

**Reprint  
as at 1 July 2013**



**Sheriffs' Fees Regulations 1988**

(SR 1988/34)

Sheriffs' Fees Regulations 1988: revoked, on 1 July 2013, by regulation 28(e) of the High Court Fees Regulations 2013 (SR 2013/226).

Paul Reeves, Governor-General

**Order in Council**

At Wellington this 7th day of March 1988

Present:

His Excellency the Governor-General in Council

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

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**These regulations are administered by the Ministry of Justice.**

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## Regulations

### 1 Title and commencement

- (1) These regulations may be cited as the Sheriffs' Fees Regulations 1988.
- (2) These regulations shall come into force on 11 April 1988.

### 1A Interpretation

In these regulations, **the Act** means the Judicature Act 1908.

Regulation 1A: inserted, on 1 July 2004, by regulation 3 of the Sheriffs' Fees Amendment Regulations 2004 (SR 2004/168).

### 2 Fees prescribed

In any proceedings before the High Court or the Court of Appeal or the Supreme Court, whether under the Act or any other enactment, the fees specified in the Schedule will, in respect of the matters specified in that schedule, be levied and taken by any Sheriff, Deputy Sheriff, Sheriff's officer or bailiff, or any other person employed under any Sheriff or Deputy Sheriff.

Regulation 2: substituted, on 1 July 2004, by regulation 4 of the Sheriffs' Fees Amendment Regulations 2004 (SR 2004/168).

### 2A Power to waive fees

- (1) A person (the **applicant**) otherwise responsible for the payment of a fee mentioned in the Schedule may apply to a Registrar for a waiver of that fee.
- (2) The Registrar may waive the fee payable by the applicant, if satisfied—

- (a) on the basis of one of the criteria specified in subclause (3), that the applicant is unable to pay the fee; or
  - (b) that the proceeding,—
    - (i) on the basis of one of the criteria specified in subclause (4), concerns a matter of genuine public interest; and
    - (ii) is unlikely to be commenced or continued unless the fee is waived.
- (3) For the purposes of these regulations, an applicant is unable to pay the fee sought to be waived if—
- (a) the applicant has been granted legal aid in respect of the matter for which the fee is payable; or
  - (b) the applicant has not been granted legal aid in respect of the matter for which the fee is payable and the applicant—
    - (i) is dependent for the payment of his or her living expenses on a benefit of a kind specified in any of paragraphs (a) to (e), (h), and (j) of the definition of income-tested benefit in section 3(1) of the Social Security Act 1964; or
    - (ii) is wholly dependent for the payment of his or her living expenses on New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001 or a veteran's pension under the War Pensions Act 1954; or
    - (iii) would otherwise suffer undue financial hardship if he or she paid the fee.
- (4) For the purposes of these regulations, a proceeding that concerns a matter of genuine public interest is—
- (a) a proceeding that has been or is intended to be commenced to determine a question of law that is of significant interest to the public or to a substantial section of the public; or
  - (b) a proceeding that—
    - (i) raises issues of significant interest to the public or to a substantial section of the public; and
    - (ii) has been or is intended to be commenced by an organisation that, by its governing enactment, constitution, or rules, is expressly or by neces-

sary implication required to promote matters in the public interest.

- (5) An application under subclause (1) must be made in a form approved for the purpose by the chief executive of the Ministry of Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

Regulation 2A: inserted, on 1 July 2004, by regulation 5 of the Sheriffs' Fees Amendment Regulations 2004 (SR 2004/168).

Regulation 2A(3)(b)(ii): amended, on 21 April 2005, by section 9(2) of the New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42).

## **2B Payment of fee may be postponed pending determination of application for waiver or review**

- (1) A Registrar may, on application by a person who is awaiting the determination of an application under regulation 2A, or section 100B of the Act, postpone the payment of the fee to which the application relates until the date on which the person is notified of the determination.
- (2) A Registrar may exercise the power under subclause (1) if satisfied that the person awaiting the determination of his or her application would be prejudiced if the matter to which the fee relates did not proceed before the determination.
- (3) An application under subclause (1) must be made in a form approved for the purpose by the chief executive of the Ministry of Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

Regulation 2B: inserted, on 1 July 2004, by regulation 5 of the Sheriffs' Fees Amendment Regulations 2004 (SR 2004/168).

## **2C Recovery of postponed fee**

- (1) This regulation applies to a fee (the **fee**) that has been postponed under regulation 2B.
- (2) If the effect of a determination under regulation 2A or section 100B of the Act is that the fee is not to be waived, the fee—
- must be paid, without delay, to the Registrar or to a Sheriff; and
  - is recoverable as a debt due to the Crown in any court of competent jurisdiction.

- (3) Following a determination that has the effect referred to in subclause (2), the person responsible for paying the fee may not take a step in the proceeding to which the fee relates unless the fee is paid.
- (4) This regulation has effect subject to regulation 2B during any period that the question of the waiver of the fee is the subject of a pending application under section 100B of the Act.

