



Court of Appeal Fees Amendment Regulations 2013

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 20th day of May 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 100A of the Judicature Act 1908, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

- 1 Title**
 These regulations are the Court of Appeal Fees Amendment Regulations 2013.
- 2 Commencement**
 These regulations come into force on 1 July 2013.
- 3 Principal regulations**
 These regulations amend the Court of Appeal Fees Regulations 2001 (the **principal regulations**).
- 4 Regulation 3 amended (Interpretation)**
 In regulation 3, insert in their appropriate alphabetical order:
 “**actual hearing fee** means any fee payable under item 4 or 5 (as applicable) of the fees table in respect of the actual hearing time
 “**estimated hearing fee** means any fee payable under item 4 or 5 (as applicable) of the fees table in respect of the estimated hearing time
 “**estimated hearing time** means the time allocated for a hearing by the Registrar and notified to the parties
 “**fees table** means the table in the Schedule

“**item** means a matter described in the third column, and with the reference number given in the second column, of the fees table

“**scheduling fee** means the fee (if any) payable under item 3 of the fees table in respect of an application or proceeding

“**working day** has the meaning given in rule 3(1) of the Court of Appeal (Civil) Rules 2005”.

5 Regulation 4 amended (Fees of court)

In regulation 4(3), replace “regulations 5 and 6” with “regulations 4B(1), 5, and 6”.

6 New regulations 4A to 4F inserted

After regulation 4, insert:

“4A Prepayment of scheduling fees and estimated hearing fees

“(1) An applicant or appellant (as applicable) must pay a scheduling fee before a hearing is scheduled.

“(2) An applicant or appellant (as applicable) must pay an estimated hearing fee no later than—

“(a) 30 working days before the date on which a hearing is scheduled to begin (the **scheduled hearing date**); or

“(b) if the Registrar gives less than 30 working days’ notice of the scheduled hearing date, the date specified by the Registrar.

“(3) If 2 or more proceedings are to be heard together, scheduling fees (if any) and hearing fees must be paid in respect of each proceeding unless the court otherwise directs.

“(4) For the purpose of subclause (3), a proceeding does not constitute 2 or more proceedings by reason only that it involves an appeal and 1 or more cross-appeals.

“4B Failure to prepay scheduling fees or estimated hearing fees

“(1) If a scheduling fee or an estimated hearing fee is not paid in accordance with regulation 4A, the Registrar may vacate the hearing.

“(2) If the Registrar vacates a hearing under subclause (1), the Registrar must promptly notify the parties.

“4C Payment of balance of hearing fees if hearing exceeds estimated hearing time

- “(1) If the actual hearing time exceeds the estimated hearing time, the applicant or appellant (as applicable) must pay, on the final day of the hearing, the balance of the hearing fee (being the actual hearing fee less any amount that has been prepaid).
- “(2) Subclause (1) is subject to any order made under regulation 4F(2)(b)(ii).

“4D Refund of prepaid hearing fees if hearing shorter than estimated hearing time

If the actual hearing time is less than the estimated hearing time, the Registrar must refund to the applicant or appellant (as applicable) the portion of any prepaid hearing fee that relates to the period of hearing time not used.

“4E Refund of prepaid hearing fees if proceeding settled, discontinued, abandoned, or determined before hearing date

- “(1) If a proceeding is settled, discontinued, abandoned, or determined before the hearing date, the Registrar must refund any prepaid hearing fee to the applicant or appellant (as applicable).
- “(2) However, subclause (1) does not apply if a cross-appeal remains to be heard (*see* regulation 4F).

“4F Hearing fees in proceedings involving cross-appeals

- “(1) This regulation applies if a hearing involves 1 or more cross-appeals.
- “(2) At the end of the hearing, the court—
- “(a) may give a direction as to what portion of the scheduling fee and actual hearing fee each party is liable to pay; and
 - “(b) may, in order to give effect to a direction under paragraph (a), make 1 or both of the following orders:
 - “(i) an order that a party other than the applicant or appellant (as applicable) pay an amount to the applicant or appellant:

“(ii) an order that a portion of the balance of the hearing fee payable under regulation 4C (if applicable) be paid by a party other than the applicant or appellant (as applicable).”

7 Regulations 10 and 11 replaced

Replace regulations 10 and 11 with:

“10 Proceedings to which regulations do not apply

These regulations do not apply to—

- “(a) criminal appeals; or
- “(b) civil proceedings under the Criminal Proceeds (Recovery) Act 2009; or
- “(c) matters under the Court of Appeal (Access to Court Documents) Rules 2009 that relate to criminal appeals.

