

Magistrates' Court (Fees) Regulations

Exposure Draft

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1 Objective

The objective of these Regulations is to prescribe the fees payable in the Magistrates' Court of Victoria.

2 Authorising provision

These Regulations are made under section 140 of the **Magistrates' Court Act 1989**.

3 Commencement

These Regulations come into operation on 25 September 2022.

4 Revocation

The Magistrates' Court (Fees) Regulations 2012¹ are **revoked**.

5 Definitions

In these Regulations—

concession fee payer means a person who holds a current health care card within the meaning of the Social Security Act 1991 of the Commonwealth at the time a fee is payable;

corporate fee payer means an entity other than a standard fee payer or a concession fee payer;

Federation of Community Legal Centres Vic Inc means the Federation of Community Legal Centres Vic Inc., an association incorporated under the **Associations Incorporation Reform Act 2012** ABN 30 036 539 902;

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Justice Connect means the Justice Connect ABN 54 206 789 276;

Law Institute of Victoria means Law Institute of Victoria Limited ACN 075 475 731;

standard fee payer means—

- (a) a natural person other than a natural person acting in the capacity of a statutory office holder; or
- (b) an entity which is a not-for-profit organisation that—
 - (i) operates exclusively for charitable, civil or other social purposes; and
 - (ii) does not share or allocate the funds or profits of the organisation with the owners, shareholders or executives of the organisation; or
- (c) an entity that has a turnover of less than \$200 000 in the financial year before the financial year in which a fee in the Schedule is to be paid; or
- (d) the executor or administrator of a deceased estate;

the Act means the **Magistrates' Court Act 1989**;

the Rules means the Magistrates' Court General Civil Procedure Rules 2020²;

VCAT Act means the **Victorian Civil and Administrative Tribunal Act 1998**;

Victorian Bar means the Victorian Bar Inc., an association incorporated under the **Associations Incorporation Reform Act 2012**.

6 No fee payable in certain proceedings

No fee is payable under these Regulations in respect of the following—

- (a) a proceeding under the **Family Violence Protection Act 2008**;
- (b) a proceeding under the **Maintenance Act 1965**;
- (c) a proceeding under the **Personal Safety Intervention Orders Act 2010**.

7 No fee payable by certain persons in criminal division

The following persons are exempt from paying the fees set out in Part 1 and items 3.1, 3.2, 3.3 and 3.4 of the Schedule in respect of proceedings in the criminal division—

- (a) a police officer acting in the course of the police officer's duty;
 - (b) a person acting for or by authority of the Crown;
 - (c) a person acting for or by authority of a municipal council where the proceeding relates to public health;
 - (d) a POCTA inspector within the meaning of the **Prevention of Cruelty to Animals Act**
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- 1986** acting in the course of the POCTA inspector's duty;
- (e) a person authorised under section 24ZW of the **Prevention of Cruelty to Animals Act 1986** to file a charge for an offence referred to in that section;
 - (f) a person acting for or by authority of the Secretary;
 - (g) the Business Licensing Authority established under Part 2 of the **Business Licensing Authority Act 1998**;
 - (h) a person who is legally represented in the proceeding under a pro bono scheme administered by or on behalf of—
 - (i) the Victorian Bar; or
 - (ii) the Law Institute of Victoria; or
 - (iii) Justice Connect;
 - (i) a person who is legally represented in the proceeding on a pro bono basis by a member of the Federation of Community Legal Centres Vic;
 - (j) a person who has been granted legal aid under a legal aid scheme established under the law of the Commonwealth or of a State or Territory for the proceeding for which the fee would otherwise be payable;
 - (k) a person who is serving a sentence of imprisonment or is otherwise detained in a detention facility, however described;
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- (1) a person who under the age of 18 years.

Note

Fees in respect of proceedings in the criminal division refers to fees in relation to extracts or other documents or material originating in the criminal division regardless of their intended use.

8 Fees—criminal division

The fees set out in Part 1 of the Schedule are payable for a proceeding in the criminal division of the Court as specified in that Part and in accordance with these Regulations.

9 Fees—civil jurisdiction

- (1) The fees set out in Part 2 of the Schedule are payable for a proceeding in the civil jurisdiction of the Court as specified in that Part and in accordance with these Regulations.
- (2) For a corporate fee payer, the fee for an item specified in column 2 of Part 2 of the Schedule is the corresponding fee in column 3 of that Part.
- (3) For a standard fee payer, the fee for an item specified in column 2 of Part 2 of the Schedule is the corresponding fee in column 4 of that Part.
- (4) For a concession fee payer, the fee for an item specified in column 2 of Part 2 of the Schedule is the corresponding fee in column 5 of that Part.

10 Fees—administrative

The administrative fees set out in Part 3 of the Schedule are payable in the Court as specified in

that Part and in accordance with these Regulations.

