by each person who attends the Family Court for counselling or mediation.

“(2) However, the fee is not payable by:

- (a) a person who 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 matter to which the counselling or mediation relates; or
- (b) a person who, at the time of attendance for the counselling or mediation, is:
  - (i) the holder of a health care card, a health benefit card, a pensioner concession card, or a Commonwealth seniors health card, issued by the Department of Social Security; or
  - (ii) the holder of any other card issued by the Department of Social Security, or the Department of Veterans' Affairs, that entitles the holder to Commonwealth health concessions; or
  - (iii) an inmate of a prison, or otherwise lawfully detained in a public institution; or
  - (iv) a child under the age of 18 years; or
  - (v) receiving AUSTUDY within the meaning of the AUSTUDY Regulations; or
  - (vi) receiving a benefit under the Commonwealth student assistance scheme known as the ABSTUDY Scheme; or
- (c) a person in relation to whom a registrar of the Family Court has made a decision, under subregulation 76A (2), to waive payment of the fee.

**Waiver of fee**

**“76A. (1)** A person may apply to a registrar of the Family Court for a decision to waive payment of the fee on the grounds that, having regard to the person’s income, day to day living expenses, liabilities and assets, payment would cause the person financial hardship.

**“(2)** Within 28 days of receiving an application from a person, the registrar must:

- (a) decide to grant or refuse the application; and
- (b) give the person written notice of the decision.

**“(3)** If the registrar refuses to waive payment of the fee, the registrar must also give the person written notice of the person’s right, under subsection 28 (1) of the *Administrative Appeals Tribunal Act 1975*, to request a statement setting out:

- (a) the findings on material questions of fact; and
- (b) the evidence or other material on which those findings were based; and
- (c) the reasons for the decision.

**“(4)** Failure to give notice under subregulation (3) does not affect the validity of the registrar’s decision.

**“(5)** A person who is dissatisfied with a decision of a registrar to refuse to waive payment of a fee may apply to the Administrative Appeals Tribunal, under the *Administrative Appeals Tribunal Act 1975*, for review of that decision.

**Refund of fee**

**“77. (1)** This regulation applies to:

- (a) a person mentioned in subregulation 76 (2); and
- (b) a person who is directed or ordered, under section 16A or subsection 62F (2), 62G (5), 65F (1), 65G (2) or 65L (1) of the Act, to attend the Family Court for counselling or mediation.

**“(2)** If the person pays a fee for attendance for counselling or mediation, a registrar of the Family Court must refund the full amount of the fee to the person.”.

**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on <sup>h</sup> 1997. 30 June/
2. Statutory Rules 1984 No. 426 as amended by 1985 No. 183; 1986 Nos. 140 and 393; 1987 Nos. 85 and 175; 1988 Nos. 42, 44, 164 and 165; 1989 Nos. 8, 53, 74, 155, 205, 235 and 326; 1990 Nos. 294 and 373; 1991 Nos. 401 and 447 (disallowed by the Senate on 3 March 1992); 1992 Nos. 33, 160, 287, 376 and 404; 1994 Nos. 86 and 343; 1995 Nos. 297, 400 and 419; 1996 Nos. 71, 188 (as amended by 1996 No. 201), 253 and 265.