



## Family Law (Fees) Regulations 2022

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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 15 December 2022

David Hurley  
Governor-General

By His Excellency's Command

Mark Dreyfus KC  
Attorney-General

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## Part 1—Preliminary

### 1.01 Name

This instrument is the *Family Law (Fees) Regulations 2022*.

#### 1.01A 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 April 2023.	1 April 2023

Note: This table relates only to the provisions of this instrument as originally made.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.

### 1.02 Authority

This instrument is made under the following:

- (a) the *Family Law Act 1975*;
- (b) the *Federal Circuit and Family Court of Australia Act 2021*.

#### 1.02A Schedule 2

Each instrument that is specified in Schedule 2 to this instrument is amended or repealed as set out in that Schedule, and any other item in that Schedule has effect according to its terms.

### 1.03 Definitions

Note 1: A number of expressions used in this instrument are defined in the Family Law Act, including the following:

- (a) family dispute resolution practitioner;
- (b) Federal Circuit and Family Court of Australia;
- (c) financial or Part VII proceedings;
- (d) independent children's lawyer;
- (e) party to a de facto relationship;
- (f) recovery order.

Note 2: A number of expressions used in this instrument are defined in the Federal Circuit and Family Court Act, including the following:

- (a) Chief Executive Officer;

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(b) Registrar.

(1) In this instrument:

**authorised officer**, in relation to a power or function, means:

- (a) in relation to the Federal Circuit and Family Court of Australia (Division 1)—the following:
  - (i) an officer of that court authorised by the Chief Executive Officer to exercise the power or carry out the function;
  - (ii) an officer of another court performing the function under an arrangement under section 79 of the Federal Circuit and Family Court Act;
  - (iii) an employee of an agency or organisation performing the function under an arrangement under section 80 of that Act; or
- (b) in relation to the Federal Circuit and Family Court of Australia (Division 2)—the following:
  - (i) an officer of that court authorised by the Chief Executive Officer to exercise the power or carry out the function;
  - (ii) an officer of another court performing the function under an arrangement under section 246 of the Federal Circuit and Family Court Act;
  - (iii) an employee of an agency or organisation performing the function under an arrangement under section 247 of that Act; or
- (c) in relation to a Family Court of a State other than the Family Court of Western Australia—an officer of that court who is authorised by the Chief Executive Officer of that court to exercise the power or carry out the function; or
- (d) in relation to the Family Court of Western Australia—an officer of that court who is authorised, by the executive manager appointed under paragraph 25(1)(c) of the *Family Court Act 1997* (WA), to exercise the power or carry out the function; or
- (e) in relation to the Supreme Court of the Northern Territory or a court of summary jurisdiction of a State or Territory—an officer of that court authorised by the relevant Registrar of that court to exercise the power or carry out the function.

**conciliation conference** means a conference:

- (a) that is:
  - (i) attended by the parties to a proceeding and a relevant Registrar of the relevant court; or
  - (ii) attended by the parties to a proceeding and a family dispute resolution practitioner, and the parties are not required to pay any fees of the practitioner in relation to the conference; and
- (b) in which the parties try to reach agreement on the matters in issue in the proceeding.

**conciliation conference fee** means the fee mentioned in item 20 of Schedule 1.

**CPI number**, for a quarter, means the All Groups Consumer Price Index number (being the weighted average of the 8 Australian capital cities) published by the Australian Statistician for that quarter.

**eligible financial or parenting proceedings** means:

- (a) financial or Part VII proceedings; or
- (b) any of the proceedings mentioned in paragraphs (a) to (f) of the definition of *de facto financial cause* in subsection 4(1) of the Family Law Act.

**Family Court of a State** means a court to which section 41 of the Family Law Act applies.

**Family Law Act** means the *Family Law Act 1975*.

**Federal Circuit and Family Court Act** means the *Federal Circuit and Family Court of Australia Act 2021*.

**filing fee** means a fee mentioned in any of items 1 to 10A of Schedule 1.

**hearing fee** means a fee mentioned in any of items 15 to 18 of Schedule 1.

**interim order application** includes:

- (a) an application for an interlocutory or interim order; and
- (b) an application for an order that will apply only for a specified period during a proceeding; and
- (c) an application for an interim or partial property order under Part VIII or VIIIAB of the Family Law Act; and
- (d) an application for an interim order that is included in an application that also covers other matters;

but does not include an application for a procedural order.

