

Regulations 1982 No. 31¹

Court of Petty Sessions (Civil Jurisdiction) (Solicitors' Costs) Regulations

I, PETER DREW DURACK, the Attorney-General of the Commonwealth of Australia, in pursuance of section 8 of the *Interpretation Ordinance* 1967, hereby make the following Regulations under the *Court of Petty Sessions (Civil Jurisdiction) Ordinance* 1982.

Dated 26 July 1982.

P. DURACK
Attorney-General

Citation

1. These Regulations may be cited as the Court of Petty Sessions (Civil Jurisdiction) (Solicitors' Costs) Regulations.

Interpretation

2. In these Regulations—

“relevant amount” has the same meaning as in section 251 of the Ordinance;

“the Ordinance” means the *Court of Petty Sessions (Civil Jurisdiction) Ordinance* 1982.

Prescribed costs to be specified in claim

3. For the purposes of paragraph 16 (4) (c) of the Ordinance, the prescribed costs are—

- (a) in relation to a special claim—the costs ascertained in accordance with item 1 in Schedule 1; and
- (b) in relation to an ordinary claim—the costs ascertained in accordance with item 1 in Schedule 2.

Prescribed costs on entry of default judgment on special claim

4. For the purposes of section 41 of the Ordinance, the prescribed costs are the costs ascertained in accordance with the scale of costs set out in Schedule 1.

Scale of costs—general

5. For the purposes of section 251 of the Ordinance, the prescribed scale of costs is the scale of costs set out in Schedule 2.

SCHEDULE 1

Regulations 3 and 4

SCALE OF SOLICITORS' COSTS - SPECIAL CLAIMS

Item No.	Matter	Costs		
		Where relevant amount does not exceed \$2,000	Where relevant amount exceeds \$2,000 but does not exceed \$5,000	Where relevant amount exceeds \$5,000
		\$	\$	\$
	Issue of special claim and entry of judgment by default			
1	Instructions to sue including letter before action, preparation and issuing of special claim and copies (To be entered on special claim)	43.00	54.00	72.00
2	On entry of final judgment pursuant to section 41 of the Ordinance -in addition to item 1	13.00	16.00	21.50
	In addition where a special claim is served outside the Territory and an order is made by the court for leave to proceed in the proceedings	13.00	16.00	21.50

SCHEDULE 2

Regulations 3 and 5

SCALE OF SOLICITORS' COSTS - GENERAL

Item No.	Matter	Costs		
		Where relevant amount does not exceed \$2,000	Where relevant amount exceeds \$2,000 but does not exceed \$5,000	Where relevant amount exceeds \$5,000
		\$	\$	\$
	Issue of claim, notice of grounds of defence, reply, third party notice			
1	Instructions to sue including letter before action, preparation and issuing of claim and copies (To be entered on ordinary claim)	59.50	74.50	99.00
2	Instructions to defend, including perusal of particulars of claim, preparation of notice of grounds of defence, copies and filing	49.50	62.00	82.50
	In addition where cross-claim pleaded	23.50	29.50	39.00
3	Instructions for reply, where necessary, including perusal of notice of grounds of defence, preparation of reply, copies and filing	20.50	25.50	34.00
	In addition where defendant sets up a cross-claim	6.00	7.50	10.00
4	Preparation of third party notice, or notice claiming contribution or indemnity, including filing and service	34.00	43.00	57.00

