

# High Court Rules - Amendments

The Second Schedule to the High Court Rules specifies the amount which solicitors, who are entitled to practice in the High Court, may charge and be allowed on taxation of costs by the Taxing Officer of the Court in respect of proceedings in the Court.

The amounts in the schedule were varied by Statutory Rule No. 108 made on 9 May 1995 and which came into operation on 29 May 1995.

The Federal Costs Advisory Committee, in its report to the Justices dated 29 November 1996, recommended an increase of 7.02% to the solicitors' costs as set out in the Second Schedule.

The Court has agreed to the recommendation of the Committee and the increase, which came into operation on Monday 3 March 1997, will apply on respect of all work and services performed by solicitors after 2 March 1997.

## 1. Commencement and Application

1.1 These rules shall come into operation on 3 March 1997

1.2 Notwithstanding sub-rule (1), the Schedule omitted from the High Court Rules by rule 2 shall continue to apply in relation to all work done and services performed before 3 March 1997.

## 2. Amendment

2.1 The High Court Rules are amended by omitting the Second Schedule and substituting the following Schedule

### SECOND SCHEDULE

#### COSTS

1. To sue or defend, or to make or oppose an application for special leave to appeal, or to appeal, or to oppose an appeal or to cross appeal, or for any other originating proceedings .....	\$150.40
2. To make or oppose any interlocutory application .....	\$66.70
3. For a special case, case stated or reservation of question of law for the consideration of a Full Court, or for a statement of claim or a petition .....	\$150.40
4. For any pleading (other than a statement of claim) .....	\$116.80
5. To amend any pleading .....	\$40.30
6. For a statement of facts or an agreed statement of facts in a matter .....	\$116.80
7. For interrogatories, answers to interrogatories, special affidavits or an affidavit (not being a formal affidavit) .....	\$90.10
8. For Counsel to advise .....	\$64.40
9. For a document not otherwise provided for .....	\$25.50
10. For a brief for Counsel on a hearing or application in Court or in Chambers or brief notes for solicitors.....	\$83.60

**NOTE:** Instructions are not to be allowed where the work intended to be included therein is charged for and allowed in detail. Instead of the above costs for instructions, such larger sum may be claimed as is reasonable in all the circumstances of the case, and is allowed on taxation at the discretion of the Taxing Officer.

#### WRITS

11. Writ of Summons for the commencement of an action or other writ not specifically provided for .....	\$69.60
12. Concurrent Writ of Summons .....	\$25.00
13. Writ of Subpoena .....	\$36.40
14. If any of the above writs exceeds 3 folios, for each extra folio .....	\$5.10

**NOTE:** These costs include all endorsements, and copies (for the officers sealing them) and attendances to issue or seal, but not the Court fees.

#### SUMMONSES AND MOTIONS

15. Any Chamber Summons or motion, including preparation, copies and attendance to issue, including attendance to fix return date .....	\$42.80
- if more than 3 folios, for each extra folio .....	\$5.10

#### APPEARANCES AND NOTICES

16. Preparing and entering an appearance including duplicate memorandum and Notice of Appearance for service ....	\$70.30
17. Any necessary or proper notice or memorandum not otherwise provided for, or any demand .....	\$23.40
- if more than 3 folios, for each extra folio .....	\$5.10

**NOTE:** This provision shall not apply to short notices or memoranda endorsed on other documents but the words or folios therein may be allowed as part of the documents so endorsed.

#### DRAWING

18. Drawing any pleading or affidavit not exceeding 5 folios .....	\$66.70
- or, per folio .....	\$9.40
19. Drawing any other document where no other provision is made	
- per folio .....	\$9.20

#### ENGROSSING

20. Marking each exhibit to an affidavit .....	\$1.60
21. Engrossing any document	
per folio .....	\$3.40

#### COPIES

22. Of any document including carbon, photographic or machine made copy per page .....	\$1.60
Except that where the allowance for 10 or more pages is claimed, in respect of any document, the sum allowed for such copies shall be at the discretion of the Taxing Officer.	

continued on page 5



# High Court Rules -Amendments continued from page 4

## PERUSAL AND EXAMINATION

23. Perusal of any document including special letter, telegram, telex or similar document ..... \$24.90  
 or, per folio ..... \$3.40  
 Except that where an allowance for 30 or more folios is claimed, in respect of any document,  
 the sum allowed for perusal shall be at the discretion of the Taxing Officer.

