

NOTICEBOARD

Federal Court of Australia relocated on Tuesday 27 January 2004.

The new location is: Level 3, Supreme Court Building, State Square, Darwin

The postal address will remain as: PO Box 1806, Darwin NT 0801.

The telephone number will remain as: (08) 8941-2333.

Howard Philbey

Court/Administration Officer

Manslaughter and Causing Death by a Dangerous Act or Omission

The Department of Justice is conducting a review of the current laws on manslaughter and causing death by a dangerous act (sections 163 and 154 of the Criminal Code).

The review will have particular regard to the following:

- (i) Whether the offence of dangerous act should be abolished
- (ii) Whether standard minimum non-parole periods should be introduced for manslaughter, if dangerous act is abolished, given many dangerous act offences would move into the manslaughter offence;
- (iii) Whether a form of manslaughter resulting from recklessness as to serious harm should be introduced;
- (iv) Whether an offence of dangerous driving causing serious death should be introduced; and
- (v) Whether other offences need to be introduced to cover the element of the current dangerous act offence which relate to grievous harm rather than death.

Comments on this review can either be directed to the Law Society, or submission can be sent directly to the Department of Justice. Submission should be sent either to The Director, Legal Policy, Department of Justice, GPO Box 1722, Darwin NT 0820 or emailed to sue.oliver@nt.gov.au.

Alternatively, submission can be sent directly to Professor Paul Fairall, Dean, Adelaide University Law School via email to Paul.Fairall@adelaide.edu.au. Professor Fairall is conducting the review on behalf of the Department of Justice.

Submissions should be received by 29 February 2004.

New address for David Francis and Associates

David Francis and Associates no longer holds a Court Box at the Supreme Court of the Northern Territory in Darwin.

Please direct all correspondence to David Francis and Associates, GPO Box 3644, Darwin NT 0801.

Practice directions

Work Health Court

This practice direction is issued pursuant to section 95 of the Work Health Act and will be effective from 19 January 2004.

The following practice directions are no longer relevant or have been subsumed into the Work Health Court rules.

The following practice directions are revoked:

- | | |
|----------------|--------------------------|
| 22 August 1996 | Consent agreements |
| 29 April 1997 | Taxation of Costs |
| 11 July 1997 | Authentication of Orders |

Hugh Bradley - Chief Magistrate

Local Court

This practice direction is issued pursuant to section 21 of the Local Court Act and will be effective from 19 January 2004.

The following practice directions are no longer relevant or have

been subsumed into the Local Court rules.

The following practice directions are revoked:

- | | |
|-----------------|---|
| 23 August 1995 | Applications under the Adoption Act |
| 10 October 1995 | Section 51 of Tenancy Act |
| 22 August 1996 | Consent Agreements under the Crimes (Victims Assistance) Act |
| 2 December 1998 | Transfer of matters between the Local Court and Small Claims Court. |

Hugh Bradley - Chief Magistrate

Local Court

This practice direction is issued pursuant to section 50 of the Small Claims Act and will be effective from 19 January 2004.

The following practice direction is no longer relevant or have been subsumed into the Small Claims rules.

The following practice direction is revoked:

- | | |
|-----------------|---|
| 2 December 1998 | Transfer of matters between the Local Court and Small Claims Court. |
|-----------------|---|

Hugh Bradley - Chief Magistrate

De Facto Relationships Act

This practice direction is issued pursuant to section 21 of the Local Court Act and will be effective from 19 January 2004.

Since the issue of the practice direction dated 2 December 1998 regarding applications under the De Facto Relationships Act a new process, the originating application, has been introduced in the Local Court rules. The originating applications a more appropriate form of originating process for application is under the De Facto Relationships Act.

The practice direction dated 2 December 1998 regarding applications under the De Facto Relationships Act is rescinded and replaced by the following:

1. Proceedings for orders, declarations, and other relief under Part 2 of the De Facto Relationships Act are to be commenced by filing the interparte Originating Application.
2. The Originating Application shall be accompanied by an affidavit supporting the application to be served with the Originating application.
3. The Application will then be dealt with pursuant to Division 2 of Part 7 of the Local Court Rules.

Access to Magistrates' Courts files (civil)

The following practice direction, governing access to Local Court files by parties and members of the public, is issued pursuant to section 21 of the Local Court Act and will apply from 19 January 2004.