SCHEDULE 2 – continued

Item No.	Matter	Costs		
		Where relevant amount does not exceed \$2,000	Where relevant amount exceeds \$2,000 but does not exceed \$5,000	Where relevant amount exceeds \$5,000
		\$	\$	\$
	Particulars			
5	Request for further and better particulars including copies and perusal of further and better particulars	10.00	13.00	17.00
6	Preparing further and better particulars including copies, filing and service and perusal of request	26.00	32.50	43.00
	Discovery			
7	Notice for discovery including filing and service and perusal of affidavit of discovery	18.00	22.50	30.00
8	Affidavit of discovery including instructions, preparation, copies, attendances, filing and service	52.00	65.00	87.00
	Interrogatories			
9	Interrogatories for examination of one party including instructions, preparation, copies, filing, service and perusal of answers	29.00	36.00	48.00
10	Answers to interrogatories of one party including instructions, preparation, copies, attendances, filing, service and perusal of interrogatories	38.00	48.00	64.00
	Notices			
11	(a) Notice to admit including copies, filing, service and perusal of admissions	17.00	21.00	28.00
	(b) Admissions including copies, filing, service and perusal of notice to admit	29.00	36.00	48.00
12	Notice to produce at hearing including preparation and service	9.00	11.00	15.00
13	Notice of payment into court or notice of acceptance including copies, filing and service	23.00	28.50	38.00
14	Any necessary notice undertaking consent or memorandum (not otherwise provided for) including copies, filing and service	11.00	13.50	18.00
	Motions			
15	Notice of motion including instructions, preparation, copies, issuing and service	27.00	34.00	45.00
16	Opposition to motion including instructions, filing of notice of intention to defend, where necessary, copy, issue and service	29.50	37.00	49.00
	Affidavits			
17	Instructions for and preparation of any necessary special affidavit (not otherwise provided for) including attendances, copies, filing and service	34.00	42.50	57.00

SCHEDULE 2—continued

Item No.	Matter	Costs		
		Where relevant amount does not exceed \$2,000	Where relevant amount exceeds \$2,000 but does not exceed \$5,000	Where relevant amount exceeds \$5,000
		\$	\$	\$
18	Affidavit of service, where necessary, including preparation and filing	7.00	9.00	12.00
	Setting down			
19	Certificate of readiness for hearing including letter requesting certification and attendance to file	9.50	12.00	16.00
	Summonses			
20	Summons to witness including issuing and necessary copies (for any number of persons)	6.00	7.50	10.00
	Documents			
21	Instructions for and drawing of any necessary bond	8.50	10.50	14.00
22	Bill of costs for taxation, including copy for taxing officer, per folio	1.10	1.35	1.80
	Copies			
23	Any necessary copies of pleadings, briefs and other documents where no other provision is made—per page	0.35	0.45	0.60
	Letters			
24	Ordinary letter (including letter between principal and agent), where no other provision is made	3.00	4.00	5.00
25	Special letter (including letter between principal and agent), where no other provision is made	6.00	8.00	10.00
26	Circular letters after the first	1.00	1.25	1.50
	Service			
27	Personal service, where necessary	9.00	11.00	15.00
28	Where service by post is authorized, where no other provision is made	3.50	4.50	6.00
29	Where service at address for service, where no other provision is made	3.50	4.50	6.00
30	For arranging service out of the jurisdiction	6.00	7.50	10.00

Notes:

1. When any two or more documents have to be, or may be, served together one fee only for such service may be allowed.
2. The service under items 27 to 30 includes attendances as to service and for swearing the affidavit of service.

SCHEDULE 2—continued

Item No.	Matter	Costs		
		Where relevant amount does not exceed \$2,000	Where relevant amount exceeds \$2,000 but does not exceed \$5,000	Where relevant amount exceeds \$5,000
		\$	\$	\$
	Preparation			
31	Instructions for brief for counsel or brief notes for solicitor, where necessary, for work necessarily and properly done in preparing for a hearing and not otherwise provided for, including preparation and delivery of brief to counsel (or brief notes for solicitor) and also including: <ul style="list-style-type: none"> (a) taking instructions for examination of any party or witness; (b) considering the facts and law; (c) attending on and corresponding with client; (d) interviewing and corresponding with witnesses and potential witnesses and taking proofs of their evidence; (e) making search in any public office and elsewhere for relevant documents; (f) arranging to obtain reports or advice from experts and maps, plans, photographs and models; (g) inspecting any property or place material to the proceedings; (h) perusing relevant documents; and (i) the general care and conduct of the proceedings <p style="text-align: right;">NOT EXCEEDING</p>	320.00	400.00	533.00
	<i>Notes:</i>			
	1. This item should begin with a short statement of: <ul style="list-style-type: none"> (i) the main issues; (ii) any particular difficulties of fact or law; and (iii) any special skill, knowledge or responsibility required. 			
	2. If by reason of special circumstances any party considers that the maximum amount provided for in the item is not sufficient remuneration for the care and conduct including skill and responsibility involved throughout the course of proceedings and in obtaining instructions for brief or brief notes the party may apply to the court for an increase in such amount and the court may fix such amount or give such directions as it thinks proper in all the circumstances.			
	Attendances			
32	Attending court or magistrate's chambers in defended matter:			
	(a) principal solicitor with counsel, per hour; or	24.00	30.00	40.00
	(b) employed solicitor or clerk with counsel, per hour	17.00	21.00	28.00

