

AUSTRALIAN CAPITAL TERRITORY

Regulations 1986 No. 3¹

Magistrates Court (Civil Jurisdiction) (Solicitors' Costs) Regulations² (Amendment)

I, LIONEL FROST BOWEN, the Attorney-General of the Commonwealth of Australia, hereby make the following Regulations under the *Magistrates Court (Civil Jurisdiction) Ordinance 1982*.

Dated 26 May 1986.

LIONEL BOWEN

Attorney-General

Schedules 1 and 2

1. Schedules 1 and 2 to the Magistrates Court (Civil Jurisdiction) (Solicitors' Costs) Regulations are repealed and the following Schedules substituted:

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)	59.20	74.40	99.20

(Reg. 4/86)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

SCHEDULE 1—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
		\$	\$	\$
2	On entry of final judgment pursuant to section 41 of the Ordinance—in addition to item 1	17.90	22.00	29.60
	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	17.90	22.00	29.60

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)	82.00	102.60	136.40
2	Instructions to defend, including perusal of particulars of claim, preparation of notice of grounds of defence, copies and filing..... In addition where cross-claim pleaded	68.20 32.40	85.40 40.60	113.60 53.70
3	Perusal of notice of grounds of defence (where necessary and where item 4 is not applicable).....	5.50	7.60	9.60

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
		\$	\$	\$
4	Instructions for reply, where necessary, including perusal of notice of grounds of defence, preparation of reply, copies and filing	28.20	35.10	46.80
	In addition where defendant sets up a cross-claim.....	8.30	10.30	13.80
5	Preparation of third party notice, or notice claiming contribution or indemnity, including filing and service	46.80	59.20	78.50
	Particulars			
6	Request for further and better particulars including copies and perusal of further and better particulars	13.80	17.90	23.40
7	Preparing further and better particulars including copies, filing and service and perusal of request	35.80	44.80	59.20
	Discovery			
8	Notice for discovery including filing and service and perusal of affidavit of discovery	24.80	31.00	41.30
9	Affidavit of discovery including instructions, preparation, copies, attendances, filing and service.....	71.60	89.50	119.80
	Interrogatories			
10	Interrogatories for examination of one party including instructions, preparation, copies, filing, service and perusal of answers	40.00	49.60	66.10

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
		\$	\$	\$
11	Answers to interrogatories of one party including instructions, preparation, copies, attendances, filing, service and perusal of interrogatories.....	52.30	66.10	88.20
	Notices			
12	(a) Notice to admit including copies, filing, service and perusal of admissions.....	23.40	28.90	38.60
	(b) Admissions including copies, filing, service and perusal of notice to admit.....	39.90	49.60	66.10
13	Notice to produce at hearing including preparation and service	12.40	15.20	20.70
14	Notice of payment into court or notice of acceptance including copies, filing and service.....	31.70	39.30	52.30
15	Any necessary notice undertaking consent or memorandum (not otherwise provided for) including copies, filing and service.....	15.10	18.60	24.80
	Motions			
16	Notice of motion including instructions, preparation, copies, issuing and service.....	37.20	46.80	62.00
17	Instructions to oppose notice of motion including perusal of notice of motion.....	25.50	32.40	42.70
	Affidavits			
18	Instructions for and preparation of any necessary special affidavit (not otherwise provided for) including attendances, copies, filing and service.....	46.80	58.50	78.50

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
		\$	\$	\$
19	Affidavit of service, where necessary, including preparation and filing.....	9.60	12.40	16.50
	Setting down			
20	Certificate of readiness for hearing including letter requesting certification and attendance to file.	13.10	16.50	22.00
	Summonses			
21	Summons to witness including issuing and necessary copies (for one person)	8.30	10.30	13.80
	Second and subsequent summonses (per person).....	1.40	1.70	2.10
	Documents			
22	Instructions for and drawing of any necessary bond.....	11.70	14.50	19.30
23	Bill of costs for taxation, including copy for taxing officer, per folio....	1.50	1.90	2.50
24	Any necessary document not provided for under item 34 or otherwise, including a copy—per folio.....	1.50	1.90	2.50
	Copies			
25	Any necessary copies of pleadings, briefs and other documents where no other provision is made—per page.....	.50	.60	.80
	Letters			
26	Ordinary letter (including letter between principal and agent), where no other provision is made	4.10	5.50	6.90

