

## EXPLANATORY MEMORANDUM

### (JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION)

#### *District Court of Western Australia Act 1969*

#### **District Court (Fees) Amendment Regulations 2007**

The District Court (Fees) Amendment Regulations 2007 have been made under the *District Court of Western Australia Act 1969* to amend regulations to:

- provide for an increase of 4.8% to match CPI movements as approved by the Department of Treasury and Finance and the Expenditure Review Committee of Cabinet to apply for fee increases from 1 July 2007.

Specific amendments are as follows:

#### **Regulation 4      Schedule 1 amended**

These Schedule 1 fees relate to fees taken by the Registry. With the exception of items 13(a) and 14(c), relating to photocopying that will remain unchanged, all fee items have been increased by 4.8% to match CPI movements approved by the Department of Treasury and Finance and the Expenditure Review Committee of Cabinet to apply from 1 July 2007.

Type of fee	Date last updated Increase/ Decrease	Old Fee* (\$)	New Fee* (\$)	Increase/ Decrease (%)
1. Filing originating process/Commence Proceedings	01.07.06 Increase	454 (I) 681 (C)	475 (I) 713 (C)	4.8 4.8
2(a). Filing counterclaim 2(b). Filing third party notice	01.07.06 Increase	454 (I) 681 (C)	475 (I) 713 (C)	4.8 4.8
2(c) and (d). Other applications	01.07.06 Increase	171 (I) 227 (C)	179 (I) 237 (C)	4.8 4.8
3. Commencing an appeal	01.07.06 Increase	57 (I) 114 (C)	59.50 (I) 119 (C)	4.8 4.8
5. Entry for hearing	01.07.06 Increase	454 (I) 681 (C)	475 (I) 713 (C)	4.8 4.8
6. Allocation of hearing date 7. Daily hearing fees	01.07.06 Increase	399 (I) 798 (C)	418 (I) 836 (C)	4.8 4.8

Type of fee	Date last updated Increase/ Decrease	Old Fee* (\$)	New Fee* (\$)	Increase/ Decrease (%)
8 & 9. Filing Chamber matters	01.07.06 Increase	114 (I) 171(C)	119 (I) 179 (C)	4.8 4.8
10(a). Appointment to tax lodgement fee	01.07.06 Increase	114 (I) 171(C)	119 (I) 179 (C)	4.8 4.8
11. Search records	01.07.06 Increase	23	24	4.8
11A. Electronic Searches (a) Fee per action	01 05.05 Introduction	1.00	1.05	4.8
11A. Electronic Searches (b) Annual fee	01.07.06 Increase	1,042	1,092	4.8
12(a). Produce records	01.07.06 Increase	34	35.50	4.8
12(b). Hourly Attendance	01.07.06 Increase	57	59.50	4.8
13(a). Copy of document	17.08.90 Increase	3.00	3.00	Nil
13(b)(i). Copy reasons for judgment	01.07.05 Increase	8.00	8.35	4.8
13(b)(ii). Additional copies	17.08.90 Increase	1.00	1.05	4.8
13(c). Certification fee	01.07.05 Increase	11.00	11.50	4.8
13(d). Registrar's Certificate	01.07.06 Increase	46	48	4.8
14(a). Copy transcript per page	01.01.04 Increase	4.50	4.70	4.8
14(b). Electronic transcript per day	01.07.06 Increase	11	11.50	4.8
14(c). Additional copy per page	01.01.04 Increase	1.50	1.50	Nil

\* I = Individual, C = person other than an individual (corporate)

**Regulation 5**      **Schedule 2 amended**

These Schedule 2 fees relate to services provided by the Sheriff. All fee items have been increased by 4.8% to match CPI movements approved by the Department of Treasury and Finance and the Expenditure Review Committee of Cabinet to apply from 1 July 2007.

Type of fee	Date last updated Increase/ Decrease	Old Fee (\$)	New Fee (\$)	Increase/ Decrease (%)
1. Execution Arrest Warrant	01.07.06 Increase			
(a) Arrest		72.50	75.50	4.8
(b) Custody/Convey		72.50	75.50	4.8
(c) Half Hourly Rate		19.25	20.00	4.8
2. Service of process	01.07.06 Increase	39.50	41.00	4.8
3. Travel per kilometre				
• Metropolitan	01.07.06 Increase	1.00	1.05	4.8
• Country	01.07.06 Increase	1.10	1.15	4.8
4. Sheriff attending view per hour	01.07.06 Increase	38.50	40.00	4.8
5(a). Jury Panel	01.07.05 Increase	123.00	128.50	4.8

### Review of Fees and Charges

In 2006, the Office of the Auditor General (OAG) undertook an audit of fee setting practices across Government and on 30 August 2006 tabled concerns in Parliament that current court fee structures may be recovering more than 100% of the cost of providing the services.

To address these concerns and also ensure compliance with the Department of Treasury and Finance fee review process the Department of the Attorney General undertook a comprehensive review of court fees to cost the service for which fees are charged and identify any areas where over recovery of costs is occurring.

In addition to the photocopying fees identified above (which are to be held at current levels), the review identified some individual fees which are currently over recovering costs. In relation to the District Court, these fees are as follows:

*District Court Fees which recover greater than 100% of cost recovery*

	<b>Item Number</b>	<b>Cost Recovery rate</b>
Registrar's Certificate	Schedule 1 Item 13 (d)	205%

Having identified the over recovery of this fee, the review examined how these fees compare to other interstate jurisdictions. The results of this analysis are outlined in the following table:

	<b>Interstate Comparison</b>
Registrar's Certificate	This fee is largely paid for a legal practitioner to gain a certificate from the Supreme Court stating that he or she is a certified legal practitioner in WA. It has been included as a District Court fee for consistency sake. In consultation with the District Court, it is understood that the issuing of any sort of this type of certificate in the District Court is extremely rare. Therefore the costing of this fee and its interstate comparisons have been based on the Supreme Court activities when issuing a certificate to a legal practitioner. An examination of fees in interstate found three examples of comparable fees. The fee for a certificate in the Supreme Court of NSW is currently \$44, \$47 in the ACT and \$126.80 in the Victoria. This compares against the current WA fee of \$46.

Examining the WA fee against other jurisdictions reveals that overall the current fee is not excessive when compared interstate. In fact these fees outlined above are either average or below average when compared interstate. This is contrary to the situation with photocopying fees, which reveals that WA has one of the highest court photocopying charges off all Australian jurisdictions.

It is important to note that according to the Report of Government Services 2007, total civil recovery in the District Court is currently only 18.9%. As such, the District Court does not over recover costs in total.

Taking these factors into account, it is considered appropriate policy for fees which are currently average or below average when compared interstate to continue to be indexed with CPI. As such it is proposed that the fee for a Registrar's certificate be indexed with CPI from 1 July 2007.

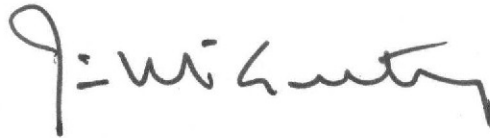
However, as photocopying charges are currently in excess of cost recovery and are currently high when compared interstate, it is proposed to maintain these fees at current levels until interstate parity is achieved in the future.

**Disclaimer**

This explanatory note has been prepared as an aid to understanding the Regulations and must not be substituted for any part of the Regulations nor made available to the public in any manner.



**A/ DIRECTOR GENERAL**  
*Department of the Attorney General*



**ATTORNEY GENERAL**