SCHEDULE 2—continued

Item No.	Matter	Costs		
		Where relevant amount does not exceed \$2,000	Where relevant amount exceeds \$2,000 but does not exceed \$5,000	Where relevant amount exceeds \$5,000
		\$	\$	\$
33	Attending court or magistrate's chambers in undefended matter:			
	(a) principal solicitor with counsel, per hour; or	21.50	27.00	36.00
	(b) employed solicitor or clerk with counsel, per hour	14.50	18.00	24.00
34	On taxation of costs, per hour	14.50	18.00	24.00
35	In court to hear reserved judgment, with or without counsel, or to mention a matter for the purpose of adjournment or otherwise	9.50	12.00	16.00
36	Appointing and attending conference with counsel, when necessary, or attendances to produce documents for inspection or to inspect documents, where necessary, or on a view or on witnesses or other persons:			
	(a) by principal solicitor if attendance warranted, per hour; or	21.50	27.00	36.00
	(b) by employed solicitor or clerk, per hour	14.50	18.00	24.00
37	Telephone attendance if of substance or importance (other telephone calls not allowed), where no other provision is made	3.00	4.00	5.00
	Counsel's fees			
38	(1) Where a solicitor briefs himself as counsel—three-quarters of the fees set out in items 39 (e) and (g); or			
	(2) Where a solicitor briefs his partner as counsel—five-sixths of the fees set out in item 39			
39	(a) For drawing or settling any necessary document including a claim, notice of grounds of defence, interrogatories, etc. per hour	40.00	50.00	67.00
	(b) To advise on evidence or for opinion, per hour	40.00	50.00	67.00
	(c) Conference, when necessary, per hour	40.00	50.00	67.00
	(d) On view, per hour	40.00	50.00	67.00
	(e) Brief to appear on interlocutory application in court or in chambers			
	(i) unopposed	50.00	62.00	83.00
	(ii) opposed	120.00	150.00-250.00	200.00-333.00
	(f) To hear reserved judgment	20.00	25.00	33.00
	(g) Brief—			
	on hearing	174.00-200.00	218.00-250.00	290.00-333.00
	on assessments (where liability is not in issue)	120.00-150.00	150.00-188.00	200.00-250.00
	Enforcement			
40	Application for certificate of judgment for registration in the Supreme Court including filing	6.50	8.50	11.00

SCHEDULE 2—continued

Item No.	Matter	Costs		
		Where relevant amount does not exceed \$2,000	Where relevant amount exceeds \$2,000 but does not exceed \$5,000	Where relevant amount exceeds \$5,000
		\$	\$	\$
41	Costs (to be included in amount of costs endorsed on warrant) of obtaining a warrant of execution, including documents and attendances	14.50	18.00	24.00
42	Examination of judgment debtor as to debts owing to him and as to his property, including instructions, preparation of application for summons, filing and preparing necessary documents	52.00	65.00	86.50
43	Application for order under section 171 of the <i>Court of Petty Sessions Ordinance 1930</i> for attachment of debt including instructions, preparation of application and affidavit in support, filing, and obtaining order	30.00	37.50	50.00
44	Preparing application to the court for order under Division 5 of PART IX of the <i>Court of Petty Sessions Ordinance 1930</i> including instructions, preparation of application, necessary documents and supporting affidavit and filing	32.00	40.00	53.00

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 3 August 1982.