24. Where it is necessary to peruse a document such as checking a proof print of, or examining an application  
 or appeal book per quarter hour  
 - solicitor ..... \$25.00  
 - clerk ..... \$8.20

## CORRESPONDENCE

25. Short letter including a formal acknowledgement, making appointments, forwarding documents without comment ..... \$11.90  
 26. Ordinary letter (including letters between principal and agent) ..... \$20.20  
 27. Circular letter (after the first) each ..... \$6.70  
 28. Special letter or letter containing opinion and including letters of substance between principal and agent ..... \$33.30

- or  
 Such sum as the Taxing Officer thinks reasonable in the circumstances.  
 29. Telegram, facsimile copy, telex or other document by similar transmitting process including attendance to dispatch  
 (where necessary) ..... \$33.30  
 or  
 Such sum as the Taxing Officer thinks reasonable in the circumstances.

30. Receiving and filing any incoming special letter, facsimile, telegram or telex ..... \$1.60  
**NOTE:** Postage and transmission fees may be claimed as a disbursement properly incurred.

31. Personal service of any process or proceeding where necessary ..... \$41.40  
 or

32. When, in consequence of the distance of the party to be served, it is proper to effect service through an agent, instead  
 of allowance for service for:  
 (a) Correspondence ..... \$36.90  
 (b) Agent's charges ..... \$70.40  
 and such disbursements as may be reasonably incurred.

33. Service of any document at the office of the address for service by either delivery or by post ..... \$14.20

## ATTENDANCES

34. An attendance which requires the attendance of a solicitor  
 Per quarter hour ..... \$39.90

35. An attendance which is capable of being made by a clerk ..... \$24.90  
 - or per quarter hour ..... \$6.50

36. Making an appointment or similar attendance by telephone ..... \$11.90

37. An attendance on counsel:  
 - with brief or other papers ..... \$25.40  
 - to appoint a conference or consultation ..... \$11.10

38. A conference or consultation with counsel ..... \$66.70  
 - or per half hour ..... \$50.30

39. On a summons or other application in Chambers ..... \$37.60  
 - or per half hour ..... \$66.70

40. In Court or in Chambers instructing counsel in any hearing or application  
 - if a solicitor attends, per hour ..... \$160.50  
 or

- if a clerk attends, per hour ..... \$66.80

41. On application or appearance before a Registrar or a Taxing Officer ..... \$83.60  
 or

- per hour ..... \$100.70

**NOTE:** Instead of the above costs for attendances, such larger sum may be claimed as  
 is reasonable in all the circumstances of the case, and is allowed on taxation at the  
 discretion if the Taxing Officer.

42. To hear judgment ..... \$43.70

43. When in the opinion of the Taxing Officer it is necessary for two solicitors, or a solicitor and a clerk to attend on a  
 hearing, such additional allowance as the Taxing Officer thinks reasonable shall be made not exceeding per day ... \$335.40

44. Where the Taxing Officer is satisfied that a solicitor has his principal place of practice in a place other than that in  
 which the Court is sitting, and it is necessary for him to leave that place to attend in Court or in Chambers at the hearing  
 of an appeal, application or cause, an allowance (in addition to reasonable travelling expenses) may be made for each  
 day that he is necessarily absent from his principal place of practice of such an amount that the Taxing Officer thinks  
 reasonable having regard to such other charges as the solicitor may be entitled to make in the matter.  
 Not exceeding per day ..... \$749.30

45. An attendance for which no other provision is made ..... \$33.30

## PREPARATION OF APPEAL AND APPLICATION BOOKS

46. Preparation of appeal and application books including collating all necessary material, all necessary attendances and  
*continued on page 6*



# P Practice Directions

Local Court Act

## PRACTICE DIRECTION

### RETURN OF SUMMONS PRIOR TO HEARING DATE

The following practice direction is issued pursuant to section 21 of the Local Court Act and will apply from 5 May 1997 and replaces the one issued in October 1995.