Example for paragraph (b): An application for an interim parenting order that applies during a proceeding until a final parenting order is made.

Example for paragraph (d): An application for both interim orders and final orders.

**liable person**, in relation to a fee, means the person who is required to pay the fee under Division 2.2.

**March quarter** means a period of 3 months ending at the end of March.

**relevant court**, in relation to a proceeding, means:

- (a) if the proceeding is in the Federal Circuit and Family Court of Australia (Division 1)—that court; or
- (b) if the proceeding is in the Federal Circuit and Family Court of Australia (Division 2)—that court; or
- (c) if the proceeding is in a Family Court of a State—that court; or
- (d) if the proceeding is in the Supreme Court of the Northern Territory—that court; or
- (e) if the proceeding is in a court of summary jurisdiction of a State or Territory—that court.

**relevant period** means a financial year starting on or after 1 July 2022.

**relevant Registrar** of a court means:

- (a) in relation to the Federal Circuit and Family Court of Australia (Division 1)—the following:
  - (i) the Chief Executive Officer;

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- (ii) a Senior Registrar or Registrar of that court; or
- (b) in relation to the Federal Circuit and Family Court of Australia (Division 2)—the following:
  - (i) the Chief Executive Officer;
  - (ii) a Senior Registrar or Registrar of that court; or
- (c) in relation to any other court—the principal officer of the court or any other appropriate officer or staff member of the court.

**setting down fee** means a fee mentioned in any of items 11 to 14 of Schedule 1.

*Expressions used in this instrument that are defined in the Family Law Act and the Federal Circuit and Family Court Act*

- (2) When used in a provision of this instrument, an expression defined in the Family Law Act and the Federal Circuit and Family Court Act has the meaning given by whichever of those Acts is appropriate in the context of the application and operation of the provision.



## **Part 2—Fees**

### **Division 2.1—General**

#### **2.01 Purpose of Part**

This Part sets out matters relating to fees for the purposes of section 125 of the Family Law Act and section 285 of the Federal Circuit and Family Court Act.

#### **2.02 Fees**

- (1) Schedule 1 sets out the fees payable for the following:
  - (a) the filing of a document in relation to a proceeding;
  - (b) a service in relation to a proceeding provided by:
    - (i) a relevant court; or
    - (ii) an officer of a relevant court; or
    - (iii) another person acting on behalf of a relevant court.

Note 1: Fees are subject to increase under section 2.13.

Note 2: Fees are not payable in some circumstances: see Division 2.4.

- (2) If a document filed in a proceeding includes an interim order application and also covers another matter, the fee payable is the sum of:
  - (a) the fee mentioned in item 9 of Schedule 1; and
  - (b) the fee mentioned in Schedule 1 for the filing of the document.
- (3) If, under section 2.03, a particular fee mentioned in Schedule 1 is payable by more than one person, the only fee that is payable in relation to that particular fee is the highest fee that applies to any of those persons.

## **Division 2.2—Liability to pay fees**

### **2.03 Persons liable to pay fees**

- (1) A fee mentioned in Schedule 1 is payable in relation to a proceeding by:
  - (a) for a fee mentioned in item 5 of Schedule 1 (filing a response to an application) or item 9 of Schedule 1 (filing an interim order application)—the person for whom the document is filed; and
  - (b) for the fee mentioned in item 19 of Schedule 1 (issuing a subpoena)—the person who requests that the subpoena be issued; and
  - (c) in any other case—the person who commences the proceeding or, if the proceeding is an appeal, the appeal.
- (2) However:
  - (a) any party to the proceeding may pay the fee; and
  - (b) the relevant court for the proceeding, or a Judge or relevant Registrar of that court, may order that another party to the proceeding is liable to pay the fee or part of the fee instead of the person mentioned in subsection (1).