“11 Transitional provision

In respect of proceedings commenced before 1 July 2013,—

- “(a) these regulations as in force immediately before 1 July 2013 apply in respect of any step taken before that date; and
- “(b) these regulations as in force on and from 1 July 2013 apply in respect of any step taken on or after that date.”

8 Schedule replaced

Replace the Schedule with the Schedule set out in the Schedule of these regulations.

Schedule r 8

Schedule replaced

Schedule r 4

Fees payable in respect of proceedings in court

Category	Item	Matter for which fee is payable	Fee (\$)
<i>Filing fees</i>	1	Filing—	
	(a)	an application for leave to appeal	1,100
	(b)	an application for special leave to appeal	1,100
	(c)	an application for leave to appeal out of time	1,100
	(d)	a notice of appeal (unless a fee has been paid under paragraph (a), (b), or (c) in respect of the same matter)	1,100
	(e)	an application for judicial review	1,100
	(f)	an application for a review of a Registrar’s decision	no fee
	2	Filing an interlocutory application not specified in item 1	400
<i>Scheduling</i>	3	For scheduling the hearing date for an application or proceeding,—	
	(a)	in the case of an interlocutory application	no fee
	(b)	in the case of an application specified in item 1(a), (b), or (c)	no fee
	(c)	in any other case	2,700
<i>Hearings</i>	4	Hearing a proceeding relating to an application specified in item 1(a), (b), or (c) or 2	no fee
	5	Hearing any other proceeding, for each half-day or part of a half-day after the first day	1,350

Schedule—*continued*

Category	Item	Matter for which fee is payable	Fee (\$)
<i>Administrative fees</i>	6	Sealing an order or a judgment and providing, at the same time, any duplicate or certified copy of that order or judgment	50
	7	Copying a judgment,—	
		(a) for the first copy that is provided to a party to the proceeding or that party's counsel	no fee
		(b) where paragraph (a) does not apply	30
	8	Copying any document (other than a judgment),—	
		(a) for the first copy of any part or parts of the court file or any document relating to the appeal that is provided to a party to the proceeding or that party's counsel	no fee
		(b) where paragraph (a) does not apply,—	
		(i) for each black and white page	0.20
	(ii) for each colour page	0.40	
	(iii) for documents in electronic form	actual and reasonable costs	
<i>Searching and accessing court records</i>	9	Searching or inspecting the formal court record kept in the registry of the court under the Court of Appeal (Access to Court Documents) Rules 2009,—	
		(a) for the first name or case searched	30
		(b) for each additional name or case searched	5
	10	Requesting access to a document under rule 7 of the Court of Appeal (Access to Court Documents) Rules 2009 or applying under rule 12 of those rules for permission to access documents, a court file, or the formal court record,—	
	(a) if a fee has been paid under item 9 in respect of the document, court file, or formal court record	no fee	
	(b) in any other case	30	

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 July 2013, amend the Court of Appeal Fees Regulations 2001 (the **principal regulations**). The amendments implement changes to civil fees as a result of a civil fees review by the Ministry of Justice (*see* <http://www.justice.govt.nz/services/court-fees/documents>).

Regulation 4 inserts new definitions into regulation 3 of the principal regulations.

Regulation 5 updates cross-references in regulation 4 of the principal regulations.

Regulation 6 inserts into the principal regulations *new regulations 4A to 4F*, which provide for the payment of scheduling fees and hearing fees in advance of a hearing, the refund of prepaid hearing fees if a hearing takes less than the estimated hearing time, and the reallocation of hearing fees where there are cross-appeals. The fees are calculated on the basis of the estimated time for the hearing, and are refunded if the hearing does not take place. Fees for additional hearing time must be paid on the final day of the hearing. If a hearing involves 1 or more cross-appeals, the court may give directions about what portion of the hearing fee is payable by each party.

Regulation 7 replaces regulations 10 and 11 of the principal regulations. *New regulation 10* disapplies the principal regulations from matters under the Court of Appeal (Access to Court Documents) Rules 2009 that relate to criminal proceedings, because fees will be prescribed separately in relation to those proceedings. The effect of *new regulation 11* is that the fees in the *new Schedule* apply to any step taken on or after the date that these regulations come into force, irrespective of when the proceedings were commenced.

Regulation 8 replaces the Schedule of the principal regulations, which sets out the fees payable. There is a new fee for filing an

interlocutory application. There is no longer a setting-down fee or a fee for settling and comparing a record with the Privy Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
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These regulations are administered by the Ministry of Justice.
