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SPECIAL

Subordinate Legislation Act 1994

REGULATORY IMPACT STATEMENT

Supreme Court (Fees) Regulations 2001
County Court (Court Fees) Order 2001

A Regulatory Impact Statement has been prepared in relation to the proposed Supreme Court (Fees) Regulations 2001 and County Court (Court Fees) Order 2001.

Both the Supreme and County Court have scales of fees established by Regulations that set out the amounts that must be paid in respect of particular services provided by the Courts in their respective civil jurisdictions. The regulations establishing the Supreme Court fees are due to sunset in November 2001, and new regulations will be required.

Examination of each of the existing scales reveal that the fee structures have been developed in isolation, and on an 'ad hoc' basis. The following is evident:

- A lack of consistency within scale where the respective fees appear to no longer be commensurate with the relative costs of resources required to deliver the service.
- A lack of parity or relativity between jurisdictions for similar services.
- Inadequate provision is made to recoup the cost of resources committed to case management between the filing of a defence and commencement of the trial process.

To address these issues the fee structures of both the Supreme Court and the County Court have been reviewed jointly and a new approach adopted. Fundamental to the proposed scales are two elements:

- That, generally, fees in the County Court should approximate 70% of those of the Supreme Court; and
- That a more realistic setting down fee be imposed when a matter is ordered to be listed and a hearing date fixed (which commits judicial resources to the case). This fee is calculated to reflect the resource implications of judicial case management that has been applied to the case and will also incorporate the first day's hearing fee. Generally, no further fee will then fall due until day two of the hearing.

By adopting this approach the fees more accurately reflect the particular activities within a case and a greater fee burden is transferred to

those whose areas requiring a greater commitment of court resources. The most notable change is the increase in the fees required at the setting down of the matter for trial, although it must be recognised that this fee will now incorporate the first day's hearing fee.

This approach will allow modest reductions to be made in initiation and counterclaim fees. These will reduce from \$650 to \$610 in the Supreme Court and from \$429 to \$420 in the County Court. Commencement fees for Court of Appeal cases will be reduced from \$2570 to \$2500 and setting down in the Special Lists of the Supreme Court from \$1920 to \$1850.

Pegging the County Court fees at 70% of the Supreme Court, whilst producing these reductions, will increase a number of other County Court fees, namely interlocutory proceedings from \$159 to \$185, default judgements from \$122 to \$140 and daily hearing fees (from day two onwards) from \$180 to \$220. However, striking this level of parity will redress the past under-recoupment of costs in this Court. For the most part, Probate fees remain unchanged.

Under the proposed regulations civil jurisdiction fees collected in the Supreme Court will increase from 38% of the costs associated with civil jurisdiction operations to 43.35% and in the County Court such increase will be from 41.20% to 48.5%.

The impact statement examines alternative options and concludes that the proposed fee regime presents the most effective method of fee collection.

Public comments and submissions on the Regulatory Impact Statement are invited. Copies of the Regulatory Impact Statement may be obtained from the Department of Justice website at www.justice.vic.gov.au or by telephoning Mr John Isaacs on (03) 8619 6305.

Written submissions on the Regulatory Impact Statement and the accompanying draft regulations will be received up to 28 days from the date of publication of this notice. All submissions will be treated as public documents.

Submissions should be addressed to: Mr John Isaacs, Court Services, Department of Justice, Level 5/552 Lonsdale Street, Melbourne 3000.

PETER HARMSWORTH
Secretary, Department of Justice

Gazette Services

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