



High Court Amendment Rules 2013 (No. 2)¹

Select Legislative Instrument 2013 No. 257

We, Justices of the High Court of Australia, make the following Rules of Court under the *Judiciary Act 1903*, *Commonwealth Electoral Act 1918*, *Nauru (High Court Appeals) Act 1976* and *High Court of Australia Act 1979*.

Dated 26 November 2013

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**Justices of the
High Court of Australia**

A. M. PHELAN
**Chief Executive and
Principal Registrar**

AMENDMENT OF THE HIGH COURT RULES 2004

1.01 Commencement and application

1.01.1 These Rules shall come into operation on 1 January 2014.

1.01.2 Notwithstanding rule 1.01.1, the Schedule omitted from the High Court Rules 2004 by rule 2.01.1 shall continue to apply in relation to all work done and services performed before 1 January 2014.

2.01 Amendment

2.01.1 The High Court Rules 2004 are amended by omitting Schedule 2 and substituting the following Schedule:

Schedule 2 Schedule of fees for work done or services performed

(rule 52.02)

| Item | Matter for which fee may be charged | Fee(\$) |
|---------------------|--|---------|
| INSTRUCTIONS | | |
| 1 | To sue or defend, or to make or oppose an application for leave or special leave to appeal, or to appeal, or oppose an appeal or to cross appeal, or for any other originating proceedings | 297.50 |
| 2 | To make or oppose any interlocutory application | 132.10 |
| 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 | 297.50 |
| 4 | For any pleading (other than a statement of claim) | 231.10 |
| 5 | To amend any pleading | 79.60 |
| 6 | For a statement of facts or an agreed statement of facts in a matter | 231.10 |
| 7 | For interrogatories, answers to interrogatories, special affidavits or an affidavit (not being a formal affidavit) | 178.30 |
| 8 | For counsel to advise | 127.20 |
| 9 | For a document not otherwise provided for | 49.80 |

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|--------------------------------|---|-----------------|
| 10 | For a brief for counsel on a hearing or application in Court or brief notes for solicitor <i>Note</i> 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. | 165.20 |
| WRITS | | |
| 11 | Writ of Summons for the commencement of an action or other writ not specifically provided for | 137.50 |
| 12 | Concurrent Writ of Summons | 49.50 |
| 13 | Writ of Subpoena | 71.90 |
| 14 | If any of the above writs exceeds 3 folios, for each extra folio <i>Note</i> These costs include all endorsements, and copies (for the officers sealing them) and attendances to issue or seal, but not the Court fees. | 9.90 |
| SUMMONSES | | |
| 15 | Any summons including preparation, copies and attendance to issue, including attendance to fix return date — if more than 3 folios, for each extra folio | 84.40 9.90 |
| APPEARANCES AND NOTICES | | |
| 16 | Preparing and entering an appearance including duplicate memorandum and Notice of Appearance for service | 139.20 |
| 17 | Any necessary or proper notice or memorandum not otherwise provided for, or any demand — if more than 3 folios, for each extra folio <i>Note</i> 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. | 46.60 9.90 |
| DRAWING | | |
| 18 | Drawing any pleading or affidavit not exceeding 5 folios — or, per folio | 132.10 18.60 |
| 19 | Drawing any other document where no other provision is made — per folio | 18.20 |
| ENGROSSING | | |
| 20 | Marking each exhibit to an affidavit | 3.30 |
| 21 | Engrossing any document — per folio | 6.90 |

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| COPIES | | |
| 22 | Of any document including carbon, photographic or machine made copy per page. 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 | 3.30 |
| PERUSAL AND EXAMINATION | | |
| 23 | Perusal of any document including special letter, telegram, telex or similar document | 49.30 |
| | — or, per folio | 6.90 |
| | 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 not necessary to peruse a document, such as checking a proof print of, or examining an application or appeal book, per quarter hour | |
| | — solicitor | 49.50 |
| | — clerk | 16.00 |
| CORRESPONDENCE | | |
| 25 | Short letter including a formal acknowledgment, making appointments, forwarding documents without comment | 23.40 |
| 26 | Ordinary letter (including letters between principal and agent) | 39.70 |
| 27 | Circular letter (after the first) each | 13.10 |
| 28 | Special letter or letter containing opinion and including letters of substance between principal and agent | 65.90 |
| | 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) | 65.90 |
| | or | |
| | Such sum as the Taxing Officer thinks reasonable in the circumstances | |
| 30 | Receiving and filing any incoming special letter, facsimile, telegram or telex | 3.30 |
| | <i>Note</i> Postage and transmission fees may be claimed as a disbursement properly incurred. | |