This practice direction rescinds the practice direction dated 24 June 1996.

Access by party:

- a) A party may view and take a photocopy of any document on file not specifically covered by this practice direction.
- b) A party may view transcript but NOT take a photocopy of it. (Pursuant to section 13 of the Records of Depositions Act, parties may apply in writing for a copy of the transcript and, upon payment of the prescribed fee, a copy will be provided.)
- c) A party may NOT have access to the following documents -
 - * file notes (written by staff or magistrates)
 - * Bench sheets
 - * Subpoenaed documents of other documents not yet in evidence, without an order of the Registrar or a magistrate
 - * Correspondence, without leave of the Registrar or a

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magistrate. (Access by parties to the correspondence section of a Court file is generally denied. However in some cases it may be appropriate for a party to view correspondence from another party to the Court. Parties seeking to view correspondence should make a request to the Registrar.)

Access by a non-party:

Access by non-parties is governed by section 12(3) of the Local Court Act, which restricts access to orders only (interlocutory and final orders).

Procedures:

- * Documents and files cannot be removed from the Registry.
- * Access to a document or file may be subject to a search fee.
- * Copying costs are to be borne by the person copying and the documents. Photocopying by Court staff will be charged at the prescribed fee in item (4)(b) of the Local Court regulations.

Hugh Bradley - Chief Magistrate

Access to Magistrates' Courts files (domestic violence)

The following practice direction, governing access to Domestic Violence files by parties and members of the public, is issued pursuant to section 20AB of the Domestic Violence Act and will apply from the date of this practice direction.

This practice direction rescinds the practice direction dated 24 June 1996.

Whether to permit access remains in the discretion of the Registrar at all times.

In respect of any documents not included in this practice direction, or where staff are unsure the matter is to be referred to the Registrar for determination.

Access by party:

- a) A party may view and take a copy of:
 - applications
 - orders
 - affidavits of service or declarations of service
- b) A party may view transcript but NOT take a photocopy of it. (Pursuant to section 13 of the Record of Depositions Acts, parties may apply in writing for a copy of the transcript and, upon payment of the prescribed fees, a copy will be provided.)
- c) A party may NOT have access to the following documents -
 - * file notes (written by staff or magistrates)
 - * Bench sheets
 - * The court file cover, without leave of the Registrar
 - * Subpoenaed documents or other documents not yet in evidence, without an order of the Registrar or a magistrate
 - * Affidavits not yet in evidence or relied upon, without an order of the Registrar or magistrate
 - * Correspondence, without leave of the Registrar or a magistrate. (Access by parties to the correspondence section of a Court file is generally denied. However in some cases it may be appropriate for a party to view correspondence from another party to the Court. Parties seeking to view correspondence should make a request to the Registrar.)

Access by a non-party:

A non-party may NOT view nor take a copy of any documents on the Court file, without an order of the Court.

Procedures:

- * Documents and files cannot be removed from the Registry.

- * Access to a document or file may be subject to a search fee.

- * Copying costs are to be borne by the person copying and the documents. Photocopying by Court staff will be charged at the prescribed fee in item (4)(b) of the Local Court regulations.

Hugh Bradley - Chief Magistrate

Access to Magistrates' Courts files (Work Health)

The following practice direction, to govern access to work health files by parties and members of the public, is issued pursuant to section 95 of the *Work Health Act* and will apply from 19 January 2004.

This practice direction rescinds the practice direction dated 24 June 1996.

Access by party:

- a) A party may view and take a photocopy of any document on file not specifically covered by this practice direction.
- b) A party may view transcript but NOT take a photocopy of it. (Pursuant to section 13 of the Record of Depositions Acts, parties may apply in writing for a copy of the transcript and, upon payment of the prescribed fees, a copy will be provided.)
- c) A party may NOT have access to the following documents -
 - * file notes (written by staff or magistrates)
 - * Bench sheets
 - * Subpoenaed documents or other documents not yet in evidence, without an order of the Registrar or a magistrate
 - * Correspondence, without leave of the Registrar or a magistrate. (Access by parties to the correspondence section of a Court file is generally denied. However in some cases it may be appropriate for a party to view correspondence from another party to the Court. Parties seeking to view correspondence should make a request to the Registrar.)

Access by non-party:

The Court reserves the right, to be exercised by the Registrar, to require a non-party requesting access to a file to give a justification, either written or oral, for their request.

