

EXPLANATORY MEMORANDUM

(JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION)

Civil Judgments Enforcement Act 2004

Civil Judgments Enforcement Regulations 2005

- **The date of publication of the instrument in the *Government Gazette*.**

30 November 2012

- **The title of the subsidiary legislation.**

Civil Judgments Enforcement Amendment Regulations 2012

- **Identification of the section(s) of the statute(s) under which the subsidiary legislation is made.**

Civil Judgments Enforcement Act 2004 section 119

- **A description of the purpose and effect of, and justification for, the subsidiary legislation (or any amendments to or repeals of it).**

The Civil Judgments Enforcement Amendment Regulations 2012 made under the *Civil Judgments Enforcement Act 2004* have been gazetted and are provided for your consideration. Amendments include:

- an increase in fees of 2.8%. The Department has determined that costs have broadly moved in accordance with the CPI rate of 2.8% and hence most fees were increased by CPI the day following gazettal.

Specific amendments are as follows:

Regulation 105 Schedule 1 amended

The fees for items 1 and 2 relating to court fees have been increased by 2.8% to match the movements in costs as determined by the Department. These applied from the day following gazettal.

Type of fee	Date last updated Increase/Decrease	Old Fee (\$)	New Fee (\$)	Increase/ Decrease (%) ∞
1. Application or request				
• Not exceeding \$10,000	21.12.11 Increase	66 (I) 98.50 (C)	68 (I) 101.50 (C)	3.0 3.0
• Exceeding \$10,000	21.12.11 Increase	106.50 (I) 160.50 (C)	109.50 (I) 165 (C)	2.3 2.8

Type of fee	Date last updated Increase/Decrease	Old Fee (\$)	New Fee (\$)	Increase/ Decrease (%) [∞]
2. Registering a judgment	21.12.11	81 (I)	83.50 (I)	3.1
	Increase	107.50 (C)	110.50 (C)	2.8

* I = Individual, C = person other than an individual (corporate)

∞ Fees were rounded as follows:

- less than or equal to \$20 - round to the nearest 5c
- greater than \$21 less than \$50 - round to the nearest 10c
- greater than \$51 less than \$200 - round to the nearest 50c
- greater than \$200 - round to the nearest dollar

The rounding has resulted in variations to the 2.8% CPI increase

Regulation 105 Schedule 2 amended

These fees relate to services provided by the Sheriff. With the exception of items 18 and 19(a) (relating to copying services), all fee items have been increased by 2.8% to match the movements in costs as determined by the Department. These applied from the day following gazettal.

The maximum fee payable under item 10 (Note 1) has also been increased by 2.8% to match the movements in costs as determined by the Department. These applied from the day following gazettal.

Type of fee	Date last updated Increase/Decrease	Old Fee (\$)	New Fee (\$)	Increase/ Decrease (%) [∞]
1(a). Ordinary Service	21.12.11 Increase	33.50	34.40	2.7
1(b). Personal Service	21.12.11 Increase	46.90	48.20	2.8
1(c). Service by post	21.12.11 Increase	23.20	23.80	2.6
2. Enforcing by Property seizure and sale order	21.12.11 Increase	107	110	2.8
3. Enforcing by property seizure and delivery order	21.12.11 Increase	85.50	88	2.9
4. Inspection of property	21.12.11 Increase	45.30	46.60	2.9
5. Possession fee per day	21.12.11 Increase	4.95	5.10	3.0
3. Travel per kilometre				
a) Metropolitan	21.12.11 Increase	1.20	1.25	4.2