11 Fees payable in application under Part 3A of VCAT Act

- (1) Despite regulation 9, the fees set out in Part 2 of the Schedule are not payable for matters heard or determined by the Court pursuant to an application under section 57B of the VCAT Act.
- (2) For matters heard or determined by the Court pursuant to an application under section 57B of the VCAT Act, the fee payable to the Court is the relevant fee (if any) that would be payable to VCAT under the VCAT Act if the matter were heard by VCAT.

Note

Section 57B of the VCAT Act already requires that the fee payable to the Court for an application under that section is the relevant fee (if any) payable to VCAT under the VCAT Act. This regulation deals with other fees related to the proceeding other than the fee for commencement of proceedings in the Court.

12 Fees payable in claims for unpaid wages in the Industrial Division

- (1) Despite regulation 9, the fees set out in items 2.1, 2.2, 2.3, and 2.4 of Part 2 of the Schedule are not payable for the commencement of a proceeding by an employee for a claim for unpaid wages in the Industrial Division of the Court.
 - (2) For a proceeding commenced by an employee for a claim for unpaid wages in the Industrial Division of the Court, the fee payable for commencement of proceeding is—
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- (a) 10 fee units for a standard fee payer
- (b) 5 fee units for a concession fee payer.
- (3) In this regulation, *employee* includes a former employee.

13 Payment of fees generally

- (1) Subject to subregulation (2) and regulations 14 and 15, fees are payable by the party, person or other entity at whose request or on whose behalf the document is filed or the service rendered.
- (2) Where a fee is payable as a result of an order or a direction made on the court's own motion, the fee is payable by the party which commenced the proceeding, unless the court otherwise orders.

14 Payment of hearing fees

Subject to any order of the court, an applicable hearing fee in relation to any proceeding is payable by the party seeking the hearing, being—

- (a) the party which commenced the proceeding; or
- (b) the party which made the interlocutory application; or
- (c) if the party seeking the hearing is not the party referred to in paragraph (a) or (b), that other party.

15 Payment of mediation fees

A mediation fee is payable by the party which commenced the proceeding.

16 Fees and multiple parties

If a request to file a document or render a service is made on behalf of multiple parties in a proceeding a single fee is payable and—

- (a) if one or more of the parties making the request is a corporate fee payer, the fee applicable to a corporate fee payer is to be paid; or
- (b) if none of the parties making the request is a corporate fee payer and one or more of the parties making the request is a standard fee payer, the fee applicable to a standard fee payer is to be paid.

Examples

- 1 There are 2 plaintiffs in a proceeding and one is a corporate fee payer and one is a standard fee payer: a single fee is payable and that fee is the fee applicable to the corporate fee payer.
- 2 There are 2 plaintiffs in a proceeding and one is a concession fee payer and the other is a standard fee payer: a single fee is payable and that fee is the fee applicable to the standard fee payer.

17 When fees are payable

Unless the Court otherwise orders or a court official otherwise determines, a fee fixed by these Regulations is payable—

- (a) subject to paragraph (b), when—
 - (i) the relevant document is filed or lodged; or
 - (ii) the relevant service is rendered; or
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- (iii) the relevant event takes place; or
- (b) if a court official who is requested by a party to file a document or render a service requires a fee to be paid before the document is filed or the service is rendered, at the time of the request.

18 Waiver of fees

A fee which is payable under Part 2 of the Schedule is waived if, at the time the fee is payable, the party, person or other entity—

- (a) is legally represented in the proceeding under a pro bono scheme administered by or on behalf of—
 - (i) the Victorian Bar; or
 - (ii) the Law Institute of Victoria; or
 - (iii) Justice Connect; or
 - (b) is legally represented in the proceeding on a pro bono basis by a member of the Federation of Community Legal Centres Vic; or
 - (c) has been granted legal aid under a legal aid scheme established under the law of the Commonwealth or of a State or Territory for the proceeding for which the fee would otherwise be payable; or
 - (d) is serving a sentence of imprisonment or is otherwise detained in a detention facility, however described; or
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(e) is a person under the age of 18 years.

19 Establishing appropriate fee status

- (1) This regulation applies to—
 - (a) a standard fee payer; and
 - (b) concession fee payer; and
 - (c) any fee payer claiming or entitled to a waiver or refund of a fee specified in the Schedule.
 - (2) A fee payer to whom this regulation applies must provide to a court official, when requested to do so, information or evidence that establishes, as the case requires, that the fee payer is—
 - (a) a standard fee payer; or
 - (b) a concession fee payer; or
 - (c) entitled to a waiver or refund of a fee in the Schedule.
 - (3) If a court official is satisfied that the information or evidence provided under subregulation (2)—
 - (a) establishes the fee payer's status as a standard fee payer, the fee payer is liable to pay the applicable standard fee specified in column 4 of the Schedule; or
 - (b) establishes the fee payer's status as a concession fee payer, the fee payer is liable to pay the applicable concession fee specified in column 5 of the Schedule; or
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- (c) entitles the fee payer to a waiver or refund of a fee specified in the Schedule, the fee is waived or refunded as appropriate.
- (4) If a lower fee has been charged or paid in accordance with these Regulations and the fee payer should have paid a higher fee or was not entitled to the relevant status—
 - (a) a court official may reinstate the correct fee and require its payment; and
 - (b) the fee payer is liable for the reinstated fee and must pay the difference between the fee originally paid (if any) and the reinstated fee.