## **Division 2.3—Exemptions and reduced fees**

### **2.04 Persons exempt from paying fees—general**

- (1) A person is exempt from paying a fee mentioned in Schedule 1 (other than a fee mentioned in item 1, 2 or 10A of Schedule 1) if, at the time the fee is payable, one or more of the following apply:
  - (a) the person has been granted legal aid for the proceeding for which the fee would otherwise be payable under a legal aid scheme or service:
    - (i) established under a law of the Commonwealth or of a State or Territory; or
    - (ii) approved by the Attorney-General;
  - (b) the person is the holder of any of the following cards issued by the Commonwealth:
    - (i) a health care card;
    - (ii) a pensioner concession card;
    - (iii) a Commonwealth seniors health card;
    - (iv) any other card that certifies the holder's entitlement to Commonwealth health concessions;
  - (c) the person is serving a sentence of imprisonment or is otherwise detained in a public institution, or is in immigration detention (within the meaning of the *Migration Act 1958*);
  - (d) the person is younger than 18;
  - (e) the person is receiving youth allowance or Austudy payments under the *Social Security Act 1991* or benefits under the ABSTUDY Scheme.
- (2) For paragraph (1)(b), the **holder** of a card does not include a dependant of the person who is issued the card.

### **2.05 Persons exempt from paying fees—financial hardship**

- (1) If:
  - (a) a fee mentioned in Schedule 1 (other than a fee mentioned in item 1, 2 or 10A of Schedule 1) is payable by an individual in relation to a proceeding; and
  - (b) in the opinion of a relevant Registrar or an authorised officer of the relevant court at the time the fee is payable, the payment of the fee would cause financial hardship to the individual;the relevant Registrar or authorised officer may exempt the individual from paying the fee.
- (2) In considering whether payment of a fee would cause financial hardship to an individual, the relevant Registrar or authorised officer must consider the individual's income, day-to-day living expenses, liabilities and assets.

Note: A decision of a relevant Registrar or an authorised officer under this section is reviewable by the AAT: see section 2.14.

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**Division 2.3 Exemptions and reduced fees**

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**2.05A Persons exempt from paying fees—independent children’s lawyer**

An independent children’s lawyer appointed to represent a child’s interests in proceedings under the Family Law Act is exempt from paying the fees mentioned in items 9 and 19 of Schedule 1 in relation to the proceedings.

**2.06 Reduced fees for filing applications for divorce or nullity of marriage orders**

*General*

- (1) If:
- (a) a full fee mentioned in item 1 or 2 of Schedule 1 is payable by a person in relation to a proceeding; and
  - (b) the person is exempt under section 2.04 from paying any other fees mentioned in Schedule 1;

the person may pay the reduced fee mentioned in the item instead of the full fee that would otherwise be payable.

*Financial hardship*

- (2) If:
- (a) a fee mentioned in item 1 or 2 of Schedule 1 is payable by an individual in relation to a proceeding; and
  - (b) in the opinion of a relevant Registrar or an authorised officer of the relevant court at the time the full fee is payable, the payment of the full fee would cause financial hardship to the individual;

the relevant Registrar or authorised officer may determine that the individual may pay the reduced fee mentioned in the item instead of the full fee that would otherwise be payable.

- (3) In considering whether payment of a full fee would cause financial hardship to an individual, the relevant Registrar or authorised officer must consider the individual’s income, day-to-day living expenses, liabilities and assets.

Note: A decision of a relevant Registrar or an authorised officer under subsection (2) is reviewable by the AAT: see section 2.14.

## **Division 2.4—When fees are not payable**

### **2.07 Fees not payable if already paid**

A fee mentioned in Schedule 1 is not payable by the liable person for the fee if another person has paid the fee.

