

TASMANIA

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**APPEAL COSTS FUND REGULATIONS 2023**  
**STATUTORY RULES 2023, No. 83**

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## **APPEAL COSTS FUND REGULATIONS 2023**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Appeal Costs Fund Act 1968*.

Dated 20 November 2023.

**B. BAKER**  
Governor

By Her Excellency's Command,

**GUY BARNETT**  
Minister for Justice

### **PART 1 – PRELIMINARY**

#### **1. Short title**

These regulations may be cited as the *Appeal Costs Fund Regulations 2023*.

#### **2. Commencement**

These regulations take effect on 11 December 2023.

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**3. Interpretation**

In these regulations –

*Act* means the *Appeal Costs Fund Act 1968*.

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**PART 2 – FEES AND MAXIMUM AMOUNT PAYABLE**

**4. Additional fees payable in Supreme Court**

For the purposes of section 5(1) of the Act, the prescribed fee is –

- (a) 30 fee units on the sealing of a writ to be issued out of the Supreme Court; or
- (b) 5 fee units on the filing of a claim in the Magistrates Court (Civil Division).

**5. Additional fees payable in summary cases**

For the purposes of section 5(2) of the Act, the prescribed fee is 2 fee units.

**6. Maximum amount payable from Fund**

- (1) In this regulation –

*CPI figure for Hobart* means the Consumer Price Index (All Groups) Number for Hobart published by the Australian Statistician under the authority of the *Census and Statistics Act 1905* of the Commonwealth;

*percentage change*, in relation to a financial year, means the percentage change between –

- (a) the average of the CPI figures for Hobart in respect of the 4

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quarters ending on 31 December immediately preceding the financial year; and

- (b) the average of the CPI figures for Hobart in respect of the 4 quarters ending on 31 December immediately preceding the 4 quarters referred to in paragraph (a);

***subsequent financial year*** means a financial year after the financial year that ends on 30 June 2024.

- (2) For the purposes of section 7A of the Act, the maximum amount payable to a person in respect of an indemnity certificate, a certificate referred to in section 15(1)(c) of the Act, or some other entitlement conferred by the Act is –
  - (a) for the financial year ending on 30 June 2024, \$18 000; and
  - (b) for a subsequent financial year –
    - (i) the amount calculated by increasing the maximum amount payable for the immediately preceding financial year by the percentage change for the subsequent financial year; or
    - (ii) if a maximum amount payable calculated under subparagraph (i) for a financial year is less than the maximum amount payable for

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the immediately preceding financial year, the maximum amount payable for the immediately preceding financial year.

- (3) A maximum amount payable, as set or calculated by this regulation, is to be published on a website, accessible to the general public, that is maintained by, or on behalf of, the Department while the maximum amount payable is in force.

## **PART 3 – TAXATION OF COSTS**

### **7. Allocatur**

- (1) After taxing a bill of costs under section 19A of the Act, the taxing officer is to state the result of the taxation as –
  - (a) an allocatur written on the bill of costs;  
or
  - (b) a certificate.
- (2) The taxing officer is not to sign a final allocatur or certificate until at least 48 hours after the conclusion of the taxation.
- (3) Any interlineation, alteration or erasure in a certificate is to be initialled by the taxing officer.
- (4) A taxing officer may make an interim allocatur or certificate in respect of any part of the bill of costs, pending the conclusion of the taxation.

### **8. Objections to taxation**

- (1) A person who applies for a review of a taxation under section 19A(5) of the Act is to, before the final allocatur or certificate is signed, or at any earlier time as may be fixed by the taxing officer, serve on the taxing officer –
  - (a) an objection in writing to the taxation specifying, in short and concise form, the items or parts of items objected to; and

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- (b) the grounds and reasons for the objection.
- (2) The taxing officer may, pending consideration of an objection, sign an allocatur or certificate in respect of the remainder of the bill of costs or any part of that remainder and, after the taxing officer's decision on the objection, is to sign any further allocatur or certificate as may be necessary.
- (3) An allocatur or certificate of a taxing officer is final and conclusive as to all matters which are not objected to under subregulation (1).

**9. Review of taxation by taxing officer**

- (1) On an application for a review of a taxation under section 19A(5) of the Act, a taxing officer is to reconsider and review the taxing officer's taxation on the objection.
- (2) For the purpose of subregulation (1), a taxing officer may receive further evidence in respect of the taxation and, if required by the person applying for the review, is to state, either in the taxing officer's allocatur or certificate or by reference to the objection –
  - (a) the grounds and reasons for review of the taxing officer's decision on the objection; and
  - (b) any special facts or circumstances relating to the objection.

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- (3) Except as provided by this regulation, a taxing officer is not to review the taxing officer's taxation, or amend the taxing officer's certificate, after the allocatur or certificate is signed, except to correct a clerical or manifest error before payment.

**10. Review of taxing officer's decision by judge**

- (1) For the purpose of section 19A(6) of the Act, an application for a review by a judge of a taxation is to be filed within 14 days from the date of the allocatur or certificate, or within any other period or at any other time as may be allowed by the judge or by the taxing officer at the time when the taxing officer signs the allocatur or certificate.
- (2) Unless the judge otherwise directs, an application under subregulation (1) is to be heard and determined by the judge on the same evidence as was before the taxing officer, and no further evidence is to be received on the hearing of the application without such a direction.

**PART 4 – MISCELLANEOUS**

**11. Inspection of records**

(1) In this regulation –

*authorised officer* means an officer of the Supreme Court authorised in writing by the Registrar for the purpose of this regulation.

(2) The Registrar or an authorised officer may inspect any records kept by the proper officer of a court in relation to fees payable for transmission to the Registrar under section 6 of the Act.

**12. Applications for payment from Fund**

An application for payment out of the Fund is to be made in writing, specifying the grounds on which the applicant relies.

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 29 November 2023.

These regulations are administered in the Department of Justice.

**EXPLANATORY NOTE**

*(This note is not part of the regulations)*

These regulations, for the purposes of the *Appeal Costs Fund Act 1968* –

- (a) make provision in relation to –
  - (i) certain fees payable in the Supreme Court and the Magistrates Court (Civil Division); and
  - (ii) the maximum amount payable from the Appeal Costs Fund; and
  - (iii) the taxation of costs; and
  - (iv) the inspection of certain records kept by the proper officer of a court; and
  - (v) applications for payment out of the Appeal Costs Fund; and
- (b) are made consequentially on the repeal of the *Appeal Costs Fund Regulations 2013*

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under section 11 of the *Subordinate  
Legislation Act 1992*.