



# **Federal Court and Federal Circuit and Family Court Regulations 2022**

made under the

*Federal Circuit and Family Court of Australia Act 2021* and the *Federal Court of Australia Act 1976*

## **Compilation No. 3**

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## About this compilation

### This compilation

This is a compilation of the *Federal Court and Federal Circuit and Family Court Regulations 2022* that shows the text of the law as amended and in force on 14 October 2024 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1.01 Name

This instrument is the *Federal Court and Federal Circuit and Family Court Regulations 2022*.

### 1.02 Authority

This instrument is made under the following:

- (a) the *Federal Circuit and Family Court of Australia Act 2021*;
- (b) the *Federal Court of Australia Act 1976*.

### 1.03 Definitions

Note 1: A number of expressions used in this instrument are defined in the Federal Court Act, including the following:

- (a) juror;
- (b) potential juror.

Note 2: A number of expressions used in this instrument are defined in the Federal Circuit and Family Court Act, including the following:

- (a) Chief Executive Officer;
- (b) Registrar.

(1) In this instrument:

***applicant***, in relation to a proceeding, means the person who commences the proceeding.

***approved user of court services***, in relation to a relevant court: see subsection 2.16(4).

***authorised officer***, in relation to a power or function, means:

- (a) in relation to the Federal Court—an officer of that court who is authorised by the relevant Registrar of that court to exercise the power or carry out the function; or
- (b) in relation to the Federal Circuit and Family Court of Australia (Division 2)—the following:
  - (i) an officer of that court authorised by the Chief Executive Officer to exercise the power or carry out the function;
  - (ii) an officer of another court performing the function under an arrangement under section 246 of the Federal Circuit and Family Court Act;
  - (iii) an employee of an agency or organisation performing the function under an arrangement under section 247 of that Act.

***corporation***: see section 1.04.

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**CPI number**, for a quarter, means the All Groups Consumer Price Index number (being the weighted average of the 8 Australian capital cities) published by the Australian Statistician for that quarter.

**Family Law Act** means the *Family Law Act 1975*.

**Federal Circuit and Family Court Act** means the *Federal Circuit and Family Court of Australia Act 2021*.

**Federal Court** means the Federal Court of Australia.

**Federal Court Act** means the *Federal Court of Australia Act 1976*.

**Federal Court Rules** means the rules made under section 59 of the Federal Court Act.

**filing fee** means a fee mentioned in any of items 101 to 115C and 201 to 214A of Schedule 1.

**hearing fee** means a fee mentioned in any of items 117 to 122 and 216 to 218 of Schedule 1.

**interlocutory application** means an application, other than a cross-claim, in a proceeding that has already commenced.

**liable person**, in relation to a fee, means the person who is required to pay the fee under section 2.03.

**March quarter** means a period of 3 months ending at the end of March.

**mediation fee** means a fee mentioned in item 132 or 224 of Schedule 1.

**public authority** means the following:

- (a) a body or authority of the Commonwealth or of a State or Territory, including the following:
  - (i) a Department of the Commonwealth or of a State or Territory;
  - (ii) a Department of the Parliament established under the *Parliamentary Service Act 1999*, a Department of the Parliament of a State or a Department of the legislature of a Territory;
  - (iii) any other non-corporate Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013*;
- (b) a person representing a body or authority of the Commonwealth or of a State or Territory;
- (c) a Minister for the Commonwealth or for a State or Territory;
- (d) a statutory office holder.

**publicly listed company** means a company that is listed on a stock exchange or financial market in any country.

**relevant court**, in relation to a proceeding, means:

- (a) if the proceeding is in the Federal Court—that court; or

- (b) if the proceeding is in the Federal Circuit and Family Court of Australia (Division 2)—that court.

**relevant period** means a financial year starting on or after 1 July 2022.

**relevant Registrar** of a court means:

- (a) in relation to the Federal Court—the following:
  - (i) the Chief Executive Officer;
  - (ii) a Registrar of the court;
  - (iii) a District Registrar of the court;
  - (iv) a Deputy District Registrar of the court; or
- (b) in relation to the Federal Circuit and Family Court of Australia (Division 2)—the following:
  - (i) the Chief Executive Officer;
  - (ii) a Senior Registrar or Registrar of the court.

**setting down fee** means a fee mentioned in item 116 or 215 of Schedule 1.

**small claims proceeding** means a proceeding dealt with as a small claims proceeding under:

- (a) section 548 of the *Fair Work Act 2009*; or
- (b) section 199 of the *National Consumer Credit Protection Act 2009*.

*Expressions used in this instrument that are defined in the Federal Court Act and the Federal Circuit and Family Court Act*

- (2) When used in a provision of this instrument, an expression defined in the Federal Court Act and the Federal Circuit and Family Court Act has the meaning given by whichever of those Acts is appropriate in the context of the application and operation of that provision.

## 1.04 Meaning of *corporation*

- (1) In this instrument, **corporation** includes the following:
  - (a) a company;
  - (b) a body corporate;
  - (c) an unincorporated body that, under the law of the place where the body is formed, may:
    - (i) sue or be sued; or
    - (ii) hold property in the name of the secretary of the body or an office holder of the body appointed for that purpose;
  - (d) a corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*;
  - (e) a trade union.
- (2) However, **corporation** does not include the following:
  - (a) a corporation sole;
  - (b) a small business;

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- (c) an unincorporated not-for-profit association;
  - (d) a public authority.
- (3) For paragraph (2)(b), a ***small business*** is a business with:
  - (a) no more than 19 employees; and
  - (b) a total turnover of less than \$2 million each year.
- (4) For paragraph (2)(c), a ***not-for-profit association*** is a society, club, institution or body that is not formed for the purpose of trading or securing pecuniary profit from its transactions for its members.
- (5) A corporation is not required to be subject to the *Corporations Act 2001* to be a corporation for the purposes of this instrument.



## Part 2—Fees

### Division 2.1—General

#### 2.01 Purpose of this Part

This Part prescribes matters relating to fees for the purposes of section 60 of the Federal Court Act and section 285 of the Federal Circuit and Family Court Act.

#### 2.01A Application of this Part

This Part applies to a fee for a service that is requested, or for the filing of a document that is lodged, in relation to the following:

- (a) a proceeding in the Federal Court;
- (b) a proceeding in the Federal Circuit and Family Court of Australia (Division 2), other than a proceeding under the Family Law Act.

Note: For fees in relation to proceedings under the Family Law Act, see the *Family Law (Fees) Regulations 2022*.

#### 2.02 Fees

- (1) Schedule 1 sets out the fees payable for the following:
  - (a) the filing of a document in relation to a proceeding;
  - (b) a service in relation to a proceeding provided by:
    - (i) a relevant court; or
    - (ii) an officer of a relevant court; or
    - (iii) another person acting on behalf of a relevant court.

Note 1: Fees are subject to increase under section 2.20.

Note 2: Fees are not payable in some circumstances: see Division 2.4.

- (2) If the liable person for a fee mentioned in an item in Schedule 1 is a corporation, the fee payable is:
  - (a) if the corporation is a publicly listed company and a fee is mentioned in the item for a publicly listed company—that fee; or
  - (b) if the corporation is a publicly listed company and a fee is mentioned in the item for a corporation, but not for a publicly listed company—that fee; or
  - (c) if the corporation is not a publicly listed company and a fee is mentioned in the item for a corporation—that fee; or
  - (d) if no fee is mentioned in the item specifically for a corporation or a publicly listed company—the fee mentioned in the item.
- (3) However, if:
  - (a) under section 2.03, a particular fee mentioned in an item in Schedule 1 is payable by more than one person; and
  - (b) the item mentions different fees for different persons; and

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(c) at least 2 of the persons mentioned in paragraph (a) are different persons;  
the only fee that is payable in relation to that particular fee is the highest fee that  
applies to any of those persons.

## **Division 2.2—Liability to pay fees**

### **2.03 Persons liable to pay fees**

- (1) A fee in relation to a proceeding in a relevant court is payable as set out in this section, unless the relevant court, or a Judge or relevant Registrar of that court, directs otherwise.

#### *Filing fees*

- (2) A filing fee is payable by the person for whom the relevant document is filed.

