FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

Guidelines for exemption of court fees

NOTE: Application for Divorce and Decree of Nullity in Federal Circuit and Family Court of Australia are not eligible for exemption of court fees. Please refer to *Guidelines for reduced fee – divorce and decree of nullity application*.

Exemption from liability to pay court fees – General Section 2.04
Exemption from liability to pay court fees – Financial Hardship Section 2.05

You are entitled to apply for an *exemption of court fees – General* if:

- you hold any of the following cards issued by the Department of Human Services: health care card, pensioner concession card, Commonwealth seniors health card or any other card issued by the Department of Human Services or the Department of Veterans' Affairs that certifies your entitlement to Commonwealth health concessions, or
- you have been granted Legal Aid, or
- you are an Independent Children's Lawyer appointed to represent a child's interests in proceedings under the Family Law Act (only exempt for Subpoena and Interim application fees), or
- you are receiving youth allowance, Austudy or ABSTUDY payments, or
- you are under the age of 18; or
- an inmate of a prison or otherwise legally detained in a public institution.

Warning: Under the Criminal Code any person who knowingly makes an untrue representation or statement to obtain a benefit or advantage from the Commonwealth is guilty of an offence and, if found guilty, can be fined or imprisoned.

Note: Where there is more than one applicant to an application, all applicants must meet the requirements for an exemption /reduction or the full fee applies.

GST does not apply to court fees.

If any of the above applies to you, you will need to complete an *'Application for exemption from fees – General'* form with the required supporting documentation.

What if none of the above applies?

Exemption of court fees – financial hardship

You may still be eligible to be exempted from paying the fee if your income, day-to-day living expenses, liabilities and assets are at such a level that payment of the full fee would cause you financial hardship.

The courts, in consultation with other agencies, have drawn up a three part test (see parts B – E of the application) to assist in assessing whether you are exempted. These are provided on the next page. These guidelines set out the three parts of the test. Use the tables which follow to help you work out whether you qualify. If you meet all three parts of the test, an exemption will usually be granted. If you do not meet all three parts of the test you may still be eligible for an exemption (see section 'Financial Hardship' and part F of the application).

If any of the above applies to you, you will need to complete an *'Application for exemption from fees – financial hardship'* form. NOTE: You cannot eFile if you are completing this form.

How long is a fee exemption valid?

A fee exemption is valid only for the fee for which you are applying now. If a further fee is payable you will need to reapply, and you may have to pay additional fees depending on your circumstances.

If your application for an exemption of a fee is unsuccessful, you will need to pay the full fee before your forms will be accepted.

PLEASE NOTE: Fee exemptions only apply to court fees. They do not apply to fees for transcripts, service fees and fees imposed under the authority of the chief executive officer e.g. photocopying charges and fees for copies of divorce orders.

Part 1 – Income

How to apply the income test

This income test is calculated on your gross income. Income includes:

- employment income - wages, salary and self-employment income
- employer provided fringe benefits
- rental income
- reportable superannuation contributions (salary sacrifice)
- Centrelink pensions or benefits and some supplementary payments
- Department of Veterans' Affairs payments
- deemed income from financial investments such as bank accounts, managed investments and shares
- income from income stream products such as allocated pensions, annuities, and superannuation pensions
- foreign income
- private trusts and companies
- compensation
- New Enterprise Incentive Scheme
- Paid Parental Leave, or
- lump sum payments such as redundancy, leave or termination payments.

The table below shows the maximum gross income you are able to receive each fortnight. The amounts vary depending on whether you have a dependent spouse or any children under 18 who are dependent on you. You may include the number of children for whom you pay child support.

Number of people who are dependent on you – this may include a dependent spouse and any children under 18 who are dependent on you	Allowable income each fortnight (before tax)
0	$1,590
1	$2,735
2	$2,820
3	$2,905
4	$2,990
5	$3,075

Part 2 – Assets

How to apply the assets test

When considering an application for a fee to be exempt the courts take into account your liquid assets: that is your cash or convertible shares or bonds. These must be less than five times the fee payable. For example, a filing fee of $170 will not have to be paid if your liquid assets are less than $850 (5x $170=$850) and you meet the income and day-to-day living expenses and liabilities tests (see part 3).

