

**SUPREME AND MAGISTRATES  
COURTS OF THE AUSTRALIAN CAPITAL TERRITORY**

**Notice to practitioners**

**Payment of court fees**

**Payment of fee for fixing a hearing date and daily hearing fees**

1. The *Attorney General's (Fee) Determination 2012* replaces the setting down fee in the Supreme Court<sup>1</sup> with an equivalent fee payable when the certificate of readiness is filed or when application is made to the court for a hearing date in non-criminal matters and imposes daily hearing fees<sup>2</sup> for the Supreme Court and Court of Appeal<sup>3</sup>. Similar fees have been introduced in the Magistrates Court,<sup>4</sup> including for Workers Compensation arbitrations (hearing fee only<sup>5</sup>), and hearing fees have been introduced in some jurisdictions of the ACAT<sup>6</sup>.
2. The daily hearing fee applies to hearings that are estimated to last more than one day or which extend beyond one day. The daily hearing fee rate per day increases with the estimated length of the hearing. The amount of the daily fee increases for the fifth and following days and increases again for the 10<sup>th</sup> and following days in both courts and the ACAT and in the Supreme Court the fee increases again for the 14<sup>th</sup> and following days.
3. The certificate of readiness fee and hearing fees are payable at the same time.
4. The amount of the hearing fee payable initially is calculated on the basis of the estimated length of hearing set out in the certificate of readiness. Where the estimation of the length of the hearing differs between the parties the fee will be initially based on the assessment of the party liable to pay the fee. The fee may be increased before the matter is set down if the court is of the opinion that the estimated time for the hearing is too low.
5. If a party applies to the court to have a matter listed for hearing without the other party having signed the certificate of readiness that party shall pay the setting down fee and hearing fee at the time of lodging the application. The fee payable will be calculated on the basis of the estimation provided by the party paying the fee.
6. Where the rules do not require the filing of a certificate of readiness the fee for having the matter set down for hearing and the hearing fee is payable when a party to the proceeding applies to the court or the registry for a hearing date. For appeals from the Magistrates Court or the ACAT to the Supreme Court this means prior to the appeal index list at which the matter is expected to be given a hearing date. To avoid

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<sup>1</sup> Item 203 in *Attorney Generals (Fee) Determination 2011*

<sup>2</sup> Item 1202 in *Attorney Generals (Fee) Determination 2012*

<sup>3</sup> Item 1201 in *Attorney Generals (Fee) Determination 2012*

<sup>4</sup> Items 1103 and 1104

<sup>5</sup> There is no fee for filing a certificate of readiness in relation to workers compensation arbitrations.

<sup>6</sup> Item 1008

unnecessary adjournments the fee must be paid at least two days prior to the appeal index list.

7. For non-criminal appeals to the Court of Appeal both fees must be paid at least 2 days before the Court of Appeal call-over in which the matter is listed. If the fee is not paid the appeal will be removed from the call-over and provisionally placed in the next Court of Appeal call-over.
8. If the fee has not been paid prior to step in proceeding referred to in paragraph 6 the matter will not be given a hearing date until fees are paid. The matter may be stood out of the list until the fees are paid. Upon the payment of the fees the matter will be re-listed to allow for the allocation of a hearing date.
9. If a matter is listed for hearing other than at a listing hearing or through the registry and a party is required to pay the certificate of readiness fee and hearing fees, the fees must be paid within 2 days of the matter being given the hearing date. If the fee is not paid within 2 days the court may vacate the hearing date without further notice.
10. Where a party is seeking a waiver in relation to a fee covered by this notice the application for fee waiver must be filed in the registry at least one week prior to the time specified for payment of the fee. Applications for fee waivers may be found on the court's website at [www.courts.act.gov.au](http://www.courts.act.gov.au)
11. As the hearing fee payable will initially be based on the estimation of the length of the hearing provided by the party paying the fee there may be cases where the court determines that the estimation is too low and sets the matter down for a longer period. In these cases unless the court otherwise orders any additional hearing fee must be paid within 2 days or the hearing date may be vacated without further notice. In such cases the matter will not be relisted until the additional fees are paid. In such circumstances it may be necessary to list the matter before the court to obtain a new hearing date.
12. If a matter proceeds to hearing and exceeds the number of days allocated for its hearing, or if the matter is in a running list and exceeds the number of days given as the estimation, the party liable to pay the setting down fee will be required to pay the fee for the additional hearing days immediately after the court allocates the additional hearing days or the end of the hearing (whichever occurs first). Where the matter is adjourned to a future date if the additional fee is not paid within 2 days of the additional dates being allocated the matter will be taken out of the list and will not be relisted until the additional fees are paid.
13. If the court receives written advice that a matter has settled and the hearing date is no longer required at least 56 days before the first date allocated for the hearing 75% of the hearing fee paid is refundable. If notice is received less than 56 days before the hearing but more than 42 days before that date, 50% of the hearing fee paid is refundable. Refunds will be provided by cheque and are unable to be provided immediately.
14. If the hearing is adjourned before the first date allocated for the hearing, and the court or registrar is satisfied that the reason for the adjournment was due to circumstances

beyond the control of the parties, the whole of the fee is to be refunded or transferred to the new date allocated for the adjourned hearing.

