



# High Court of Australia (Fees) Amendment Regulations 2005 (No. 1)<sup>1</sup>

## Select Legislative Instrument 2005 No. 110

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Judiciary Act 1903*.

Dated 7 June 2005

P. M. JEFFERY  
Governor-General

By His Excellency's Command

PHILIP RUDDOCK  
Attorney-General

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**1 Name of Regulations**

These Regulations are the *High Court of Australia (Fees) Amendment Regulations 2005 (No. 1)*.

**2 Commencement**

These Regulations commence on 1 July 2005.

**3 Amendment of *High Court of Australia (Fees) Regulations 2004***

Schedule 1 amends the *High Court of Australia (Fees) Regulations 2004*.

**4 Transitional — proceedings commenced before 1 July 2005**

Despite the amendments made by Schedule 1, the *High Court of Australia (Fees) Regulations 2004*, as in force immediately before 1 July 2005, continue to apply to a proceeding commenced in the Court before 1 July 2005.

**Schedule 1 Amendments**

(regulation 3)

**[1] Subregulation 8 (5)**

*substitute*

- (5) A fee specified in Part 1 or 3 of Schedule 1 is not payable if the person liable to pay the fee is exempt from payment under regulation 9.
- (6) If, under regulation 10, a Registrar waives payment of part of a fee specified in Part 1 or 3 of Schedule 1, that part of the fee is not payable.

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**[2] Regulation 10**

*substitute*

**10 Waiver of part of fee**

If, having regard to the income, day-to-day living expenses, liabilities and assets of a person liable to pay a fee specified in Part 1 or 3 of Schedule 1, a Registrar is of the opinion that payment of the fee would cause financial hardship to the person, the Registrar may waive payment of two-thirds of the amount of the fee.

**[3] Regulation 11, heading**

*substitute*

**11 Deferral of payment of fee or part of fee**

**[4] Subregulation 11 (1)**

*substitute*

- (1) A Registrar may allow the payment of the whole of a fee specified in Part 1 of Schedule 1, or the part of a fee specified in Part 1 of Schedule 1 that is payable because of the operation of regulation 10, to be deferred if, in the Registrar's opinion, there is an urgency that overrides the requirement to pay the fee at the time that, but for the deferral, the fee would be payable.

**[5] Subregulation 11 (2)**

*omit*

If payment of a fee has been deferred, the fee:

*insert*

If payment of the whole or part of a fee has been deferred, the amount deferred:

**[6] Regulation 13**

*substitute*

**13 Refund of fee or part of fee**

- (1) A person who has paid the whole or part of a hearing fee is entitled to a refund of the amount paid if:
  - (a) notice that the hearing will not proceed is given to a Registrar:
    - (i) if the date for hearing was fixed less than 10 working days before that date — not less than 2 working days before the date for hearing; or
    - (ii) in any other case — not less than 10 working days before the date for hearing; and
  - (b) the hearing does not proceed.
- (2) A person who has paid the whole or part of a hearing fee is entitled to a refund of the amount paid if:
  - (a) despite a notice being given to the Registrar under paragraph (1) (a) — a hearing is conducted for the purpose of making formal orders; or
  - (b) a date has not been fixed for hearing and the proceeding is discontinued or otherwise determined.
- (3) A person who has paid a hearing fee is entitled to a refund of the amount paid if the fee was not payable because of subregulation 8 (1), (3), (4) or (5).
- (4) If, under regulation 10, a Registrar waives payment of part of a hearing fee, a person who has paid the hearing fee is entitled to a refund of the part of the fee that has been waived.
- (5) In this regulation:

***working day***, in relation to a hearing, means a day that is not:

  - (a) a Saturday or Sunday; or
  - (b) a public holiday in the place where the hearing was to have taken, or took, place.

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**[7] Subregulation 15 (3)**

*omit*

payment of the fee,

*insert*

payment of part of the fee,

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).