### **2.08 Fees not payable in certain proceedings**

- (1) A fee mentioned in Schedule 1 is not payable in relation to any of the following proceedings:
- (a) an application for a divorce order in relation to a marriage that was previously dissolved or annulled under the Family Law Act or the *Matrimonial Causes Act 1959*;
  - (b) a proceeding for which an international convention that is in force for Australia provides that no fee is to be payable;
  - (c) a proceeding under the *Family Law (Child Abduction Convention) Regulations 1986*;
  - (d) a proceeding under the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*;
  - (e) an appeal under section 47A of the Family Law Act from a decree of a court exercising jurisdiction under the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*;
  - (f) an appeal under section 26 of the Federal Circuit and Family Court Act:
    - (i) from a judgment of a single Judge of the Federal Circuit and Family Court of Australia (Division 1) exercising appellate jurisdiction in relation to a judgment mentioned in subparagraph (v); or
    - (ii) from a judgment of the Federal Circuit and Family Court of Australia (Division 1) exercising original jurisdiction under the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*; or
    - (iii) from a judgment of the Federal Circuit and Family Court of Australia (Division 2) exercising original jurisdiction under the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*; or
    - (iv) from a judgment of a Family Court of a State, or a Supreme Court of a State or Territory constituted by a single Judge, exercising original or appellate jurisdiction under the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*; or
    - (v) from a judgment of a court of summary jurisdiction of a State or Territory (other than the Magistrates Court of Western Australia) exercising original jurisdiction under the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*; or
    - (vi) from a judgment of the Magistrates Court of Western Australia exercising original jurisdiction under the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*;

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**Division 2.4** When fees are not payable

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- (g) an application for leave to appeal under section 47B of the Family Law Act;
  - (h) an application for leave to appeal under section 28 of the Federal Circuit and Family Court Act from a judgment of a court exercising jurisdiction under or in relation to the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*;
  - (i) an application by a person to set aside a subpoena.
- (2) A fee mentioned in Schedule 1 is not payable in relation to an objection to a subpoenaed document being inspected or copied.
- (3) A fee mentioned in Schedule 1 is not payable in relation to a proceeding under the Family Law Act about any of the following:
- (a) rescission of a divorce order;
  - (b) a parenting plan;
  - (c) child maintenance;
  - (d) a recovery order;
  - (e) a custody order, residence order, or an order that a child lives with a person, made by an overseas court;
  - (f) a custody order, residence order, or an order that a child lives with a person, made by a court in Australia and enforceable overseas;
  - (g) a maintenance order made by an overseas court;
  - (h) a maintenance order made by a court in Australia that is enforceable overseas;
  - (i) spousal maintenance;
  - (j) leave, under section 102A of that Act, for a child to be examined;
  - (k) an application for enforcement of an order;
  - (l) contravention of an order;
  - (m) contempt of court;
  - (n) an application for an injunction under section 114 of that Act;
  - (o) costs;
  - (p) a procedural matter.

## **Division 2.5—Payment of fees**

### **2.09 When fees must be paid**

#### *Filing fee*

- (1) A filing fee for a document must be paid before the relevant document is filed.

#### *Setting down fee*

- (2) A setting down fee for a hearing in relation to a proceeding must be paid when a relevant court fixes one or more days for the hearing, as follows:
  - (a) if the hearing is fixed to commence within 28 days after the day when the court fixes the hearing days—within the period, or at the time, approved by the relevant Registrar or authorised officer of the relevant court for the payment of that fee;
  - (b) in any other case—no later than 28 days before the hearing is fixed to commence.
- (3) To avoid doubt, a setting down fee is payable for the fixing of one or more days for the hearing of a proceeding whether or not the proceedings are heard on those days, on later days or at all.

#### *Hearing fee*

- (4) A hearing fee for a hearing day, or a part of a hearing day, in relation to a proceeding must be paid as follows:
  - (a) if the hearing day is more than 2 business days after the day when the hearing day is fixed—no later than close of business for the relevant court on the day that is 2 business days before the hearing day;
  - (b) in any other case—no later than 9.30 am on the hearing day.

#### *Conciliation conference fee*

- (5) A conciliation conference fee must be paid as follows:
  - (a) if the day (the **conference day**) on which the conference is to be held is within 28 days after the day when the conference day is fixed—before the conference day;
  - (b) in any other case—no later than 28 days before the conference day.

#### *Fee for other service*

- (6) A fee for a service:
  - (a) mentioned in an item in Schedule 1; and
  - (b) not otherwise mentioned in this section;must be paid before the service is provided.

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**2.10 Deferral of payment of fees**

- (1) Section 2.09 does not apply to a fee payable in relation to a proceeding if a relevant Registrar or an authorised officer of the relevant court defers the payment of the fee.
- (2) The relevant Registrar or authorised officer may defer the payment of a fee under subsection (1) if, in the opinion of the relevant Registrar or authorised officer:
  - (a) for a filing fee for a document (other than the fee mentioned in item 5 of Schedule 1)—the need to file the document is so urgent that it overrides the requirement to pay the filing fee before the document is filed; or
  - (b) considering the financial circumstances of the liable person for the fee, it would be oppressive or otherwise unreasonable to require payment of the fee in accordance with section 2.09.
- (3) If the payment of a fee is deferred, the fee must be paid:
  - (a) within 28 days after the day the payment is deferred; or
  - (b) within another period approved, in writing, by the relevant Registrar or authorised officer for the payment of that fee.