Whether to permit access remains in the discretion of the Registrar at all times.

In respect of any documents not included in this practice direction, or where staff are unsure the matter is to be referred to the Registrar for determination.

- a) A non-party may view and take a photocopy of -
 1. Pleadings
 - * Applications/Statement of Claim
 - * Answer
 - * Request for further and better particulars, Further and better particulars
 - * Notice of Addition of another Employer, Notice of order for adding another Employers, Notice to added Employer
 2. Representation
 - * Notice of address for service, Notice of change of address for service
 - * Notice of actign, Notice of ceasing to act, Notice of change of solicitor
 3. Listing of matters

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- * Notice of s.106 conference
 - * Notice of hearing
 - * Summons to witness
4. Concluded applications
 5. Orders
 - * Orders/Judgments
 - * Reason from decision
 - * Notice of Recording of Memorandum of Agreement, recorded memorandum of Agreement, Notice of Direction by Court not to record a Memorandum of Agreement or to record it upon terms
 6. Notices of appeal
 7. Enforcement
 - * section 97(2) or (2A) certificate
 - * certification of taxation
 8. Miscellaneous
 - * Affidavit of service
 - * Notice of discontinuance
- b) A non-party may view transcript but NOT take a photocopy of it. (Pursuant to section 13 of the Records of Depositions Act, parties may apply in writing for a copy of the transcript and, upon payment of the prescribed fees, a copy will be provided.)
- c) A non-party may view exhibits but NOT take a photocopy without an order of the presiding magistrate.
- d) A non-party may NOT have access to the following documents -
1. Affidavits in support of concluded interlocutory applications, without an order of the Registrar or a magistrate.
 2. Current applications
 - * Interlocutory applications in respect of which a decision has not been given
 - * Affidavits in support of interlocutory applications in respect of which a decision has not been given
 3. Discovery
 - * List or affidavit of documents
 - * Notice to produce
 4. Interrogatories
 - * Interrogatories
 - * Answers to interrogatories, without an order of the Registrar or a magistrate
 5. Any documents that the Court orders remain confidential
 6. Evidentiary material (including medical reports) that has not been considered by the Court, such as subpoenaed documents or other documents not yet in evidence.
 7. Correspondence, file notes (written by magistrates or staff), bench sheets.

Procedures:

- * Documents and files cannot be removed from the Registry.
- * Access to a document or file may be subject to a search fee.
- * Copying costs are to be borne by the person copying and the documents. Photocopying by Court staff will be charged at the prescribed fee in item (4)(b) of the Local Court regulations.

Hugh Bradley - Chief Magistrate

Federal Court of Australia: National Guide to Counsel Fees

The following guide may be applied by taxing officers of the Federal Court when making an estimate pursuant to Order 62 rule 46 of the Federal Court Rules or upon taxation of a party and party Bill of Costs.

In many cases the range of fees in this guide will bear no relationship to the amounts that members of the Bar actually charge as a fee on an hourly rate.

Where, for example, by reason of the number, difficulty and/or complexity of the questions of law or fact involved, the time required for preparation for the hearing is substantially extended beyond what might be regarded as "average", a taxing officer may determine that a fee at or above the upper end of the range may be appropriate. In particular cases, the standing and experience of the counsel concerned may also be a relevant matter for consideration. Similarly, where the matter is not complex or difficult, a fee at or towards the lower end of the range may be appropriate.

This Guide takes effect from 1 January 2004.

Warwick Soden
Registrar

Applications/ Appeals	Junior Counsel	Senior Counsel
Fee on Brief (including preparation at discretion of taxing officer and appearance on the first day of a hearing) OR Appearance at hearing (daily rate including conference)	\$900-3,600 \$650-3,000	\$1,500-5,500 \$1,500-4,500
Interlocutory Applications Motion/Interlocutory hearing - short (up to 2 hours) - long (2 hours plus)	 \$250-1,500 \$500-3,000	 \$300-2,250 \$600-4,500
Other Hourly rates for: - Directions hearing - Preparation time - Conferences (not occurring on day of hearing) - Settling applications, statements of claim, affidavits, defence, other documents - Opinions, advice on evidence - Written submissions (where not allowed above) - Attending to receive judgment (where appropriate) - Not otherwise provided for	\$200-350	\$300-550