#### *Setting down fees and hearing fees*

- (3) A hearing fee or a setting down fee is payable by:
- (a) if the hearing is for a cross-claim or cross-appeal only—the cross-claimant or cross-appellant; or
  - (b) if the hearing is for an interlocutory application—the person who made the interlocutory application; or
  - (c) in any other case—the applicant (other than a cross-applicant) or appellant (other than a cross-appellant).
- (4) If 2 or more proceedings are set down for hearing together and the hearings are not consolidated:
- (a) only one setting down fee and one set of hearing fees is payable for all the proceedings; and
  - (b) the amount of each of the setting down fee and the set of hearing fees is apportioned equally between the liable persons for the fee.

#### *Mediation fees*

- (5) A mediation fee is payable by the applicant in the proceeding to which the mediation relates.

#### *Fees for taxation of bill of costs—Federal Court*

- (6) If:
- (a) a fee mentioned in any of items 128 to 131 of Schedule 1 is payable for a bill of costs in relation to a proceeding; and
  - (b) the bill of costs is subject to an estimate, or has been provisionally taxed, under the Federal Court Rules; and
  - (c) a party to the proceeding objects to the estimate, or requires a full taxation of the bill of costs, in accordance with those Rules;
- the fee is payable by the party mentioned in paragraph (c).
- (7) If more than one party objects to the estimate, or requires a full taxation of the bill of costs, the fee is apportioned between those parties as determined by the relevant Registrar of the Federal Court.

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*Fees for other services*

- (8) A fee for a service:
- (a) mentioned in an item in Schedule 1; and
  - (b) not otherwise mentioned in this section;
- is payable by the person for whom the service is provided.

**2.04 When fees for producing files and copying documents are payable**

- (1) Despite Divisions 2.3 and 2.4, a fee mentioned in item 123 or 219 of Schedule 1 is payable in all proceedings.
- (2) However, the fee is not payable in relation to a proceeding if:
- (a) either:
    - (i) apart from subsection (1), the liable person for the fee would be exempt from paying the fee under section 2.05; or
    - (ii) the liable person for the fee is exempt under section 2.06 from paying another fee in relation to the proceeding, and that other fee was the most recent fee that would otherwise have been payable by the liable person in the proceeding; and
  - (b) the copy of the relevant document requested:
    - (i) is the first copy of that document that the person has requested; or
    - (ii) is required for the preparation of appeal papers.

## **Division 2.3—Exemptions and reduced fees**

### **2.05 Persons exempt from paying fee—general**

- (1) A person is exempt from paying a fee mentioned in Schedule 1 (other than a fee mentioned in item 115C or 214A) in relation to a proceeding if, at the time the fee is payable, one or more of the following apply:
  - (a) the person has been granted legal aid for the proceeding under a legal aid scheme or service:
    - (i) established under a law of the Commonwealth or of a State or Territory; or
    - (ii) approved by the Attorney-General;
  - (b) the person is the holder of any of the following cards issued by the Commonwealth:
    - (i) a health care card;
    - (ii) a pensioner concession card;
    - (iii) a Commonwealth seniors health card;
    - (iv) any other card that certifies the holder's entitlement to Commonwealth health concessions;
  - (c) the person is serving a sentence of imprisonment or is otherwise detained in a public institution, or is in immigration detention (within the meaning of the *Migration Act 1958*);
  - (d) the person is younger than 18;
  - (e) the person is receiving youth allowance or Austudy payments under the *Social Security Act 1991* or benefits under the ABSTUDY Scheme;
  - (f) the person has received funding for the proceeding under Part 11 of the *Native Title Act 1993* from:
    - (i) a representative body within the meaning of section 253 of that Act; or
    - (ii) a person or body to whom funding has been made available under section 203FE of that Act.
- (2) For paragraph (1)(b), the **holder** of a card does not include a dependant of the person who is issued the card.

### **2.06 Persons exempt from paying fee—financial hardship**

- (1) If:
  - (a) a fee mentioned in Schedule 1 (other than a fee mentioned in item 115C, 201A or 214A) is payable by an individual in relation to a proceeding; and
  - (b) in the opinion of the relevant Registrar or authorised officer of the relevant court at the time the fee is payable, the payment of the fee would cause financial hardship to the individual;the relevant Registrar or authorised officer may exempt the individual from paying the fee.

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- (2) In considering whether payment of a fee would cause financial hardship to an individual, the relevant Registrar or authorised officer must consider the individual's income, day-to-day living expenses, liabilities and assets.

Note: A decision of the relevant Registrar or authorised officer under this section is reviewable by the ART: see section 2.21.

**2.06A Reduced fee or fee exemption for migration proceedings—financial hardship**

- (1) This section applies to a proceeding in the Federal Circuit and Family Court of Australia (Division 2) of a kind mentioned in item 201A of Schedule 1.
- (2) If:
- (a) the full fee mentioned in item 201A of Schedule 1 is payable by an individual in relation to the proceeding; and
  - (b) in the opinion of a relevant Registrar or an authorised officer of the Federal Circuit and Family Court of Australia (Division 2) at the time the fee is payable, the payment of the full fee would cause financial hardship to the individual;
- the relevant Registrar or authorised officer may determine that:
- (c) the individual may instead pay the reduced fee specified in that item; or
  - (d) if, in the opinion of the relevant Registrar or the authorised officer at that time, the payment of the reduced fee would also cause financial hardship to the individual—the individual is exempt from paying both the full fee and the reduced fee.
- (3) In considering whether payment of the full fee or the reduced fee would cause financial hardship to an individual, the relevant Registrar or authorised officer must consider the individual's income, day-to-day living expenses, liabilities and assets.

Note: A decision of a relevant Registrar or an authorised officer under this section is reviewable by the ART: see section 2.21.

## **Division 2.4—When fees are not payable**

### **2.07 Fees not payable if already paid**

A fee mentioned in Schedule 1 is not payable by the liable person for the fee if another person has paid the fee.

### **2.08 Fees not payable in certain Federal Court proceedings**

- (1) This section applies to proceedings in the Federal Court.
- (2) A fee mentioned in Schedule 1 is not payable in relation to any of the following proceedings:
  - (a) an appeal from a judgment in relation to an application under section 46PO or 46PP of the *Australian Human Rights Commission Act 1986*;
  - (b) an appeal from a judgment in relation to an application made by a person under section 539 of the *Fair Work Act 2009* in either of the following circumstances:
    - (i) the person has been dismissed from employment in alleged contravention of Part 3-1 of that Act;
    - (ii) the person alleges that an employer has taken adverse action against the person in breach of section 351 of that Act;
  - (ba) an appeal from a judgment in relation to an application made by a person under section 539 of the *Fair Work Act 2009* for orders in relation to an alleged contravention of Division 2 of Part 3-5A of that Act;
  - (c) an appeal from a judgment in relation to an application made by a person under section 539 of the *Fair Work Act 2009* if the person has been dismissed from employment in alleged contravention of section 772 of that Act;
  - (d) the trying of an election petition under the *Aboriginal and Torres Strait Islander Act 2005*;
  - (e) an application by a person to set aside a subpoena;
  - (f) a proceeding under the *Child Support (Registration and Collection) Act 1988*;
  - (g) an appeal on a question of law from a decision of the Administrative Review Tribunal in a proceeding for ART review (within the meaning of the *Child Support (Registration and Collection) Act 1988*) under subsection 172(1) of the *Administrative Review Tribunal Act 2024*;
  - (h) a proceeding for which an international convention that is in force for Australia provides that no fee is to be payable;
  - (i) an application under section 23 of the *International Arbitration Act 1974* for the issue of a subpoena.

#### *Taxation proceedings*

- (3) A fee mentioned in Schedule 1 is not payable in relation to any of the following kinds of proceedings if a relevant Registrar or authorised officer of the court is

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### Division 2.4 When fees are not payable

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satisfied that the circumstance set out in subsection (4) apply in relation to the proceedings:

- (a) an appeal under section 14ZZ of the *Taxation Administration Act 1953*;
- (b) an appeal from a decision of the Taxation and Business jurisdictional area of the Administrative Review Tribunal;
- (c) an appeal from a single judge to the Full Court in relation to an appeal under section 14ZZ of the *Taxation Administration Act 1953*.

Note: A decision of the relevant Registrar or authorised officer under this subsection is reviewable by the ART: see section 2.21.