Note: If a setting down fee in relation to a hearing is deferred and the hearing does not occur, the setting down fee is still payable in accordance with this subsection.

- (4) A fee may be deferred more than once.
- (5) The relevant Registrar or authorised officer may impose conditions on the deferral of the payment of a fee.

Note: A decision of a relevant Registrar or an authorised officer under this section is reviewable by the AAT: see section 2.14.

**2.11 What happens if fees are not paid**

- (1) This section applies if the payment of a fee is not deferred under section 2.10.
- (2) If a person is required to pay a fee mentioned in Schedule 1 in relation to a proceeding before the filing of a document or the provision of a service for which the fee is payable, the document must not be filed or the service must not be provided until the whole fee is paid.
- (3) However, the relevant court for the proceeding, or a Judge or relevant Registrar of that court, may allow the document to be filed or the service to be provided despite the fee, or part of the fee, not being paid.
- (4) If a setting down fee, a hearing fee or a conciliation conference fee (or a part of any of those fees) is not paid in relation to a proceeding:
  - (a) the relevant court, or a Judge or relevant Registrar of that court, may order that no proceeding, or no proceeding other than a specified proceeding, is to take place except by leave; and
  - (b) a person other than the person liable to pay the fee may pay the fee without affecting any power of the relevant court, or of a Judge or relevant Registrar of that court, to make an order for costs for the fee; and
  - (c) the relevant court, or a Judge or relevant Registrar of that court, may vacate the day scheduled for the hearing or conciliation conference.



## **Division 2.6—Miscellaneous**

### **2.12 Refund of fees**

#### *General*

- (1) A person is entitled to a refund of an amount in relation to the payment of a fee mentioned in Schedule 1 if:
  - (a) the person pays an amount for the fee; and
  - (b) the amount paid by the person is more than the amount that is required to be paid under this instrument for the fee.
- (2) The amount to be refunded is the difference between the amount paid by the person and the amount of the fee that is required to be paid under this instrument.
- (3) A person is entitled to the refund of the amount paid by the person as a fee mentioned in Schedule 1 if:
  - (a) the fee had already been paid by another person; or
  - (b) the fee was not payable under this instrument.

#### *Setting down fee*

- (4) A person is not entitled to the refund of the amount paid by the person as a setting down fee for a hearing in relation to a proceeding if the first hearing day fixed by the setting down, or a hearing day fixed in place of the first hearing day, does not occur.

#### *Hearing fees—hearings not commenced*

- (5) A person is entitled to the refund of the amount paid by the person as a hearing fee for a hearing day, or a part of a hearing day, in respect of a hearing that has not commenced if:
  - (a) the person notifies the relevant Registrar or an authorised officer of the relevant court, in accordance with subsection (6), that the hearing will not occur or will occur only for the purpose of making orders finalising the proceedings that were the subject of the hearing; and
  - (b) the hearing does not occur or occurs only for the purpose of making those orders.
- (6) The person must notify the relevant Registrar or authorised officer in writing:
  - (a) if the hearing day is less than 10 business days after the day when the hearing day is fixed—at least 2 business days before the hearing day; and
  - (b) in any other case—at least 10 business days before the hearing day.
- (7) Despite subsection (5), a relevant Registrar or authorised officer may refund a hearing fee for a hearing day, or a part of a hearing day, in respect of a hearing that has not commenced if:
  - (a) the person who paid the hearing fee has not notified the relevant Registrar or authorised officer in accordance with paragraph (5)(a) and subsection (6); and

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- (b) the relevant Registrar or authorised officer is satisfied that the reason the person has not notified the relevant Registrar or authorised officer is not the fault of the person; and
- (c) the hearing does not occur or occurs only for the purpose of making orders finalising the proceedings that were the subject of the hearing.