Applications	Fee	Maximum liquid assets
Application for consent orders	**$170**	$850
Application for declaration of validity	**$1,335**	$6,675
Initiating application (children and financial)	**$595**	$2,975
Initiating application (family law)	**$365**	$1,825
Response to initiating application	**$365**	$1,825

Notice of appeal or an application for leave to appeal	**$1,425**	$7,125
Subpoena	**$55**	$275
Interim application	**$125**	$625

Court events	**Division 1**		**Division 2**	
	Fee	**Maximum surplus fortnightly income**	**Fee**	**Maximum surplus fortnightly income**
Daily hearing fee (for each hearing day, excluding the first hearing day) These are the filing fees	**$900**	$4,500 (per hearing day fee)	**$660**	$3,300 (per hearing day fee)
Setting down for hearing fee (defended matters) These are the event fees	**$900**	$4,500	**$660**	$3,300
Conciliation conference	**$415**		**$415**	$2,075

Part 3 – Day-to-day living expenses and liabilities test

How to apply the day-to-day living expenses and liabilities test

The courts may find that you are able to pay the full fee without financial hardship if you have surplus income after meeting your reasonable day-to-day living expenses and reasonable fortnightly payments towards your liabilities.

As a guide, your reasonable day-to-day living expenses can include such expenses as food, rent or home mortgage payments, credit card debts, other loan or lease repayments, electricity, phone(s), the costs of running a motor car etc.

The courts will grant your request not to pay the full fee if your surplus fortnightly disposable income, after expenses and liabilities are deducted, is below the limits shown in the table below and if you meet parts 1 and 2.

Calculation:

Surplus fortnightly income = fortnightly income received after tax, MINUS your fortnightly day-to-day living expenses.

Court	**Division 2**	
Appointment/application	**Fee**	**Maximum surplus fortnightly income**
Application for consent orders	**$170**	$85
Application for declaration of validity	**$1,335**	$665
Initiating application (children and financial)	**$595**	$295
Initiating application (family law)	**$365**	$180
Response to initiating application	**$365**	$180
Notice of appeal	**$1,425**	$710
Daily hearing fee (for each hearing day, excluding the first hearing day)	**$660**	$330
Setting down for hearing fee (defended matters)	**$660**	$330
Conciliation conference	**$415**	$205
Subpoena fee	**$55**	$25
Interim application	**$125**	$60

Court	Division 1		Division 2	
Hearing	**Fee**	**Maximum surplus fortnightly income**	**Fee**	**Maximum surplus fortnightly income**
Daily hearing fee (for each hearing day, excluding the first hearing day) These are the filing fees	**$900**	**$450**	**$660**	**$330**
Setting down for hearing fee (defended matters) These are the event fees	**$900**	**$450**	**$660**	**$330**

Please note that if you apply for a fee exemption, the Court will ask you to provide evidence to support your claims with respect to income, assets and/or your living expenses and liabilities.

What if I don't meet any or all parts of the test?

Financial hardship

If you do not meet any or all parts of the test you may still qualify if there are circumstances which you can show would cause you hardship if you were required to pay the full fee. For example, your income may be in excess of the maximum allowed in part 1, however your day-to-day living expenses greatly exceed this income or you have numerous liabilities that are not being met (these are only two examples). The circumstances would have to be reasonable for an exemption to be granted on grounds of financial hardship.

Details of those circumstances should be given in the space provided on the form, *Application for exemption from fees – financial hardship*. If there is not sufficient space on the form, attach additional pages. If you have any documents that support your application for reduction of court fees, you should also attach copies of those to the application.

The registrar or authorised officer who will consider your application for exemption of court fees will be greatly assisted by you providing clear and concise information in support of your application. Failure to include all income, assets, liabilities and day-to-day expenses and an outline of any circumstances upon which you rely will prevent the registrar or authorised officer taking account of that information in making his/her decision.