Type of fee	Date last updated Increase/Decrease	Old Fee (\$)	New Fee (\$)	Increase/ Decrease (%) [∞]
b) Country	21.12.11 Increase	1.30	1.35	3.8
7. Preparation for Sale	21.12.11 Increase	451	464	2.9
8. Attend Sale	21.12.11 Increase	72	74	2.8
10. Property order made by the Magistrates Court	21.12.11 Increase	235	242	3.0
11. Execution Arrest Warrant	21.12.11 Increase			
(a) Arrest		85.50	88	2.9
(b) Custody/Convey		85.50	88	2.9
(c) Half Hourly Rate		22.70	23.30	2.6
12. Half Hourly rate	21.12.11 Increase	22.70	23.30	2.6
18. Issue Duplicate Order	01.01.04 Increase	14.50	14.50	Nil
19(a). Copy Documents per page	01.01.04 Increase	1.50	1.50	Nil
19(b). Certification fee	21.12.11 Increase	13.15	13.50	2.7

Increased in line with CPI however not previously increased

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- greater than \$200 - round to the nearest dollar

The rounding has resulted in variations to the 2.8% CPI increase

Regulation 105 Schedule 3 amended

These fees are charged by the Sheriff when exercising functions under the *Admiralty Act 1988* (Cwlth). All fee items have been increased by 2.8% to match CPI movements as determined by the Department. These applied from the day following gazettal.

Type of fee	Date last updated Increase/Decrease	Old Fee (\$)	New Fee (\$)	Increase/ Decrease (%) [∞]
1. Receiving Warrant	21.12.11 Increase	76	78	2.6
2. Receiving Summons	21.12.11 Increase	30.40	31.20	2.6

3. Service	21.12.11 Increase	72	74	2.8
4. Executing Warrant	21.12.11 Increase	178.50	183.50	2.8
5. Service and arrest	21.12.11 Increase	217	223	2.8
6. Execution of attachment	21.12.11 Increase	72	74	2.8
7. Release	21.12.11 Increase	45.30	46.60	2.9
8. Hourly fee	21.12.11 Increase	45.30	46.60	2.9
9. Preparation for sale	21.12.11 Increase	153.50	158	2.9
10. Execution decree	21.12.11 Increase	72	74	2.8
12. (b) Retain Possession	21.12.11 Increase	45.30	46.60	2.9

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- greater than \$200 - round to the nearest dollar

The rounding has resulted in variations to the 2.8% CPI increase

- **Identification of any unusual or controversial provisions, having particular regard to the matters set out in item 3.6 of the Joint Standing Committee's terms of reference.**

NIL

- **Details of consultations undertaken including a list of the business and community groups consulted, a précis of their comments and the response to any suggestions put forward.**

NIL

- **If applicable, reasons justifying any change in fees, charges and penalties and details of the amount of the fee, charge or penalty before the change.**

In accordance with Department of Treasury instructions the Department reviews its fees on an annual basis to determine whether an increase in some or all of its fees are required.

Legal advice with respect to the current fee increases has been sought from the State Solicitors Office. This advice suggests all fees in the amendments stipulated in the Supreme Court (Fees) Amendment Regulations (No. 3) 2012 are legally valid.

- **The name, email address, telephone number and direct fax number of a person whom the Committee can contact regarding the subsidiary legislation.**

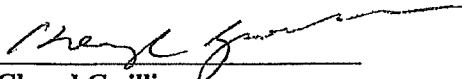
Please contact Mark Hainsworth, Manager Advisory Services, Department of the Attorney General with any queries on 9264-1371 fax number 9264-1121 or mark.hainsworth@justice.wa.gov.au

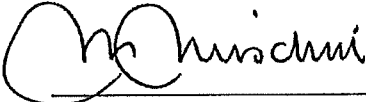
- **Where relevant, confirmation that a National Competition Policy Review has been conducted and the outcome of that review.**

Not relevant

Disclaimer

This explanatory memorandum has been prepared as an aid and must not be substituted for the subsidiary legislation or other instrument gazetted, or made available to the public in any way.


Cheryl Gwilliam
DIRECTOR GENERAL
Department of the Attorney General


Hon Michael Mischin MLC
ATTORNEY GENERAL