- (4) The circumstances are that:
  - (a) the person lodging the appeal has lodged with the court another appeal for which the fee mentioned in Schedule 1 has been paid; and
  - (b) both appeals are the same kind of proceeding under subsection (3); and
  - (c) the appeal concerns an issue (other than a procedural issue) that is substantially the same as an issue of concern in the other appeal.

#### 2.09 Fees not payable in certain Federal Circuit and Family Court of Australia (Division 2) proceedings

- (1) This section applies to proceedings in the Federal Circuit and Family Court of Australia (Division 2).
- (2) A fee mentioned in Schedule 1 is not payable in relation to any of the following:
  - (a) an application for an extension of the time within which a proceeding may be commenced;
  - (b) a proceeding for which an international convention that is in force for Australia provides that no fee is to be payable;
  - (c) an application by a person to set aside a subpoena;
  - (d) a proceeding under the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*;
  - (e) an appeal on a question of law from a decision of the Administrative Review Tribunal in a proceeding for ART review (within the meaning of the *Child Support (Registration and Collection) Act 1988*) under subsection 172(1) of the *Administrative Review Tribunal Act 2024*.
- (3) A fee mentioned in Schedule 1 is not payable in relation to an objection to a subpoenaed document being inspected or copied.

#### 2.10 When only filing fees are payable

- (1) A fee mentioned in Schedule 1, other than a filing fee mentioned in item 102 or 202, is not payable in relation to an application under section 46PO or 46PP of the *Australian Human Rights Commission Act 1986*.
- (2) A fee mentioned in Schedule 1, other than a filing fee mentioned in item 103 or 209, is not payable in relation to an application under section 539 of the *Fair Work Act 2009* in either of the following circumstances:



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- (a) the applicant has been dismissed from employment in alleged contravention of Part 3-1 of that Act;
  - (b) the applicant alleges a breach of section 351 of that Act.
- (2A) A fee mentioned in Schedule 1, other than a filing fee mentioned in item 103A or 209A, is not payable in relation to an application under section 539 of the *Fair Work Act 2009* for orders in relation to an alleged contravention of Division 2 of Part 3-5A of that Act.
- (3) A fee mentioned in Schedule 1, other than a filing fee mentioned in item 104 or 210, is not payable in relation to an application under section 539 of the *Fair Work Act 2009* if the applicant has been dismissed from employment in alleged contravention of section 772 of that Act.
- (4) A fee mentioned in Schedule 1, other than a filing fee mentioned in any of items 211 to 214, is not payable in relation to a small claims proceeding in the Federal Circuit and Family Court of Australia (Division 2).

## 2.11 When filing fees are not payable

### *Federal Court*

- (1) A filing fee (other than the filing fee mentioned in item 115C of Schedule 1) is not payable in relation to any of the following proceedings in the Federal Court:
- (a) a proceeding in relation to a matter remitted to the Federal Court by the High Court under section 44 of the *Judiciary Act 1903*;
  - (b) a proceeding in relation to a matter referred to the Federal Court by the High Court under subsection 354(1) or (3) of the *Commonwealth Electoral Act 1918*;
  - (c) a proceeding in relation to a criminal matter;
  - (d) a proceeding in relation to a case stated, or a question reserved, for the consideration or opinion of the Federal Court;
  - (e) a proceeding in relation to a referral to the Federal Court of a question of law by a tribunal or body that, under a law of the Commonwealth, may refer questions of law to the Federal Court;
  - (f) an application to the Federal Court for an extension of time within which a particular proceeding may be commenced;
  - (g) a proceeding transferred from the Federal Circuit and Family Court of Australia (Division 2) by the Federal Court under section 32AC of the Federal Court Act;
  - (h) a proceeding:
    - (i) transferred by the Federal Circuit and Family Court of Australia (Division 2) to the Federal Court under section 153 of the Federal Circuit and Family Court Act; and
    - (ii) whose transfer is confirmed by the Federal Court under section 32AD of the Federal Court Act.

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**Division 2.4** When fees are not payable

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*Federal Circuit and Family Court of Australia (Division 2)*

- (2) A filing fee (other than the filing fee mentioned in item 214A of Schedule 1) is not payable in relation to a proceeding in the Federal Circuit and Family Court of Australia (Division 2) if:
- (a) the proceeding is in relation to a matter that:
    - (i) was remitted by the High Court to the Federal Court under section 44 of the *Judiciary Act 1903*; and
    - (ii) was subsequently transferred by the Federal Court to the Federal Circuit and Family Court of Australia (Division 2) under section 32AB of the Federal Court Act; or
  - (b) the proceeding is in relation to a matter remitted by the High Court to the Federal Circuit and Family Court of Australia (Division 2) under section 44 of the *Judiciary Act 1903*.

Note: Other fees may be payable in relation to a proceeding mentioned in this section.

**2.12 When setting down fees are not payable**

*Federal Court*

- (1) A setting down fee is not payable in relation to a proceeding in the Federal Court if:
- (a) the proceeding is only a proceeding that is commenced by an interlocutory application; or
  - (b) in relation to an application or appeal:
    - (i) a setting down fee, or a fee for setting down under another law of the Commonwealth, has already been paid in relation to the proceeding; and
    - (ii) that fee has not been refunded; or
  - (c) the proceeding is an application for admission to practice as a barrister, solicitor, or barrister and solicitor; or
  - (d) the proceeding is in relation to a matter that was remitted to the Federal Court by the High Court under section 44 of the *Judiciary Act 1903*, and:
    - (i) it was commenced in the High Court before 1 November 2004; or
    - (ii) it was remitted by the High Court in its appellate jurisdiction for re-hearing by the Federal Court; or
  - (e) the proceeding is an exercise by the Federal Court of its original jurisdiction under the *Bankruptcy Act 1966*; or
  - (f) the proceeding is in relation to a criminal matter; or
  - (g) the proceeding is in relation to a case stated, or a question reserved, for the consideration or opinion of the Federal Court; or
  - (h) the proceeding is in relation to a referral to the Federal Court of a question of law by a tribunal or body that, under a law of the Commonwealth, may refer questions of law to the Federal Court; or
  - (i) the proceeding is an application to the Federal Court for an extension of time within which a particular proceeding may be commenced; or

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- (j) the proceeding is one that is transferred from the Federal Circuit and Family Court of Australia (Division 2) by the Federal Court under section 32AC of the Federal Court Act and a setting down fee has already been paid in relation to the proceeding; or
- (k) all of the following apply:
  - (i) the proceeding is one that is transferred by the Federal Circuit and Family Court of Australia (Division 2) to the Federal Court under section 153 of the Federal Circuit and Family Court Act;
  - (ii) the transfer of the proceeding is confirmed by the Federal Court under section 32AD of the Federal Court Act;
  - (iii) a setting down fee has already been paid in relation to the proceeding.

### *Federal Circuit and Family Court of Australia (Division 2)*

- (2) A setting down fee is not payable in relation to a proceeding in the Federal Circuit and Family Court of Australia (Division 2) if:
  - (a) the proceeding is in relation to a matter that:
    - (i) was remitted by the High Court, in the exercise of its appellate jurisdiction, for re-hearing by the Federal Court under section 44 of the *Judiciary Act 1903*; and
    - (ii) was subsequently transferred by the Federal Court to the Federal Circuit and Family Court of Australia (Division 2) under section 32AB of the Federal Court Act; or
  - (b) the proceeding is in relation to a matter remitted by the High Court, in the exercise of its appellate jurisdiction, for re-hearing by the Federal Circuit and Family Court of Australia (Division 2) under section 44 of the *Judiciary Act 1903*.

Note: Other fees may be payable in relation to a proceeding mentioned in this section.