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Scale of fees

Part 1—Fees payable in criminal division

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item No.</i>	<i>Item</i>	<i>Corporate fee payer</i>
	COMMENCEMENT OF PROCEEDINGS	
1.1	For the filing of a charge sheet to answer to a single charge	5.7 fee units
1.2	For the filing of a charge sheet to answer to multiple charges	8.6 fee units
1.3	For the lodging of the prescribed information under section 40(1)(a) of the Infringements Act 2006 to have a single infringement offence heard and determined in the Court	5.7 fee units
1.4	For the lodging of the prescribed information under section 40(1)(a) of the Infringements Act 2006 to have multiple infringement offences heard and determined in the Court	8.6 fee units
	APPLICATIONS AND APPEALS UNDER THE ROAD SAFETY ACT 1986	
1.5	Filing an application or appeal under the Road Safety Act 1986 , other than an application for extension of time	5.7 fee units

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Part 2—Fees payable in civil jurisdiction

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i> <i>Corporate</i> <i>fee payer</i>	<i>Column 4</i> <i>Standard</i> <i>fee payer</i>	<i>Column 5</i> <i>Concession</i> <i>fee payer</i>
<i>Item</i> <i>No.</i>	<i>Item</i>			
	COMMENCEMENT OF CIVIL PROCEEDINGS			
2.1	Filing a complaint, counterclaim or third party notice where the claim is for monetary relief that does not exceed \$1000 or for relief other than for monetary relief	20·4 fee units	10·2 fee units	5·1 fee units
2.2	Filing a complaint, counterclaim or third party notice where the monetary amount claimed exceeds \$1000 but does not exceed \$10 000	42·6 fee units	21·3 fee units	10·7 fee units
2.3	Filing a complaint, counterclaim or third party notice where the monetary amount claimed exceeds \$10 000 but does not exceed \$40 000	64·8 fee units	32·4 fee units	16·2 fee units
2.4	Filing a complaint, counterclaim or third party notice where the monetary amount claimed exceeds \$40 000	97·2 fee units	48·6 fee units	16·2 fee units

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	ORDER			
2.5	Request for order	6 fee units	3 fee units	1.5 fee units
	APPLICATIONS AND ENFORCEMENT PROCESS			
2.6	Filing an interlocutory application	21.2 fee units	10.6 fee units	5.3 fee units
2.7	An application by a judgment debtor or creditor under section 6 or 8 of the Judgment Debt Recovery Act 1984 or filing by a judgment debtor or creditor of an instalment agreement under section 7 of that Act	4.9 fee units	2.4 fee units	1.2 fee units
2.8	Filing an application for an attachment of earnings order under Order 72 of the Rules	20 fee units	10 fee units	5 fee units
2.9	Filing an application for registration of an interstate judgment	2.7 fee units	1.3 fee units	1 fee unit
	ORAL EXAMINATION			
2.10	Filing a summons for oral examination including examination of the judgment debtor under Order 67 of the Rules	14 fee units	7 fee units	3.5 fee units
	MEDIATION			

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2.11	A mediation session conducted by a magistrate, judicial registrar or registrar under Order 50 of the Rules	36.2 fee units	18.1 fee units	9.1 fee units
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HEARING FEES

2.12	Hearing at trial or arbitration after the first day—for every day or part of a day	83.4 fee units	41.7 fee units	20.9 fee units
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Note: For the purpose of this item any hearing at trial or arbitration of less than 2 hours on the first day does not count as the first day.

ISSUE OF WARRANTS TO ENFORCE ORDERS

2.13	Issue of a warrant	2.4 fee units	1.2 fee units	1 fee unit
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Part 3—Administrative Fees payable in the court

ISSUE OF ORDERS AND CERTIFICATES AND FILING OF SUMMONS TO WITNESS AND SUBPOENA

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| 3.1 | Issue or supply of an order or certificate | 1·4 fee units |
| 3.2 | Issue of summons to witness or subpoena to witness | 2·7 fee units |

PREPARATION OF DOCUMENTS BY A REGISTRAR

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|-----|--|---------------|
| 3.3 | Preparation by a registrar of a summons, warrant, certificate or other document (excluding printing, extracting or certifying an existing electronic document) | 1·9 fee units |
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SEARCHING, RETRIEVING AND PHOTOCOPYING FEES

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|-----|---|---------------|
| 3.4 | For each request to the Court to search a database, inspect a register, retrieve a document or access any material filed or lodged with, produced to or held by the court | 1·7 fee units |
| 3.5 | For photocopying or printing any document | 60c per page |
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Endnotes

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1 Explanatory details

¹ Reg. 4: S.R. No. 105/2012 as amended by S.R. Nos 123/2012, 121/2013 and 110/2018.

² Reg. 5: definition of *the Rules*: S.R. No. S.R. No. 112/2020.

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2022 is \$xx. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.