



Practice Note 12 of 2015

Imposition of Fees in Commercial Court Judge-Managed Lists

1. The Chief Justice has approved the issue of the following Practice Note.

Commercial Court as a Division of the Court:

2. From 1 September 2014, the Commercial and Equity Division became known as the Commercial Court and the Commercial Court as a sub-division of the Commercial and Equity Division ceased to exist. Accordingly, the Commercial Court is now a division of the Supreme Court.
3. Practice Note 4 of 2014 provides guidance on how certain categories of cases would be dealt with as between the Commercial Court and the Common Law Division.
4. The *Supreme Court (Fees) Regulations 2012* (amended with effect from 22 September 2014) prescribe the fees that are applicable for Commercial Court proceedings, including the payment of an Entry into List fee for proceedings managed by a Judge in accordance with Regulation 8A.

Debt recovery proceedings generally:

5. Paragraph 9 of Practice Note 4 of 2014 provides that: “mortgage default, debt recovery and related enforcement proceedings initiated in the Commercial Court will ordinarily be managed by an Associate Judge in the civil management list, unless assigned to a specific judge-managed List after the filing of a defence”.
6. Where such proceedings, commenced on or after 22 September 2014, are the subject of Judge management, an Entry into List fee will be payable by the plaintiff(s) on the last to occur of the following events:
 - filing of any defence and/or defence and counterclaim (or responding affidavit where the matter is commenced by originating motion); and
 - notification by the Court that the matter has been entered into a Judge-managed List.

Managed investment scheme debt recovery proceedings:

7. Since the time of the divisional restructure, the Court has received an influx of hundreds of debt recovery claims arising from failed managed investments schemes and the conclusion of a number of associated group proceedings such as those involving the Timbercorp and Great Southern managed investment schemes. A large number of these proceedings have required Judge management.

8. Where such proceedings were commenced on or after 22 September 2014, an Entry into List fee will be payable by the plaintiff(s) upon the filing of any defence and/or defence and counterclaim (or responding affidavit in circumstances where the matter is commenced by originating motion). These proceedings will then formally be entered into the Corporations List as the most appropriate List in which managed investment scheme debt recovery matters may be managed and determined.

Commercial Court proceedings managed in the Civil Management List:

9. Some Commercial Court proceedings, commenced by writ or originating motion, are nominated by the plaintiff or otherwise initially assigned for management by an Associate Judge in the Civil Management List.
10. Where such a proceeding, commenced on or after 22 September 2014, is subsequently entered into a Judge-managed List, an Entry into List fee will be payable by the plaintiff(s) on the last to occur of the following events:
 - the filing of any defence and/or defence and counterclaim (or responding affidavit where the matter is commenced by originating motion); and
 - notification by the Court that the matter has been entered into a Judge-managed List.

Matters transferred to the Commercial Court from the Common Law Division:

11. On occasion, the Court may determine that a proceeding initiated in the Common Law Division would be more appropriately managed in a Commercial Court Judge-managed List.
12. Where a proceeding is transferred to the Commercial Court in these circumstances, an Entry into List fee will be payable by the plaintiff(s) from the point of notification by the Court that the matter has been entered into a Judge-managed List.

Other matters:

13. A full list of the fees which may be payable in the Commercial Court is set out in Part 1A of the Schedule to the *Supreme Court (Fees) Regulations 2012*.
14. This Practice Note should be read in conjunction with the *Supreme Court (Fees) Regulations 2012*. Entry into List fees will generally not be payable for matters managed in the following Judge managed Lists: the Admiralty List, the Taxation List and the Arbitration List.

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1 May 2015