## **2.13 When hearing fees are not payable**

### *Federal Court*

- (1) A hearing fee is not payable in relation to a proceeding in the Federal Court if:
  - (a) the hearing is cancelled before the fee is paid; or
  - (b) the sole purpose of the hearing is the delivery of a reserved judgment; or
  - (c) in relation to an application or appeal:
    - (i) a hearing fee, or a fee for the hearing under another law of the Commonwealth, has already been paid for the application or appeal; and
    - (ii) that fee has not been refunded; or
  - (d) the proceeding is an application for admission to practice as a barrister, solicitor or barrister and solicitor; or
  - (e) the proceeding is in relation to a matter that was remitted to the Federal Court by the High Court under section 44 of the *Judiciary Act 1903*, and:
    - (i) it was commenced in the High Court before 1 November 2004; or

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- (ii) it was remitted by the High Court in its appellate jurisdiction for re-hearing by the Federal Court; or
- (f) the proceeding is an exercise by the Federal Court of its original jurisdiction under the *Bankruptcy Act 1966*; or
- (g) the proceeding is in relation to a criminal matter; or
- (h) the proceeding is in relation to a case stated, or a question reserved, for the consideration or opinion of the Federal Court; or
- (i) the proceeding is in relation to a referral to the Federal Court of a question of law by a tribunal or body that, under a law of the Commonwealth, may refer questions of law to the Federal Court; or
- (j) the proceeding is an application to the Federal Court for an extension of time within which a particular proceeding may be commenced; or
- (k) the proceeding is one that is transferred from the Federal Circuit and Family Court of Australia (Division 2) by the Federal Court under section 32AC of the Federal Court Act and a hearing fee has already been paid in relation to the proceeding; or
- (l) all of the following apply:
  - (i) the proceeding is one that is transferred by the Federal Circuit and Family Court of Australia (Division 2) to the Federal Court under section 153 of the Federal Circuit and Family Court Act;
  - (ii) the transfer of the proceeding is confirmed by the Federal Court under section 32AD of the Federal Court Act;
  - (iii) a hearing fee has already been paid in relation to the proceeding.

*Federal Circuit and Family Court of Australia (Division 2)*

- (2) A hearing fee is not payable in relation to a proceeding in the Federal Circuit and Family Court of Australia (Division 2) if:
  - (a) the proceeding is in relation to a matter that:
    - (i) was remitted by the High Court, in the exercise of its appellate jurisdiction, for re-hearing by the Federal Court under section 44 of the *Judiciary Act 1903*; and
    - (ii) was subsequently transferred by the Federal Court to the Federal Circuit and Family Court of Australia (Division 2) under section 32AB of the Federal Court Act; or
  - (b) the proceeding is in relation to a matter remitted by the High Court, in the exercise of its appellate jurisdiction, for re-hearing by the Federal Circuit and Family Court of Australia (Division 2) under section 44 of the *Judiciary Act 1903*.

Note: Other fees may be payable in relation to a proceeding mentioned in this section.

## **Division 2.5—Payment of fees**

### **2.14 When fees must be paid**

#### *Filing fee*

- (1) A filing fee for a document must be paid before the relevant document is filed.

#### *Setting down fee*

- (2) A setting down fee for a hearing in relation to a proceeding must be paid when a relevant court fixes the hearing, as follows:
  - (a) if the hearing is fixed to commence within 28 days after the day when the court fixes the hearing—within the period, or at the time, approved by the relevant Registrar or authorised officer of the relevant court for the payment of that fee;
  - (b) in any other case—no later than 28 days before the hearing is fixed to commence.
- (3) To avoid doubt, a setting down fee is payable for the fixing of the hearing of a proceeding whether or not the proceedings are heard on those days, on later days or at all.

#### *Hearing fee*

- (4) A hearing fee for a hearing day in relation to a proceeding must be paid as follows:
  - (a) if the hearing day is more than 2 business days after the day when the hearing day is fixed—no later than close of business for the relevant court on the day that is 2 business days before the hearing day;
  - (b) in any other case—no later than 9.30 am on the hearing day.

#### *Fee for service or execution of process, or seizure and sale of goods*

- (5) A fee mentioned in any of items 124, 125, 220 and 221 of Schedule 1 must be paid within the period, or at the time, approved by the relevant Registrar or an authorised officer of the relevant court for the payment of the fee.

#### *Fee for other service*

- (6) A fee for a service:
  - (a) mentioned in an item in Schedule 1; and
  - (b) not otherwise mentioned in this section;must be paid before the service is provided.

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### 2.15 Deferral of payment of fees

- (1) Section 2.14 does not apply to a fee payable in relation to a proceeding if the relevant Registrar or an authorised officer of the relevant court defers the payment of the fee.
- (2) The relevant Registrar or authorised officer may defer the payment of a fee under subsection (1) (other than a fee mentioned in any of items 123 to 125 and 219 to 221 of Schedule 1) if:
  - (a) in the opinion of the relevant Registrar or authorised officer:
    - (i) for a filing fee for a document—the need to file the document is so urgent that it overrides the requirement to pay the filing fee before the document is filed; or
    - (ii) considering the financial circumstances of the person liable to pay the fee, it would be oppressive or otherwise unreasonable to require payment of the fee in accordance with section 2.14; or
  - (b) the liable person for the fee is represented by a lawyer who is not charging the person in relation to the proceeding.
- (3) If the payment of a fee is deferred, the fee must be paid:
  - (a) within 28 days after the day the payment is deferred; or
  - (b) within another period approved, in writing, by the relevant Registrar or authorised officer for the payment of that fee.

**Note:** If a setting down fee in relation to a hearing is deferred and the hearing does not occur, the setting down fee is still payable in accordance with this subsection.

- (4) A fee may be deferred more than once.
- (5) The relevant Registrar or authorised officer may impose conditions on the deferral of the payment of a fee.

**Note:** A decision of the relevant Registrar or authorised officer under this section is reviewable by the ART: see section 2.21.

### 2.16 Payment of fees on invoice

#### *Payment of fee by approved user of court services*

- (1) Section 2.14 does not apply to a fee payable in relation to a proceeding in a relevant court if, at the time the fee would be payable under that section, the liable person for the fee:
  - (a) is an approved user of court services in relation to the relevant court; or
  - (b) is represented by a lawyer who is an approved user of court services in relation to the relevant court.
- (2) If the liable person has not paid the fee, the relevant court may:
  - (a) if paragraph (1)(a) applies—invoice the liable person for the fee; or
  - (b) if paragraph (1)(b) applies—invoice the liable person, or the lawyer representing the liable person, for the fee.

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- (3) The liable person or the lawyer (as applicable) must pay the fee within 30 days after the day the person or lawyer receives the invoice.

*Approved user of court services*

- (4) A person is an ***approved user of court services*** in relation to a relevant court if the relevant Registrar of that court has approved the person for the purposes of this section.
- (5) In deciding whether to approve the person for the purposes of this section, the relevant Registrar must consider the following:
- (a) the person's financial history with the court, including the frequency of dealings with the court and whether fees have been paid;
  - (b) whether the person has agreed to be responsible for, and guarantees, the payment of fees due for payment by the person within the period mentioned in subsection (3);
  - (c) whether the person is, or is likely to be, a regular user of the services of the court;
  - (d) the financial circumstances of the person;
  - (e) any other matter the relevant Registrar considers relevant.
- (6) The relevant Registrar may impose conditions on the approval of the person for this section.

## **2.17 Payment of fees in advance**

- (1) A person may pay an amount on account to a relevant court in relation to a proceeding if:
- (a) the person is an approved user of court services in relation to that court; and
  - (b) the person expects to become liable to pay a fee mentioned in Schedule 1 in relation to a proceeding in that court; and
  - (c) the relevant Registrar of that court authorises the person to pay fees in advance.
- (2) If an amount is paid under subsection (1), any fees payable by the person must be charged against that amount until the amount is exhausted.
- (3) The relevant Registrar may impose conditions on the authorisation of a person for this section.

## **2.18 What happens if fees are not paid**

- (1) This section applies if the payment of a fee:
- (a) is not deferred under section 2.15; and
  - (b) cannot be invoiced under section 2.16.
- (2) If a person is required to pay a fee mentioned in Schedule 1 in relation to a proceeding before, or at the time of, the filing of a document or the provision of a

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service for which the fee is payable, the document must not be filed or the service must not be provided until the fee is paid.

- (3) However, the relevant court for the proceeding, or a Judge or relevant Registrar of that court, may allow the document to be filed or the service to be provided despite the fee, or part of the fee, not being paid.
- (4) If a setting down fee or a hearing fee (or a part of either of those fees) is not paid in relation to a proceeding:
  - (a) the relevant court, or a Judge or relevant Registrar of that court, may order that no proceeding, or no proceeding other than a specified proceeding, is to take place except by leave; and
  - (b) a person other than the person liable to pay the fee may pay the fee without affecting any power of the relevant court, or of a Judge or relevant Registrar of that court, to make an order for costs for the fee; and
  - (c) the relevant court, or a Judge or relevant Registrar of that court, may vacate the hearing day.