#### Background

In some cases, practitioners request the court to issue summons for the production of documents returnable before the date of commencement of a hearing. It is important that this is not abused by practitioners using the Summons to witnesses in place of non-party Discovery.

Proposed new rules will incorporate these new procedures. Until the new rules come in the following procedure

shall apply.

#### Procedures

If a party wishes for the early return of a summons to witness before the matter is set down then an application can be made to the Court either in a pre-hearing conference or by way of interlocutory application.

The summons shall give the witnesses a reasonable time in which to comply with the summons and be made returnable on an interlocutory applications day. Any orders for access to the documents will be made on that return date.

In regards to summons issues after a matter has been set down then the party

may file a summons to be issued for an early return date without leave of the Court.

(a) Upon receipt of the documents the matter shall be listed in the interlocutory applications list or before the Judicial; Registrar in a directions hearing for directions on the inspection of the documents (or for any other directions considered necessary); and

(b) notify all parties that the documents have been received into the custody of the Court and of the date, time and place of the directions hearing.

- I L Gray

Chief Magistrate

1 May 1997

## High Court Rules - Amendments *continued from page 5*

general oversight of their preparation in cases where the Registrar is satisfied it has been done efficiently.

Per hour:

- solicitor ..... \$108.40  
- clerk ..... \$36.20

47. Where appeal or application books are prepared in a solicitor's office, the Taxing Officer may in his discretion allow such sum as he thinks just and reasonable having regard to work and labour properly performed and charged for material used. In exercising his discretion the Taxing Officer shall have regard to commercial rates for copying and binding and is not obliged to apply the photographic or machine made copy costs otherwise allowable in this scale.

#### GENERAL CARE AND CONDUCT

48. The Taxing Officer may, where the case or circumstances warrant it, allow an amount to be claimed under this item, in addition to any item which appears in this scale, for general care and conduct. In exercising his discretion the Taxing Officer may have regard to any matters which he considers relevant including:
- (a) the complexity of the matter and the difficulty and novelty of the questions raised or any of them;
  - (b) the importance of the matter to the party and the amount involved;
  - (c) the skill, labour, specialised knowledge and responsibility involved therein on the part of the solicitor;
  - (d) the number and importance of the documents prepared or perused without regard to length;
  - (e) the time expended by the solicitor;
  - (f) research and consideration of questions of law and fact.

#### WITNESS EXPENSES

49. Witnesses called because of their professional, scientific or other special skill or knowledge  
Per day ..... \$610.20
50. Witnesses called other than those covered in Item 49 ..... \$64.40
51. Witnesses remunerated in their occupation by wages, salary or fees, the amount lost by attendance at Court.
52. Where the witness resides more than 50 kilometres from the Court, such sum as the Taxing Officer thinks reasonable for the actual conveyance, together with a reasonable amount for sustenance or maintenance.
53. The Taxing Officer may also allow such amount as he thinks reasonable and properly incurred and paid to witnesses for qualifying to give skilled evidence.
54. Notwithstanding anything in the scale, the Taxing Officer may allow to an expert witness a special fee for attendance at Court not covered by the foregoing paragraphs of this item when the witness is acting as an expert in assisting counsel or a solicitor for a period during the trial or hearing. The scale in this item does not affect the existing practice of allowing qualifying fees to witnesses.

#### DISBURSEMENTS

55. All Court fees, counsel's fees and other fees and payments to, the extent to which they have been properly and reasonably incurred and paid shall be allowed.
56. The remuneration allowed to a solicitor shall be governed by the foregoing scale but in special cases the Taxing Officer may in his discretion allow such additional charges or disbursements as considers reasonable.

