



Federal Court and Federal Circuit Court Amendment (Fees) Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 29 October 2020

David Hurley
Governor-General

By His Excellency's Command

Christian Porter
Attorney-General

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1 Name

This instrument is the *Federal Court and Federal Circuit Court Amendment (Fees) Regulations 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 January 2021.	1 January 2021

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) *Federal Circuit Court of Australia Act 1999*;
- (b) *Federal Court of Australia Act 1976*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Federal Court and Federal Circuit Court Regulation 2012

1 Division 2.3 (heading)

Repeal the heading, substitute:

Division 2.3—Reduced fees and exemptions from liability to pay fees

2 Paragraph 2.06(1)(a)

After “115C” insert “, 201A”.

3 At the end of Division 2.3 of Part 2

Add:

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

- (1) This section applies to a proceeding in the Federal Circuit Court 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 a proceeding; and
 - (b) in the opinion of a Registrar or an authorised officer of the Federal Circuit Court at the time the full fee is payable, the payment of the full fee would cause financial hardship to the individual;the 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 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 a fee would cause financial hardship to an individual, the Registrar or authorised officer must consider the individual’s income, day-to-day living expenses, liabilities and assets.

Note: A decision of a Registrar or an authorised officer under subsection (2) is reviewable by the AAT: see section 2.21.

4 Subsection 2.20(1)

After “124,” insert “201A,”.

5 After subsection 2.20(1)

Insert:

- (1A) The amount of each fee mentioned in item 201A of Schedule 1 is increased on 1 July 2021, and on each 1 July following that day.

Fees other than reduced fees

- (1B) Subsections (2) and (3) apply to a fee mentioned in Schedule 1 other than:
- (a) the fees mentioned in any of items 102 to 104, 107, 124, 202, 209, 210 and 220 of that Schedule; and
 - (b) the reduced fee mentioned in item 201A of that Schedule.

6 After subsection 2.20(3)

Insert:

Reduced fees

- (3A) 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 (3B) at the same time.
- (3B) 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***7 After subsection 2.20(5)**

Insert:

*Definitions***8 Paragraph 2.21(1)(a)**

After “2.06” insert “, 2.06A”.

9 In the appropriate position in Part 5

Insert:

5.05 Application provision in relation to the *Federal Court and Federal Circuit Court Amendment (Fees) Regulations 2020*

The amendments made by the *Federal Court and Federal Circuit Court Amendment (Fees) Regulations 2020* apply in relation to the liability of a person to pay a filing fee for filing a document on or after 1 January 2021.

10 Part 2 of Schedule 1 (table item 201, column headed “Document or service”, paragraph (a))

After “items”, insert “201A,”.

11 Part 2 of Schedule 1 (after table item 201)

Insert:

- | | |
|--|--|
| <p>201A Filing of a document by which a proceeding is commenced in the Federal Circuit Court seeking final orders in exercise of:</p> <ol style="list-style-type: none"> (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 | <ol style="list-style-type: none"> (a) full fee—\$3,330; or (b) if a Registrar or an authorised officer has determined that the person may pay a reduced fee under section 2.06A—\$1,665 |
|--|--|

non-privative clause decision (within the meaning of the *Migration Act 1958*) under:

- (i) section 44AA of the *Administrative Appeals Tribunal Act 1975*; or
- (ii) section 8 of the *Administrative Decisions (Judicial Review) Act 1977*.