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
		\$	\$	\$
27	Special letter (including letter between principal and agent), where no other provision is made	8.30	11.00	13.80
28	Circular letters after the first.....	1.40	1.70	2.10
	Service			
29	Personal service, where necessary	12.40	15.20	20.70
30	Where service by post is authorized, where no other provision is made	4.80	6.20	8.30
31	Where service at address for service, where no other provision is made	4.80	6.20	8.30
32	For arranging service out of the jurisdiction.....	8.30	10.30	13.80
	<i>Notes:</i>			
	1. When any 2 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 29 to 32 includes attendances as to service and for swearing the affidavit of service.			
	Perusals			
33	Perusal of any document not provided for in item 34 or otherwise—per folio70	.80	1.10

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				
34	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:			
	(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	44.10 per hour or 441.00, whichever is less	55.10 per hour or 551.00, whichever is less	73.50 per hour or 735.00, whichever is less

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
		\$	\$	\$
	<p>If because of special circumstances relating to a particular matter, any party considers that the amount of costs allowable under this item in respect of the matter 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 and the court may increase that amount by fixing a higher hourly rate or higher maximum amount than the rate or maximum amount specified in this item or may give such directions as it thinks proper in all the circumstances.</p> <p><i>Note:</i></p> <p>This item should begin with a short statement of:</p> <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. <p>Attendances</p>			
35	<p>Attending court or magistrate's chambers in defended matter:</p> <p>(a) principal solicitor with counsel, per hour; or</p> <p>(b) employed solicitor or clerk with counsel, per hour.....</p>	33.00	41.30	55.10
		23.40	28.90	38.60
36	<p>Attending court or magistrate's chambers in undefended matter:</p> <p>(a) principal solicitor with counsel, per hour; or</p>	29.60	37.20	49.60

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
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	(b) employed solicitor or clerk with counsel, per hour.....	20.00	24.80	33.10
37	On taxation of costs, per hour	20.00	24.80	33.10
38	In court to hear reserved judgment, with or without counsel, or to mention a matter for the purpose of adjournment or otherwise.....	13.10	16.50	22.00
39	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	29.60	37.20	49.60
	(b) by employed solicitor or clerk, per hour	20.00	24.80	33.10
40	Telephone attendance if of substance or importance (other telephone calls not allowed), where no other provision is made	4.10	5.50	6.90
41	Any necessary attendance not provided for in item 34 or otherwise	6.90	8.30	11.00
	Counsel's fees			
42	(1) Where a solicitor briefs himself as counsel—three-quarters of the fees set out in items 43 (e) and (g); or			
	(2) Where a solicitor briefs his partner as counsel—five-sixths of the fees set out in item 43			

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
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43	(a) For drawing or settling any necessary document including a claim, notice of grounds of defence, interrogatories, etc. per hour.	55.10	68.90	92.30
	(b) To advise on evidence or for opinion, per hour	55.10	68.90	92.30
	(c) Conference, when necessary, per hour	55.10	68.90	92.30
	(d) On view, per hour	55.10	68.90	92.30
	(e) Brief to appear on interlocutory application in court or in chambers			
	(i) unopposed	68.90	85.40	114.30
	(ii) opposed	165.30	206.60-344.40	275.50-458.70
	(f) To hear reserved judgment ..	27.60	34.40	45.50
	(g) Brief—			
	on hearing	239.70-275.50	300.30-344.40	399.50-458.70
	on assessments (where liability is not in issue)	165.30-206.60	206.60-259.00	275.50-344.40
Enforcement				
44	Application for certificate of judgment for registration in the Supreme Court including filing	9.00	11.70	15.10
45	Costs (to be included in amount of costs endorsed on warrant) of obtaining a warrant of execution, including documents and attendances	20.00	24.80	33.10

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
		\$	\$	\$
46	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	71.60	89.50	119.20
47	Application for order under section 171 of the <i>Magistrates Court Ordinance 1930</i> for attachment of debt including instructions, preparation of application and affidavit in support, filing, and obtaining order	41.30	51.70	68.90
48	Preparing application to the court for order under Division 5 of Part IX of the <i>Magistrates Court Ordinance 1930</i> including instructions, preparation of application, necessary documents and supporting affidavit and filing .	44.10	55.10	73.00

Savings

2. Notwithstanding regulation 1, Schedules 1 and 2 of the Magistrates Court (Civil Jurisdiction) (Solicitors' Costs) Regulations as in force immediately before the commencement of these Regulations continue to apply in relation to proceedings instituted before that commencement as if they had not been repealed.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 4 June 1986.
2. Regulations 1982 No. 31 as amended by Ordinance No. 67, 1985.