Note: A decision of a relevant Registrar or authorised officer under this subsection is reviewable by the AAT: see section 2.14.

### *Hearing fees—hearings commenced*

- (8) A person is entitled to the refund of the amount paid by the person as a hearing fee for a hearing day, or a part of a hearing day, in respect of a hearing that has commenced if:
  - (a) the proceeding that is the subject of the hearing is settled or discontinued before the hearing day; or
  - (b) the hearing day does not proceed for some other reason.

Example: If a person pays hearing fees in advance for 20 hearing days, but the proceeding finishes after 10 hearing days, a person is entitled to a refund of the hearing fees paid for the unused hearing days.

### *Conciliation conference fee*

- (9) A person is entitled to the refund of the amount paid by the person as a conciliation conference fee in relation to a proceeding if the proceeding is settled or discontinued before the conference is held.

## 2.13 Annual increase in fees

- (1) The amount of each fee mentioned in Schedule 1 is increased on 1 July 2023, and on each 1 July following that day.

### *Fees other than reduced fees*

- (2) Subsections (3) and (4) apply to a fee mentioned in Schedule 1 other than a fee that is described as a reduced fee.
- (3) If, in a relevant period, the latest CPI number is greater than the earlier CPI number, the fee is increased, on 1 July immediately following the end of the period, in accordance with the formula:

$$\frac{\text{Fee} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

**earlier CPI number** is the CPI number for the last March quarter before the start of the relevant period.

**fee** is the amount of the fee in force at the end of the relevant period.

**latest CPI number** is the CPI number for the last March quarter before the end of the relevant period.

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- (4) The amount of the fee worked out under subsection (3) is to be rounded to an amount of dollars and cents and then further rounded as follows:
- (a) if the amount is \$50 or more—the amount is to be rounded to the nearest amount that is a multiple of \$5;
  - (b) if the amount is less than \$50—the amount is to be rounded to the nearest whole dollar;
  - (c) if the amount to be rounded is 50 cents, the amount is to be rounded down.

*Reduced fee*

- (5) If:
- (a) a fee (the **first fee**) is increased and rounded under subsections (3) and (4); and
  - (b) the item in Schedule 1 that mentions the fee also mentions a reduced fee; the reduced fee is increased, at the same time as the first fee, in accordance with subsection (6).
- (6) The increased reduced fee is one-third of the amount of the first fee (as increased and rounded under subsections (3) and (4)), rounded down to the nearest multiple of \$5.

*Other rules*

- (7) If the Australian Statistician publishes for a particular March quarter a CPI number in substitution for a CPI number previously published by the Australian Statistician for that quarter, the publication of the later CPI number is disregarded for this section.
- (8) However, if the Australian Statistician changes the index reference period for the CPI number, then for the application of this section after the change is made, regard must be had only to CPI numbers published in terms of the new index reference period.

## 2.14 Notice of decision and AAT review

*Notice of decision*

- (1) A relevant Registrar or an authorised officer must give a liable person for a fee a notice in accordance with this section if the relevant Registrar or authorised officer makes a decision about the payment of the fee under section 2.05, subsection 2.06(2), section 2.10 or subsection 2.12(7).
- (2) The relevant Registrar or authorised officer must give the notice to the liable person within 28 days after making the decision.
- (3) The notice must set out:
- (a) the decision; and
  - (b) for a decision mentioned in subsection (5):
    - (i) a statement that the liable person may apply to the Administrative Appeals Tribunal for review of the decision; and
    - (ii) reasons for the decision.

Section 2.15

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- (4) Failure to comply with subparagraph (3)(b)(i) does not affect the validity of the decision.

*Application for review of decision*

- (5) The liable person may apply to the Administrative Appeals Tribunal for review of a decision:
- (a) to not exempt a person from paying a fee; or
  - (b) to not defer the payment of a fee; or
  - (c) to not refund a fee that has been paid; or
  - (d) to not determine that a person may pay a reduced fee.

