



# Supreme Court of Victoria

## Practice Note SC CC 7

### Imposition of Fees in Commercial Court Judge-Managed Lists

#### 1. INTRODUCTION

- 1.1 The Chief Justice has authorised the issue of the following Practice Note.
- 1.2 The purpose of this Practice Note is to confirm and clarify the circumstances in which an 'Entry to List fee' is payable in the Commercial Court.

#### 2. COMMENCEMENT

- 2.1 This Practice Note was issued on 30 January 2017 and commences on 30 January 2017.

#### 3. DEFINITIONS

- 3.1 In this Practice Note:

*Judge-Managed List* means a list of proceedings managed by a Commercial Court Judge.

#### 4. COMMERCIAL COURT AS A DIVISION OF THE COURT

- 4.1 On 1 September 2014, the Commercial Court became a separate Division of the Supreme Court.
- 4.2 Practice Note SC Gen 2 – Structure of the Trial Division provides guidance on how certain categories of cases would be dealt with as between the Commercial Court and the Common Law Division.
- 4.3 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.

## **5. DEBT RECOVERY PROCEEDINGS GENERALLY**

- 5.1 Paragraph 4.4 of Practice Note SC Gen 2 – Structure of the Trial Division provides that: “mortgage default, debt recovery and related enforcement proceedings initiated in the Commercial Court will ordinarily be managed by an Associate Judge, unless assigned to a specific Judge-managed List after the filing of a defence”.
- 5.2 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:
- (a) filing of any defence and/or defence and counterclaim (or responding affidavit where the matter is commenced by originating motion); and
  - (b) notification by the Court that the matter has been entered into a Judge-managed List.

## **6. MANAGED INVESTMENT SCHEME DEBT RECOVERY PROCEEDINGS**

- 6.1 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.
- 6.2 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.

## **7. TAXATION MATTERS**

- 7.1 In respect of proceedings concerning taxation recovery, an Entry to List fee will be payable by the Plaintiff(s) upon the last to occur of the following events:
- (a) the filing of any defence and/or defence and counterclaim (or responding affidavit in circumstances where the matter is commenced by originating motion); and
  - (b) notification by the Court that the matter has been entered into the Taxation List.
- 7.2 As regards Victorian Taxation Appeals<sup>1</sup>, while such proceedings should be initiated in the Taxation List, the existing fee structure as set out in Part 1 of the *Supreme Court (Fees) Regulations 2012* shall, for present purposes, continue to apply.
- 7.3 Parties are encouraged to file all taxation proceedings in the Commercial Court Registry located at the ground floor of the Old High Court Building at 450 Little Bourke Street, Melbourne.

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<sup>1</sup> Any proceeding to which Order 7 of the *Supreme Court (Miscellaneous Civil Proceedings) Rules 2008* applies

- 7.4 Proceedings for damages against a taxation advisor should be initiated in the Common Law Division Professional Liability List rather than the Commercial Court Taxation List.<sup>2</sup>

**8. MATTERS TRANSFERRED TO THE COMMERCIAL COURT FROM THE COMMON LAW DIVISION**

- 8.1 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.
- 8.2 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.

**9. OTHER MATTERS**

- 9.1 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*.
- 9.2 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 and the Arbitration List.

**AMENDMENT HISTORY**

30 January 2017: This Practice Note was issued on 30 January 2017 and replaced Practice Note No 12 of 2015

Vivienne Macgillivray  
Executive Associate to the Chief Justice  
30 January 2017

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<sup>2</sup> Parties are referred to Practice Note SC Gen 2 regarding Structure of the Trial Division and Practice Note SC CL 5 regarding the Common Law Division Professional Liability List.