## **Division 2.6—Miscellaneous**

### **2.19 Refund of fees**

#### *General*

- (1) A person is entitled to a refund of an amount in relation to the payment of a fee mentioned in Schedule 1 if:
  - (a) the person pays an amount for the fee; and
  - (b) the amount paid by the person is more than the amount that is required to be paid under this instrument for the fee.
- (2) The amount to be refunded is the difference between the amount paid by the person and the amount of the fee that is required to be paid under this instrument.
- (3) A person is entitled to the refund of the amount paid by the person as a fee mentioned in Schedule 1 if:
  - (a) the fee had already been paid by another person; or
  - (b) the fee was not payable under this instrument.

#### *Setting down fee*

- (4) A person is not entitled to the refund of the amount paid by the person as a setting down fee for a hearing in relation to a proceeding if the first hearing day fixed by the setting down, or a hearing day fixed in place of the first hearing day, does not occur.

#### *Hearing fees—hearings not commenced*

- (5) A person is entitled to the refund of the amount paid by the person as a hearing fee for a hearing day, or a part of a hearing day, in respect of a hearing that has not commenced if:
  - (a) the person notifies the relevant Registrar or an authorised officer of the relevant court, in accordance with subsection (6), that the hearing will not occur or will occur only for the purpose of making orders finalising the proceeding that was to be the subject of the hearing; and
  - (b) the hearing does not occur or occurs only for the purpose of making those orders.
- (6) The person must notify the relevant Registrar or authorised officer in writing:
  - (a) if the hearing day was fixed less than 10 business days before the hearing day—at least 2 business days before the hearing day; and
  - (b) in any other case—at least 10 business days before the hearing day.
- (7) Despite subsection (5), a relevant Registrar or authorised officer may refund a hearing fee for a hearing day, or a part of a hearing day, in respect of a hearing that has not commenced if:

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- (a) the person who paid the hearing fee has not notified the relevant Registrar or authorised officer in accordance with paragraph (5)(a) and subsection (6); and
- (b) the relevant Registrar or authorised officer is satisfied that the reason the person has not notified the relevant Registrar or authorised officer is not the fault of the person; and
- (c) the hearing does not occur or occurs only for the purpose of making orders finalising the proceedings that were the subject of the hearing.

**Note:** A decision of the relevant Registrar or authorised officer under this subsection is reviewable by the ART: see section 2.21.

### *Hearing fees—hearings commenced*

- (8) A person is entitled to the refund of the amount paid by the person as a hearing fee for a hearing day, or a part of a hearing day, in respect of a hearing that has commenced if:
  - (a) the proceeding that was the subject of the hearing is settled or discontinued before the hearing day; or
  - (b) the hearing day does not proceed for some other reason.

**Example:** If a person pays hearing fees in advance for 20 hearing days, but the proceeding finishes after 12 hearing days, a person is entitled to a refund of the hearing fees paid for 8 hearing days.

### *Mediation fee*

- (9) A person is entitled to the refund of the amount paid by the person as a mediation fee in relation to a proceeding if:
  - (a) the mediation does not proceed on the occasion for which the fee was paid; and
  - (b) the relevant court, or a Judge or relevant Registrar of that court, orders a refund of the fee.

## **2.20 Annual increase in fees**

- (1) The amount of each fee mentioned in Schedule 1, other than the fees in any of items 102, 103, 104, 107, 124, 202, 209, 210 and 220 or the reduced fee in item 201A, is increased on 1 July 2023, and on each 1 July following that day, in accordance with this section.

### *Fees other than reduced fees*

- (2) If, in a relevant period, the latest CPI number is greater than the earlier CPI number, the fee is increased, on 1 July immediately following the end of the period, in accordance with the formula:

$$\frac{\text{Fee} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

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**earlier CPI number** is the CPI number for the last March quarter before the start of the relevant period.

**fee** is the amount of the fee in force at the end of the relevant period.

**latest CPI number** is the CPI number for the last March quarter before the end of the relevant period.

- (3) The amount of the fee worked out under subsection (2) is to be rounded to an amount of dollars and cents and then further rounded as follows:
- (a) if the amount is \$50 or more—the amount is to be rounded to the nearest amount that is a multiple of \$5;
  - (b) if the amount is less than \$50—the amount is to be rounded to the nearest whole dollar;
  - (c) if the amount to be rounded is 50 cents, the amount is to be rounded down.

*Reduced fees*

- (4) If the full fee mentioned in item 201A of Schedule 1 is increased and rounded under subsections (2) and (3), the reduced fee mentioned in that item is increased in accordance with subsection (5) at the same time.
- (5) The increased reduced fee is half the amount of the full fee (as increased and rounded under subsections (2) and (3)), rounded down to the nearest multiple of \$5.

*Other rules*

- (6) If the Australian Statistician publishes for a particular March quarter a CPI number in substitution for a CPI number previously published by the Australian Statistician for that quarter, the publication of the later CPI number is disregarded for this section.
- (7) However, if the Australian Statistician changes the index reference period for the CPI number, then for the application of this section after the change is made, regard must be had only to CPI numbers published in terms of the new index reference period.

## 2.21 Notice of decision and ART review

*Notice of decision*

- (1) A relevant Registrar or an authorised officer must give a liable person for a fee a notice in accordance with this section if the relevant Registrar or authorised officer makes a decision about the payment of the fee under section 2.06 or 2.06A, subsection 2.08(3), section 2.15 or subsection 2.19(7).
- (2) The relevant Registrar or authorised officer must give the notice to the liable person within 28 days after making the decision.
- (3) The notice must set out:

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- (a) the decision; and
- (b) for a decision mentioned in subsection (5):
  - (i) a statement that the liable person may apply to the Administrative Review Tribunal for review of the decision; and
  - (ii) reasons for the decision.
- (4) Failure to comply with subparagraph (3)(b)(i) does not affect the validity of the decision.

### *Application for review of decision*

- (5) The liable person may apply to the Administrative Review Tribunal for review of a decision:
  - (a) to not exempt a person from paying a fee; or
  - (b) to not defer the payment of a fee; or
  - (c) to not refund a hearing fee that has been paid for a hearing day in respect of a hearing that has not commenced; or
  - (d) to not determine that a person may pay a reduced fee; or
  - (e) to not be satisfied that the circumstances set out in subsection 2.08(4) apply in respect of certain taxation proceedings.

## **2.22 Debt due to Commonwealth**

Any fee that is not paid in accordance with this instrument is recoverable by the Commonwealth as a debt due to the Commonwealth.

## **Part 3—Jurors' remuneration**

### **3.01 Purpose of Part**

For the purposes of section 23EH of the Federal Court Act, this Part provides for remuneration and allowances that are payable to a person who is a potential juror or juror in relation to a proceeding in the Federal Court.

### **3.02 Remuneration and allowances—base amount**

- (1) Schedule 2 sets out the amounts of remuneration and allowances that are payable to the person.

Note: The amounts are subject to increase under section 3.04.

#### *Amounts for attendance*

- (2) The amounts mentioned in Schedule 2 are payable for each day that the person attends court.

#### *Amounts for non-attendance*

- (3) The amounts mentioned in Schedule 2 are also payable for each day, to a maximum of 5 days, that the person is not required to attend court.

### **3.03 Remuneration and allowances—reimbursement of additional travel costs**

- (1) If the person is required to travel more than 30 kilometres (by the shortest practical route) from the person's usual place of residence to the Federal Court, the person may apply to the Sheriff of the Federal Court for reimbursement of reasonable travel costs.
- (2) The Sheriff of the Federal Court may approve:
  - (a) when the claim for reimbursement of travel costs may be submitted; and
  - (b) the form of the claim; and
  - (c) the information or documents that must be submitted with the claim.
- (3) If the Sheriff of the Federal Court does not, under paragraph (2)(a), approve when the claim may be submitted, a claim for reimbursement of travel costs may be submitted within 5 days of the person incurring the travel costs.