Regulation 2C: inserted, on 1 July 2004, by regulation 5 of the Sheriffs' Fees Amendment Regulations 2004 (SR 2004/168).

## **2D Power to refund fees**

- (1) A Registrar may, on application made to him or her, refund a fee that has already been paid if satisfied that—
  - (a) no application, under regulation 2A, for a waiver of the fee was made; and
  - (b) the fee would have been waived, in accordance with regulation 2A, had that application been made; and
  - (c) the criteria that would have justified the waiver still apply at the date of the application for the refund.
- (2) An application under subclause (1) must be made in a form approved for the purpose by the chief executive of the Ministry of Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

Regulation 2D: inserted, on 1 July 2004, by regulation 5 of the Sheriffs' Fees Amendment Regulations 2004 (SR 2004/168).

## **3 Goods and services tax included**

The fee specified in clause 1 of the Schedule is inclusive of goods and services tax under the Goods and Services Tax Act 1985.

## **4 Revocations**

- (1) The Sheriffs' Fees Regulations 1987 (SR 1987/38) are hereby consequentially revoked.
- (2) *Amendment(s) incorporated in the regulations.*
- (3) In respect of any proceedings commenced before the date of the coming into force of these regulations, no further fee shall be payable under the Sheriffs' Fees Regulations 1987, and the appropriate fees, if any, set out in the Schedule shall be payable

in respect of any step in the proceedings taken on or after that date.

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**Schedule**  
**Sheriffs' fees**

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- 1 For every warrant on writ of sale, writ of arrest, attachment, or other process, including the application, execution, and return: \$1,111.70.  
Schedule clause 1: amended, on 1 July 2011, by regulation 4 of the Sheriffs' Fees Amendment Regulations 2011 (SR 2011/171).
- 2 For advertising a sale: the amount actually paid.
- 3 For conducting a sale by auction: the amount actually paid to an auctioneer by way of commission.
- 4 For service of any summons beyond 1 kilometre from the Sheriff's office, a fee, at a rate to be determined by the Sheriff, for every kilometre one way:  
provided that the rate determined shall not exceed the maximum rate for the time being payable to an employee of the Public Service who uses the employee's own motorcar on official business.

Marie Shroff,  
Clerk of the Executive Council.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 10 March 1988.

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## **High Court Fees Regulations 2013**

(SR 2013/226)

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 18(4) of the Administration Act 1969, section 11(4) of the Admiralty Act 1973, section 100A of the Judicature Act 1908, sections 57 and 339(g) of the Lawyers and Conveyancers Act 2006, sections 67(2)(b) and 70(2) of the Local Government (Rating) Act 2002, section 52 of the Māori Trustee Act 1953, section 363(d) of the Property Law Act 2007, section 147 of the Public Trust Act 2001, and section 41 of the Trustee Companies Act 1967, His Excellency the Governor-General, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) to the extent that these regulations prescribe the fees referred to in section 12BA of the Māori Trustee Act 1953, on the recommendation of the Minister of Māori Affairs,—

makes the following regulations.

### **Regulations**

#### **1 Title**

These regulations are the High Court Fees Regulations 2013.

#### **2 Commencement**

- (1) Except as provided in subclause (2), these regulations come into force on 1 July 2013.

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- (2) Item 29 in the fees table, which relates to filing an application for an order protecting a secured party's interests, comes into force on the later of—
- (a) 1 July 2013; and
  - (b) the date appointed under section 2(2) of the District Courts Amendment Act 2011 for the coming into force of section 33 of that Act.

*Consequential and transitional matters*

**29 Transitional provision**

- (1) In respect of a proceeding commenced before 1 July 2013,—
  - (a) an enactment revoked by regulations 25 to 28 continues to apply in respect of any step taken before 1 July 2013; and
  - (b) these regulations apply in respect of any step taken on or after that date.
- (2) However, in respect of a hearing described in subclause (3),—
  - (a) regulations 9 to 14 of these regulations and items 17 to 20 of the fees table do not apply; and
  - (b) regulations 11, 11A, and 12 and items 6 to 9 of the Schedule of the High Court Fees Regulations 2001 continue to apply.
- (3) Subclause (2) applies to a hearing if the Registrar notifies the parties of the scheduled hearing date before 1 July 2013.

Rebecca Kitteridge,  
Clerk of the Executive Council.

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Date of notification in *Gazette*: 23 May 2013.

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## **Notes**

### **1 *General***

This is a reprint of the Sheriffs' Fees Regulations 1988. The reprint incorporates all the amendments to the regulations as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint  
(most recent first)***

High Court Fees Regulations 2013 (SR 2013/226): regulation 28(e)  
Sheriffs' Fees Amendment Regulations 2011 (SR 2011/171)  
New Zealand Superannuation and Retirement Income Amendment Act 2005  
(2005 No 42): section 9(2)  
Sheriffs' Fees Amendment Regulations 2004 (SR 2004/168)

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