**2.15 Debt due to Commonwealth, State or Territory**

- (1) Any fee mentioned in Schedule 1 that is not paid in accordance with this instrument is recoverable by the Commonwealth as a debt due to the Commonwealth.
- (2) However:
- (a) if the fee is payable in relation to a proceeding in a Family Court of a State, the fee is recoverable by the State as a debt due to that State; and
  - (b) if the fee is payable in relation to a proceeding in the Supreme Court of the Northern Territory, the fee is recoverable by the Northern Territory as a debt due to that Territory; and
  - (c) if the fee is payable in relation to a proceeding in a court of summary jurisdiction of a State or Territory, the fee is recoverable by the State or Territory as a debt due to that State or Territory.

## **Part 3—Application, saving and transitional provisions**

### **Division 3.1—Application, saving and transitional provisions in relation to the commencement of this instrument**

#### **3.01 Definitions**

In this Division:

*old regulations* means the *Family Law (Fees) Regulation 2012*, as in force immediately before 1 April 2023.

Note: This instrument commenced, and the old regulations were repealed, on 1 April 2023.

#### **3.02 Application provision**

This instrument applies in relation to the liability of a person to pay any of the following fees:

- (a) a filing fee for filing a document on or after 1 April 2023;
- (b) a setting down fee for a hearing if the day when the hearing is fixed is on or after 1 April 2023;
- (c) a hearing fee for a day, or a part of a day, if the day (or part of the day) is fixed on or after 1 April 2023;
- (d) a conciliation conference fee for a conference if the conference is fixed on or after 1 April 2023;
- (e) any other fee under this instrument for a document or service provided on or after 1 April 2023.

#### **3.03 Saving provision**

To avoid doubt, the old regulations continue to apply in relation to the liability of a person to pay a fee incurred under the old regulations before 1 April 2023.

Note: Section 7 of the *Acts Interpretation Act 1901* preserves the liability despite the repeal of the old regulations by this instrument on 1 April 2023. That section applies in relation to regulations because of section 13 of the *Legislation Act 2003*.

#### **3.04 Things done under the old regulations**

- (1) If:
  - (a) a thing was done for a particular purpose under the old regulations; and
  - (b) the thing could be done for that purpose under this instrument;the thing has effect for the purposes of this instrument as if it had been done for that purpose under this instrument.
- (2) Without limiting subsection (1), a reference in that subsection to a thing being done includes a reference to a notice or a determination being given or made.

**Part 3** Application, saving and transitional provisions

**Division 3.1** Application, saving and transitional provisions in relation to the commencement of this instrument

**Section 3.05**

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**3.05 Conduct, event or circumstances occurring before commencement**

- (1) To avoid doubt, a function or duty may be performed, or a power exercised, under this instrument in relation to conduct engaged in, an event that occurred, or a circumstance that arose, before 1 April 2023.

Note: For example:

- (a) a fee may be paid on or after 1 April 2023 in accordance with section 2.10 of this instrument if the Registrar deferred the payment of the fee before that day; and
  - (b) a person may pay a financial hardship fee in respect of a hearing that is fixed on or after 1 April 2023 if the Registrar determines before that day that the person may pay that fee.
- (2) This section does not limit section 3.04 of this instrument or section 7 of the *Acts Interpretation Act 1901* (as that Act applies in relation to this instrument because of paragraph 13(1)(a) of the *Legislation Act 2003*).

## Schedule 1—Fees

Note: See section 2.02.

The following table sets out fees payable in relation to family law proceedings.

<b>Fees—family law proceedings</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
1	Filing an application in proceedings for a divorce order in relation to a marriage or a decree of nullity of marriage, other than proceedings to which item 2 applies	(a) full fee—\$1,405 (b) reduced fee—\$465
2	Filing an application in proceedings for a divorce order: (a) commenced in a court mentioned in paragraph 10A(a) or (c) of the <i>Family Law Regulations 1984</i> ; or (b) commenced in another court for transfer to a court mentioned in paragraph 10A(a) or (c) of those Regulations; or (c) commenced in the Federal Circuit and Family Court of Australia (Division 1) or the Federal Circuit and Family Court of Australia (Division 2)	(a) full fee—\$990 (b) reduced fee—\$330
3	Filing an application in proceedings for a declaration about the validity of a marriage, a divorce or the annulment of a marriage	\$1,405
4	Filing an application for final orders in eligible financial or parenting proceedings, other than an application under the <i>Trans-Tasman Proceedings Act 2010</i>	\$385
5	Filing a response to an application for final orders in eligible financial or parenting proceedings	\$385
6	Filing an application for a consent order	\$180
7	Filing an appeal under section 26 of the Federal Circuit and Family Court Act, unless the fee mentioned in item 8 has been paid	\$1,500
8	Filing an application for leave to appeal under section 28 of the Federal Circuit and Family Court Act	\$1,500
9	Filing of: (a) an interim order application; or (b) an application under the <i>Trans-Tasman Proceedings Act 2010</i> , other than an application mentioned in item 10A	\$130
10	Filing an application for both an order under Part VII of the Family Law Act and an order under any of the following: (a) Part VIII of that Act (other than a spousal maintenance order); (b) Part VIIIA of that Act; (c) Part VIIIB of that Act (other than an order for the maintenance of a party to a de facto relationship)	\$625
10A	Filing an application to register a New Zealand judgment under the <i>Trans-Tasman Proceedings Act 2010</i>	\$115