### **3.04 Annual increase in remuneration and allowances**

- (1) Each dollar amount mentioned in Schedule 2 is increased on 1 July 2023, and on each 1 July following that day, in accordance with this section.
- (2) If, in a relevant period, the latest CPI number is greater than the earlier CPI number, the amount is increased, on 1 July immediately following the end of the period, in accordance with the formula:

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$$\frac{\text{Amount} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

**amount** is the amount in force at the end of the relevant period.

**earlier CPI number** is the CPI number for the last March quarter before the start of the relevant period.

**latest CPI number** is the CPI number for the last March quarter before the end of the relevant period.

- (3) If, apart from this clause, an amount increased under subsection (2) would be an amount of dollars and cents, the amount is taken to be rounded to the nearest whole dollar and, if the amount to be rounded is 50 cents, rounded down.
- (4) If the Australian Statistician publishes for a particular March quarter a CPI number in substitution for a CPI number previously published by the Australian Statistician for that quarter, the publication of the later CPI number is disregarded for this section.
- (5) However, if the Australian Statistician changes the index reference period for the CPI number, then for the application of this section after the change is made, regard must be had only to CPI numbers published in terms of the new index reference period.

## Part 4—Jurisdiction

### 4.02 Leave to appeal required for some family law and child support proceedings—prescribed judgments

- (1) For the purposes of paragraphs 28(1)(b) and (3)(e) of the Federal Circuit and Family Court Act, the following judgments are prescribed:
  - (a) an interlocutory decree (other than a decree in relation to a child welfare matter);
  - (b) an order under section 102PE, 102QF or 102QG of the Family Law Act.
- (2) For paragraph (1)(a), a *child welfare matter* is a matter relating to the following:
  - (a) the person or persons with whom a child is to live;
  - (b) the person or persons with whom a child is to spend time or communicate;
  - (c) any other aspect of parental responsibility (within the meaning of Part VII of the Family Law Act) for a child.

## **Part 5—Application, saving and transitional provisions**

### **Division 5.1—Application, saving and transitional provisions in relation to the commencement of this instrument**

#### **5.01 Definitions**

In this Division:

*old regulations* means the *Federal Court and Federal Circuit and Family Court Regulations 2012*, as in force immediately before 1 April 2023.

#### **5.02 Application provision**

This instrument applies in relation to the liability of a person to pay any of the following fees:

- (a) a filing fee for filing a document on or after 1 April 2023;
- (b) a setting down fee for a hearing if the day when the hearing is fixed is on or after 1 April 2023;
- (c) a hearing fee for a hearing day if the day when the hearing day is fixed is on or after 1 April 2023;
- (d) any other fee under this instrument for a document or service provided on or after 1 April 2023.

#### **5.03 Saving provision**

To avoid doubt, the old regulations continue to apply in relation to the liability of a person to pay a fee incurred under the old regulations before 1 April 2023.

Note: Section 7 of the *Acts Interpretation Act 1901* preserves the liability despite the repeal of the old regulations by this instrument on 1 April 2023. That section applies in relation to regulations because of section 13 of the *Legislation Act 2003*.

#### **5.04 Things done under the old regulations**

- (1) If:
  - (a) a thing was done for a particular purpose under the old regulations; and
  - (b) the thing could be done for that purpose under this instrument;the thing has effect for the purposes of this instrument as if it had been done for that purpose under this instrument.
- (2) Without limiting subsection (1), a reference in that subsection to a thing being done includes a reference to a notice or a determination being given or made.



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**5.05 Conduct, event or circumstances occurring before commencement**

- (1) To avoid doubt, a function or duty may be performed, or a power exercised, under this instrument in relation to conduct engaged in, an event that occurred, or a circumstance that arose, before 1 April 2023.

Note: For example:

- (a) a fee may be paid after 1 April 2023 in accordance with section 2.15 of this instrument if the Registrar deferred the payment of the fee before that day; and
- (b) a person may pay a reduced fee in respect of a hearing that is fixed on or after 1 April 2023 if the Registrar determines before that day that the person may pay that fee.

- (2) This section does not limit section 5.04 of this instrument or section 7 of the *Acts Interpretation Act 1901* (as that Act applies in relation to this instrument because of paragraph 13(1)(a) of the *Legislation Act 2003*).

**Division 5.2—Amendments made by the Fair Work and Other Legislation Amendment Regulations 2023**

**5.06 Application provision**

The amendments of this instrument made by Division 3 of Part 1 of Schedule 1 to the *Fair Work and Other Legislation Amendment Regulations 2023* apply in relation to the liability of a person to pay any of the following fees:

- (a) a filing fee for filing a document on or after 1 April 2023;
- (b) a setting down fee for a hearing if the day when the hearing is fixed is on or after 1 April 2023;
- (c) a hearing fee for a hearing day if the day when the hearing day is fixed is on or after 1 April 2023;
- (d) any other fee under this instrument for a document or service provided on or after 1 April 2023.

**Division 5.3—Amendments made by the Fair Work and Other  
Legislation Amendment (Secure Jobs, Better Pay)  
Regulations 2023**

**5.07 Transitional provision—annual increase in fees**

Despite anything in subsection 2.20(1), the fee mentioned in item 212AA of the table in Part 2 of Schedule 1 is not to be increased on 1 July 2023.

## Schedule 1 Fees

### Part 1 Fees for proceedings in the Federal Court

## Schedule 1—Fees

Note: See section 2.02.

### Part 1—Fees for proceedings in the Federal Court

The following table sets out fees payable in relation to proceedings in the Federal Court.

Fees for proceedings in the Federal Court		
Item	Document or service	Fee
101	Filing of a document by which a proceeding in the Federal Court is commenced, other than: (a) a proceeding or application mentioned in item 102 to 104, 112, 113 or 115 to 115B; or (b) an appeal from a judgment of a court; or (c) an application for leave or special leave to appeal; or (d) an incidental proceeding in the course of, or in connection with, a proceeding; or (e) an application under the <i>Trans-Tasman Proceedings Act 2010</i>	(a) for a corporation—\$4,450 (b) in any other case—\$1,530
102	Filing of an application under section 46PO or 46PP of the <i>Australian Human Rights Commission Act 1986</i>	\$55
103	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> in either of the following circumstances: (a) the applicant has been dismissed from employment in alleged contravention of Part 3-1 of that Act; (b) the applicant alleges a breach of section 351 of that Act	The fee prescribed under subsection 395(2) of the <i>Fair Work Act 2009</i> for the filing of the application
103A	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> for orders in relation to an alleged contravention of Division 2 of Part 3-5A of that Act	\$77.80
104	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> if the applicant has been dismissed from employment in alleged contravention of section 772 of that Act	The fee prescribed under subsection 395(2) of the <i>Fair Work Act 2009</i> for the filing of the application
105	Filing of a bill of costs	\$490
106	Filing of an affidavit or other document originating	(a) for a corporation—\$4,440

<b>Fees for proceedings in the Federal Court</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
	an application for leave or special leave to appeal	(b) in any other case—\$2,055
107	Filing of a notice of appeal commencing an appeal from a judgment of a court if no fee has been paid under item 106	(a) for a corporation—an amount equal to the sum of the fees mentioned in items 106 and 109 for a corporation (b) in any other case—an amount equal to the sum of the fees mentioned in items 106 and 109 for a person other than a corporation
108	Filing of a notice of appeal commencing an appeal from a decision of the Administrative Review Tribunal	(a) for a corporation—\$11,110 (b) in any other case—\$5,145
109	Filing of a notice of appeal in a proceeding in relation to which a fee has been paid under item 106	(a) for a corporation—\$6,675 (b) in any other case—\$3,080
110	Filing of an application to review a decision of a relevant Registrar of the court under subsection 35A(5) of the Federal Court Act	(a) for a corporation—\$1,810 (b) in any other case—\$745
111	Filing of: (a) an interlocutory application, other than an interlocutory application mentioned in another item; or (b) an application under the <i>Trans-Tasman Proceedings Act 2010</i> , other than an application mentioned in item 115C	(a) for a corporation—\$1,360 (b) in any other case—\$550
112	Filing of a document by which a proceeding under the <i>Bankruptcy Act 1966</i> is commenced	(a) for a publicly listed company—\$6,195 (b) for a corporation—\$4,135 (c) for a public authority—\$4,135 (d) in any other case—\$1,725
113	Filing of an application for an order for substituted service of a bankruptcy notice	(a) for a publicly listed company—\$1,375 (b) for a corporation—\$915 (c) for a public authority—\$915 (d) in any other case—\$390
114	Filing of a cross-claim	(a) for a corporation—\$4,450 (b) in any other case—\$1,530