15. Where the parties request an adjournment not covered by paragraph 14 if the adjournment occurs 56 days or more before the first date allocated for the hearing, 75% of the fee is refundable or transferable to the new hearing date. If the adjournment occurs 42 days or more before that date, 50% is refundable or transferable to the new hearing date. The relevant amount will be transferred to a new hearing date unless the parties request a refund and do not apply within 30 days of requesting the adjournment for a new hearing date.
16. If a hearing is adjourned after it has commenced and the court or registrar is satisfied that the reason for the adjournment was due to circumstances beyond the control of the parties, the fee paid in respect of dates after the date of the adjournment is to be transferred to the date or dates allocated for the adjourned hearing. The money may be refunded if the parties request a refund and do not apply within 30 days of the adjournment for a new hearing date.

#### **Filing fees for costs assessment**

17. The *Attorney-General's Fee Determination 2012* provides for a flat fee of \$200 for an individual and \$400 for a corporation plus a fee equal to 5% of the bill as drawn for lodging a bill of costs for assessments under Division 2.17.5 of the *Court Procedures Rules 2006*. The fee is payable when the bill of costs is filed.
18. If the correct fee is not presented with the bill at the time of lodgement the bill will not be accepted for lodgement.
19. Once the fee is paid the court will provide a date for commencing the assessment of the bill.
20. If a party subsequently files an amended bill of costs which is drawn for a higher amount than the original bill a fee of 5% of the difference between the two bills is payable when filing the amended bill.
21. If the appointment for the costs assessment is cancelled at least 10 days before the date appointed to commence the costs assessment 80% of the lodgement fee will be refunded. The court will arrange for a cheque to be issued in the appropriate amount.
22. If the appointment is cancelled less than 10 days and more than 3 days before the date of the appointment 50% of the fee is refundable. The court will arrange for a cheque to be issued in the appropriate amount. Refunds will be provided by cheque and are unable to be provided immediately.
23. Where the parties notify the court that they wish to adjourn a costs assessment provided the court is advised of the adjournment at least 10 days prior to the date of the commencement of the assessment the entitlement to a refund may, at the discretion of the court, be extended to the new date for the assessment.
24. Where the parties notify the court that they wish to adjourn a costs assessment, provided the court is advised of the adjournment less than 10 days and more than 3 days prior to the date of the commencement of the assessment the entitlement to a

50% refund may, at the discretion of the court, be extended to the new date for the assessment.

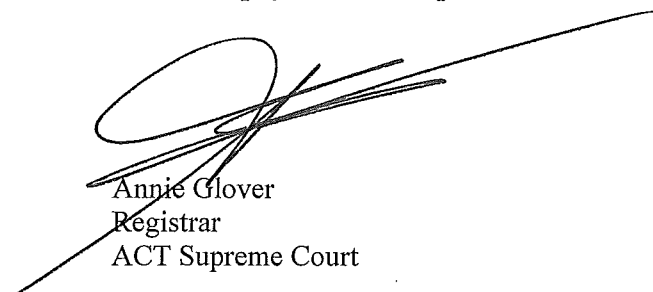
25. For costs assessments under Division 3.11.3 of the *Court Procedures Rules 2006* relating to assessments pursuant to the *Legal Profession Act 2006*, the filing fee is \$925 for an individual and \$1,850 for a corporation regardless of the value of the bill to be assessed.

#### **Payment of filing fee for grants of representation Probate Jurisdiction**

26. The filing fee for an application for the grant of probate or letters of administration is now based on the gross value of the estate. The gross value of the estate is the total value of all the property forming part of the estate whether in the Australian Capital Territory or elsewhere before the deductions of any liabilities.
27. The filing fee is payable at the time of lodgement of the application for a grant of representation.
28. The fee payable will be calculated on the value of the estate contained in the annexure referred to in paragraph 16 of the affidavit of the applicant for the grant of probate and letters of administration with will (approved forms 3.11 and 3.12 respectively) and paragraph 19 in the affidavit of the applicant for letters of administration no will (approved form 3.13).
29. If the gross value of the estate is amended after lodgement of the application, either by the court or the applicant, any additional filing fee must be paid before the granting of probate or letters of administration.

#### **Corporation Fees**

30. Under the *Attorney-General's Fee Determination 2012* not for profit corporations and corporations which turned-over less than \$200,000 in the last financial year pay the same fee as an individual rather than the fee applicable to corporations. If a corporation is eligible to pay the individual fee a director of the corporation or equivalent, such as the public officer of a corporation incorporated under the *Associations Incorporations Act 1991*, will need to file a declaration in accordance with attachment 'A' to this notice. If a declaration is not provided at the time the fee is payable the corporation fee will be charged.



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26 June 2012



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26 June 2012