Schedule 1 Fees

<b>Fees—family law proceedings</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
11	Setting down for hearing in proceedings for a divorce order, if defended, in relation to a marriage or a decree of nullity of marriage	(a) for hearing before a judge of the Federal Circuit and Family Court (Division 1)—\$945 (b) for hearing before a judge of the Federal Circuit and Family Court (Division 2)—\$695 (c) for hearing before any other judge—\$945 (d) for hearing before a magistrate—\$695
12	Setting down for hearing in proceedings, if defended, for a declaration as to the validity of a marriage, a divorce or the annulment of a marriage	(a) for hearing before a judge of the Federal Circuit and Family Court (Division 1)—\$945 (b) for hearing before a judge of the Federal Circuit and Family Court (Division 2)—\$695 (c) for hearing before any other judge—\$945 (d) for hearing before a magistrate—\$695
13	Setting down for hearing of an application for final orders, if defended, in eligible financial or parenting proceedings	(a) for hearing before a judge of the Federal Circuit and Family Court (Division 1)—\$945 (b) for hearing before a judge of the Federal Circuit and Family Court (Division 2)—\$695 (c) for hearing before any other judge—\$945 (d) for hearing before a magistrate—\$695
14	Setting down for hearing in an appeal under section 47A of the Family Law Act from a decree of a court of summary jurisdiction	\$945
15	Hearing in proceedings for a divorce order, if defended, in relation to a marriage or a decree of nullity of marriage—for each hearing day or part of a hearing day, other than the first hearing day	(a) for hearing before a judge of the Federal Circuit and Family Court (Division 1)—\$945 (b) for hearing before a judge of the Federal Circuit and Family Court (Division 2)—\$695 (c) for hearing before any other judge—\$945 (d) for hearing before a



<b>Fees—family law proceedings</b>		
<b>Item</b>	<b>Document or service</b>	<b>Fee</b>
		magistrate—\$695
16	Hearing in proceedings, if defended, for a declaration as to the validity of a marriage, a divorce or the annulment of a marriage—for each hearing day, or part of a hearing day, other than the first hearing day	(a) for hearing before a judge of the Federal Circuit and Family Court (Division 1)—\$945 (b) for hearing before a judge of the Federal Circuit and Family Court (Division 2)—\$695 (c) for hearing before any other judge—\$945 (d) for hearing before a magistrate—\$695
17	Hearing of an application for final orders, if defended, in eligible financial or parenting proceedings—for each hearing day or part of a hearing day, other than the first hearing day	(a) for hearing before a judge of the Federal Circuit and Family Court (Division 1)—\$945 (b) for hearing before a judge of the Federal Circuit and Family Court (Division 2)—\$695 (c) for hearing before any other judge—\$945 (d) for hearing before a magistrate—\$695
18	Hearing in an appeal under section 47A of the Family Law Act from a decree of a court of summary jurisdiction—for each hearing day or part of a hearing day, other than the first hearing day	\$945
19	For issuing a subpoena	\$60
20	For a conciliation conference in proceedings for an order under Part VIII or VIIIAB of the Family Law Act—for a day, or part of a day	\$435

Note: The fees mentioned in this Schedule are subject to increase under section 2.13.

## **Schedule 2—Repeals**

### ***Family Law (Fees) Regulation 2012***

#### **1 The whole of the instrument**

Repeal the instrument.