**Schedule 1 Fees****Part 1 Fees for proceedings in the Federal Court**

<b>Fees for proceedings in the Federal Court</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
115	Filing of an urgent application without notice, by a person (the <i>prospective applicant</i> ) who intends to commence a proceeding, for any of the following: (a) if the proceeding relates to property—an order: (i) for the detention, custody, preservation or inspection of property; or (ii) to authorise a person to enter land, or do an act or thing, to give effect to the order; (b) if the proceeding relates to the right of the prospective applicant to an amount in a fund—an order that the amount in the fund be paid into the Federal Court or otherwise secured	(a) for a corporation—\$7,790 (b) in any other case—\$2,825
115A	Filing of an application (including an interlocutory application) for an order: (a) restraining a person from removing, disposing of, dealing with, or diminishing the value of, assets; or (b) for the purpose of preventing the frustration or inhibition of the Court's process by seeking to meet a danger that a judgment or prospective judgment of the Court will be wholly or partly unsatisfied	(a) for a corporation—\$7,790 (b) in any other case—\$2,825
115B	Filing of an application (including an interlocutory application) for an order for the purpose of securing or preserving evidence and requiring a person to permit other persons to enter premises for the purpose of securing the preservation of evidence that is, or may be, relevant to an issue in a proceeding or anticipated proceeding	(a) for a corporation—\$7,790 (b) in any other case—\$2,825
115C	Filing of an application to register a New Zealand judgment under the <i>Trans-Tasman Proceedings Act 2010</i>	\$135
116	Setting down for hearing a proceeding (including an application, appeal, cross-claim or cross-appeal) or an issue in question in a proceeding	(a) for a corporation—\$7,440 (b) in any other case—\$3,055
117	For the hearing of an application (including a cross-claim) under subsection 35A(5) of the Federal Court Act—for each day or part of a day	(a) for a corporation—\$2,970 (b) in any other case—\$1,215
118	For the hearing of an application (including a cross-claim), other than: (a) an application mentioned in item 117; or (b) an issue or question in such an application; or (c) an appeal (including a cross-appeal); for the second, third and fourth days, or part of those days	(a) for a corporation—\$2,970 (b) in any other case—\$1,215

<b>Fees for proceedings in the Federal Court</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
119	For the hearing of an application (including a cross-claim), other than: (a) an application mentioned in item 117; or (b) an issue or question in such an application; or (c) an appeal (including a cross-appeal); for the fifth, sixth, seventh, eighth and ninth days, or part of those days	(a) for a corporation—\$5,360 (b) in any other case—\$2,030
120	For the hearing of an application (including a cross-claim), other than: (a) an application mentioned in item 117; or (b) an issue or question in such an application; or (c) an appeal (including a cross-appeal); for the tenth, 11th, 12th, 13th and 14th days, or part of those days	(a) for a corporation—\$10,560 (b) in any other case—\$4,085
121	For the hearing of an application (including a cross-claim), other than: (a) an application mentioned in item 117; or (b) an issue or question in such an application; or (c) an appeal (including a cross-appeal); for the 15th and subsequent days, or part of the 15th and subsequent days	(a) for a corporation—\$15,835 (b) in any other case—\$6,125
121A	For the hearing for an examination by a relevant Registrar of the Federal Court under section 50 or 81 of the <i>Bankruptcy Act 1966</i> —for each day or part of a day	(a) for a publicly listed company—\$4,465 (b) for a corporation—\$2,970 (c) for a public authority—\$2,970 (d) in any other case—\$1,215
122	For the hearing for an examination by a relevant Registrar of the Federal Court under Division 1 of Part 5.9 of the <i>Corporations Act 2001</i> —for each day or part of a day	(a) for a corporation—\$2,970 (b) in any other case—\$1,215
123	On request, production of file of the Federal Court and the making of a copy or copies of a document or documents in the file (regardless of the number of documents to which the request relates)	(a) for each production of the file—\$55 (b) for each page included in a copy made in accordance with the request—\$1

**Schedule 1 Fees****Part 1 Fees for proceedings in the Federal Court**

<b>Fees for proceedings in the Federal Court</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
124	For each service or execution, or attempted service or execution, of process of the Federal Court by an officer of the Federal Court	An amount equal to: (a) the amount of any expenses reasonably incurred by the officer in the service or execution, or attempted service or execution, of the process; and (b) a charge worked out at the hourly rate of salary payable to the officer for the time involved in the service or execution, or attempted service or execution
125	For the seizure and sale of goods by an officer of the Federal Court in the execution of process of the court (except in relation to a proceeding under the <i>Admiralty Act 1988</i> )	\$1,330
126	For issuing a subpoena	(a) for a corporation—\$265 (b) in any other case—\$130
127	For issuing a summons to a person, under section 50 or 81 of the <i>Bankruptcy Act 1966</i> , to attend an examination about a debtor's examinable affairs	(a) for a publicly listed company—\$855 (b) for a corporation—\$555 (c) for a public authority—\$555 (d) in any other case—\$285
128	For taxation of a bill of costs in which the amount claimed in the bill is \$10,000 or less	\$1,455
129	For taxation of a bill of costs in which the amount claimed in the bill is more than \$10,000 and no more than \$100,000	\$4,965
130	For taxation of a bill of costs in which the amount claimed in the bill is more than \$100,000 and no more than \$500,000	\$5,675
131	For taxation of a bill of costs in which the amount claimed in the bill is more than \$500,000	\$6,385
132	For mediation by an officer of the Federal Court— for each attendance at the mediation	(a) for a corporation—\$2,330 (b) in any other case—\$995
Note:	The fees mentioned in this Part (other than the fees mentioned in items 102, 103, 104, 107 and 124) are subject to annual increase under section 2.20 of this instrument.	



## Part 2—Fees for proceedings in the Federal Circuit and Family Court of Australia (Division 2)

The following table sets out fees payable in relation to proceedings in the Federal Circuit and Family Court of Australia (Division 2).

Fees for proceedings in the Federal Circuit and Family Court of Australia (Division 2)		
Item	Document or service	Fee
201	Filing of a document by which a proceeding in the Federal Circuit and Family Court of Australia (Division 2) seeking final orders is commenced, other than:  (a) a proceeding mentioned in any of items 201A, 202, 204 to 206 and 208 to 214; or (b) an application under the <i>Trans-Tasman Proceedings Act 2010</i>	(a) for a corporation—\$1,765 (b) in any other case—\$735
201A	Filing of a document by which a proceeding is commenced in the Federal Circuit and Family Court of Australia (Division 2) seeking final orders in exercise of:  (a) the Court’s jurisdiction under section 476 of the <i>Migration Act 1958</i> ; or (b) the Court’s jurisdiction in relation to a non-privative clause decision (within the meaning of the <i>Migration Act 1958</i> ) under: (i) section 179 of the <i>Administrative Review Tribunal Act 2024</i> ; or (ii) section 8 of the <i>Administrative Decisions (Judicial Review) Act 1977</i> .	(a) full fee—\$3,535 (b) reduced fee—\$1,765
202	Filing of an application under section 46PO or 46PP of the <i>Australian Human Rights Commission Act 1986</i>	\$55
203	Filing of a bill of costs	\$285
204	Filing of:  (a) a document seeking interlocutory, interim or procedural orders (other than in a proceeding mentioned in item 202); or (b) an application under the <i>Trans-Tasman Proceedings Act 2010</i> (other than an application mentioned in item 214A)	(a) for a corporation—\$1,060 (b) in any other case—\$430
205	Filing of an application to review an exercise of power by a delegate of the Federal Circuit and Family Court of Australia (Division 2) under subsection 256(1) of the Federal Circuit and Family Court Act	(a) for a corporation—\$1,060 (b) in any other case—\$430