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| SERVICE | | |
| 31 | Personal service of any process or proceeding where necessary or Such sum may be allowed as is reasonable having regard to time occupied, distance travelled and other relevant circumstances | 82.20 |
| 32 | When, in consequence of the distance of the party to be served, it is proper to effect service through an agent, instead of the allowance for service for: | |
| | (a) correspondence | 73.10 |
| | (b) agent's charges and such disbursements as may reasonably be incurred | 139.40 |
| 33 | Service of any document at the office of the address for service either by delivery or by post | 28.10 |
| ATTENDANCES | | |
| 34 | An attendance which requires the attendance of a solicitor, per quarter hour | 78.80 |
| 35 | An attendance which is capable of being made by a clerk | 49.30 |
| | — or, per quarter hour | 12.90 |
| 36 | Making an appointment or similar attendance by telephone | 23.50 |
| 37 | An attendance on counsel: | |
| | — with brief or other papers | 50.10 |
| | — to appoint a conference or consultation | 22.00 |
| 38 | A conference or consultation with counsel | 132.10 |
| | — or, per half hour | 99.60 |
| 39 | On a summons | 74.30 |
| | — or, per half hour | 132.10 |
| 40 | In Court instructing counsel on any hearing or application | |
| | — if a solicitor attends, per hour | 317.10 |
| | or | |
| | — if a clerk attends, per hour | 132.20 |
| 41 | On an application or appearance before a Registrar or a Taxing Officer | 165.20 |
| | — or, per hour | 198.10 |
| | <i>Note</i> 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 of the Taxing Officer. | |
| 42 | To hear judgment | 86.50 |

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| 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 | 663.10 |
| 44 | Where the Taxing Officer is satisfied that the principal place of practice of a solicitor is in a place other than that in which the Court is sitting, and it is necessary for the solicitor to leave that place to attend in Court at the hearing of an appeal, application, or cause, an allowance (in addition to reasonable travelling expenses) may be made for each day that the solicitor is necessarily absent from the principal place of practice of such 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 | 1481.20 |
| 45 | An attendance for which no other provision is made | 65.90 |
| | PREPARATION OF APPEAL AND APPLICATION BOOKS | |
| 46 | Preparation of appeal and application books including collating all necessary material, all necessary attendances and general oversight of their preparation in cases where the Registrar is satisfied it has been done efficiently. Per hour: | |
| | — solicitor | 214.40 |
| | — clerk | 71.50 |
| 47 | Where appeal or application books are prepared in a solicitor's office, the Taxing Officer may allow such sum as the Taxing Officer thinks just and reasonable having regard to work and labour properly performed and charged for material used. In exercising this 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 | |

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| GENERAL CARE AND CONDUCT | | |
| 48 | <p>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 this discretion the Taxing Officer may have regard to any matters which the Taxing Officer considers relevant including:</p> <ul style="list-style-type: none"> (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; and (f) research and consideration of questions of law and fact | |
| WITNESSES EXPENSES | | |
| 49 | <p>Witnesses called because of their professional, scientific or other special skill or knowledge</p> | |
| | Per day | 1206.60 |
| 50 | <p>Witnesses called, other than those covered in item 49</p> | |
| | Per day | 127.20 |
| 51 | <p>Witnesses remunerated in their occupation by wages, salary or fees, the amount lost by attendance at Court</p> | |
| 52 | <p>Where the witness resides more than 50 kilometres from the Court, such sum as the Taxing Officer thinks reasonable for the actual cost of conveyance, together with a reasonable amount for sustenance or maintenance</p> | |
| 53 | <p>The Taxing Officer may also allow such amount as the Taxing Officer thinks reasonable and properly incurred and paid to witnesses for qualifying to give skilled evidence</p> | |
| 54 | <p>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</p> | |

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| 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 allow such additional charges or disbursements as the Taxing Officer considers reasonable | |

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.