**Schedule 1 Fees****Part 2 Fees for proceedings in the Federal Circuit and Family Court of Australia (Division 2)**

<b>Fees for proceedings in the Federal Circuit and Family Court of Australia (Division 2)</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
206	Filing of a document by which a proceeding in the Federal Circuit and Family Court of Australia (Division 2) under the <i>Bankruptcy Act 1966</i> is commenced	(a) for a publicly listed company—\$6,195 (b) for a corporation—\$4,135 (c) for a public authority—\$4,135 (d) in any other case—\$1,725
207	Filing of a document in a proceeding, by a person other than the applicant in the proceeding, by which final orders are sought that are different from those sought by the applicant (other than in a proceeding mentioned in item 202)	(a) for a corporation—\$1,765 (b) in any other case—\$725
208	Filing of an application for an order for substituted service of a bankruptcy notice	(a) for a publicly listed company—\$695 (b) for a corporation—\$460 (c) for a public authority—\$460 (d) in any other case—\$180
209	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> in either of the following circumstances: (a) the applicant has been dismissed from employment in alleged contravention of Part 3-1 of that Act; (b) the applicant alleges a breach of section 351 of that Act	The fee prescribed under subsection 395(2) of the <i>Fair Work Act 2009</i>
209A	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> for orders in relation to an alleged contravention of Division 2 of Part 3-5A of that Act	\$77.80
210	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> if the applicant has been dismissed from employment in alleged contravention of section 772 of that Act	The fee prescribed under subsection 395(2) of the <i>Fair Work Act 2009</i>
211	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> if: (a) the applicant indicates that the applicant wants the small claims procedure under section 548 of that Act to apply; and (b) the claim is less than \$10,000	\$265
212	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> if: (a) the applicant indicates that the applicant wants the small claims procedure under section 548 of that Act to apply; and (b) the claim is \$10,000 or more and less than \$50,000	\$425

<b>Fees for proceedings in the Federal Circuit and Family Court of Australia (Division 2)</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
212AA	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> if: (a) the applicant indicates that the applicant wants the small claims procedure under section 548 of that Act to apply; and (b) the claim is between \$50,000 and \$100,000	\$525
212A	Filing of an application under section 539 of the <i>Fair Work Act 2009</i> (other than in a proceeding mentioned in item 212 or 212AA) if: (a) the applicant indicates that the applicant wants the small claims procedure under section 548 of that Act to apply; and (b) the proceedings relate to one or more of the matters mentioned in paragraph 548(1B)(a) of that Act	\$265
213	Filing of an application under the <i>National Consumer Credit Protection Act 2009</i> if: (a) the applicant indicates that the applicant wants the small claims procedure under section 199 of that Act to apply; and (b) the claim is less than \$10,000	\$265
214	Filing of an application under the <i>National Consumer Credit Protection Act 2009</i> if: (a) the applicant indicates that the applicant wants the small claims procedure under section 199 of that Act to apply; and (b) the claim is between \$10,000 and \$20,000	\$425
214A	Filing of an application to register a New Zealand judgment under the <i>Trans-Tasman Proceedings Act 2010</i>	\$135
215	Setting down for hearing for final orders of a proceeding or an issue in question in a proceeding (other than a proceeding under the <i>Bankruptcy Act 1966</i> or a proceeding mentioned in item 202)	(a) for a corporation—\$2,110 (b) in any other case—\$875
216	For hearing for final orders of a proceeding or an issue in question in a proceeding (other than a proceeding under the <i>Bankruptcy Act 1966</i> or a proceeding mentioned in item 202)—for each hearing day or part of a hearing day (other than the first hearing day)	(a) for a corporation—\$2,110 (b) in any other case—\$875
217	For the hearing for an examination by a relevant Registrar of the Federal Circuit and Family Court of Australia (Division 2) under section 50 or 81 of the <i>Bankruptcy Act 1966</i> —for each day or part of a day	(a) for a publicly listed company—\$3,190 (b) for a corporation—\$2,110 (c) for a public authority—\$2,110 (d) in any other case—\$875

**Schedule 1 Fees****Part 2 Fees for proceedings in the Federal Circuit and Family Court of Australia (Division 2)**

<b>Fees for proceedings in the Federal Circuit and Family Court of Australia (Division 2)</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
218	For the hearing of an application (including a cross-claim) under subsection 256(2) of the Federal Circuit and Family Court Act—for each day or part of a day	(a) for a corporation—\$2,110 (b) in any other case—\$875
219	On request, production of a file of the Federal Circuit and Family Court of Australia (Division 2) and the making of a copy or copies of a document or documents in the file (regardless of the number of documents to which the request relates)	(a) for each production of the file—\$55 (b) for each page included in a copy made in accordance with the request—\$1
220	Each service or execution, or attempted service or execution, of the process of the Federal Circuit and Family Court of Australia (Division 2) by an officer of the court (other than in a proceeding mentioned in item 202)	An amount equal to: (a) the amount of any expenses reasonably incurred by the officer in the service or execution, or attempted service or execution, of the process; and (b) a charge worked out at the hourly rate of salary payable to the officer for the time involved in the service or execution, or attempted service or execution
221	Seizure and sale of goods by an officer of the Federal Circuit and Family Court of Australia (Division 2) in the execution of the process of the court (other than in relation to a proceeding under the <i>Admiralty Act 1988</i> or a proceeding mentioned in item 202)	\$675
222	For issuing a subpoena	(a) for a corporation—\$170 (b) in any other case—\$85
223	For issuing a summons to a person, under section 50 or 81 of the <i>Bankruptcy Act 1966</i> , to attend an examination about a debtor's examinable affairs	(a) for a publicly listed company—\$855 (b) for a corporation—\$555 (c) for a public authority—\$555 (d) in any other case—\$285
224	Mediation by an officer of the Federal Circuit and Family Court of Australia (Division 2) (other than in a proceeding mentioned in item 202)—for each attendance at the mediation	\$585
Note: The fees mentioned in this Part (other than the fees mentioned in items 202, 209, 210 and 220) are subject to annual increase under section 2.20 of this instrument.		

## Schedule 2—Remuneration and allowances

Note: See section 3.02.

The following table sets out amounts of remuneration and allowances that are payable to persons who are jurors, or potential jurors, in proceedings before the Federal Court.

<b>Remuneration and allowances for jurors and potential jurors</b>		
<b>Item</b>	<b>Matter for which payment is made</b>	<b>Amount payable</b>
1	Attendance on the first day of a trial:	
	(a) for 4 hours or less; or	Half the amount mentioned in item 2
	(b) for more than 4 hours	The amount mentioned in item 2
2	Attendance on each day of a trial for days 2, 3, 4 and 5	\$125
3	Attendance on each day of a trial for days 6, 7, 8, 9 and 10	\$137
4	Attendance on each day of a trial after day 10	\$151
5	Attendance on the last day of a trial, if required to serve for more than 8 hours (excluding adjournments for meals):	
	(a) for an additional period of up to 4 hours; or	The amount mentioned for the day in another item plus half the amount mentioned for that day
	(b) for an additional period of more than 4 hours	Double the amount mentioned for the day in another item

## Endnotes

### Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Federal Court and Federal Circuit and Family Court Regulations 2022	9 Jan 2023 (F2023L00023)	1 Apr 2023 (s 1.01A(1) item 1)	
Fair Work and Other Legislation Amendment Regulations 2023	20 Mar 2023 (F2023L00293)	Sch 1 (items 10–15): 1 Apr 2023 (s 2(1) item 3)	—
Fair Work and Other Legislation Amendment (Secure Jobs, Better Pay) Regulations 2023	30 May 2023 (F2023L00625)	Sch 1 (items 5–8): 1 July 2023 (s 2(1) item 3)	—
Administrative Review Tribunal Legislation Consequential Amendments (2024 Measures No. 1) Regulations 2024	11 Oct 2024 (F2024L01299)	Sch 2 (items 18–28): 14 Oct 2024 (s 2(1) item 1)	—



## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s 1.01A.....	rep LA s 48D
s 1.02A.....	rep LA s 48C
<b>Part 2</b>	
<b>Division 2.3</b>	
s 2.06.....	am F2024L01299
s 2.06A.....	am F2024L01299
<b>Division 2.4</b>	
s 2.08.....	am F2023L00293; F2024L01299
s 2.09.....	am F2024L01299
s 2.10.....	am F2023L00293
<b>Division 2.5</b>	
s 2.15.....	am F2024L01299
<b>Division 2.6</b>	
s 2.19.....	am F2024L01299
s 2.20.....	am F2023L00293
s 2.21.....	am F2024L01299
<b>Part 5</b>	
<b>Division 5.2</b>	
Division 5.2 .....	ad F2023L00293
s 5.06.....	ad F2023L00293
<b>Division 5.3</b>	
Division 5.3 .....	ad F2023L00625
s 5.07.....	ad F2023L00625
<b>Schedule 1</b>	
Schedule 1.....	am F2023L00293; F2023L00625; F2024L01299
Schedule 3.....	rep LA s 48C