



High Court Amendment Rules 2002 (No. 1)¹

Statutory Rules 2002 No. ²

223

We, Justices of the High Court of Australia, make the following
Rules of Court under the *Judiciary Act 1903*.

Dated this 3rd day of September 2002.

L.S.

A.M. GLEESON
M.H. MCHUGH
M. GAUDRON
W.M.C. GUMMOW
M.D. KIRBY
K.M. HAYNE
I.D.F. CALLINAN
Justices of the
High Court of Australia

C.M. DOOGAN
Chief Executive and
Principal Registrar

AMENDMENT OF THE HIGH COURT RULES

1. Commencement and application

- 1.1 These Rules shall come into operation on 1 October 2002.
- 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 1 October 2002.

2. Amendment

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

Second Schedule Costs

Item

INSTRUCTIONS

- | | | |
|----|---|--------|
| 1. | To sue or defend, or to make or oppose an application for special leave to appeal, or to appeal, or oppose an appeal or to cross appeal, or for any other originating proceedings | 197.70 |
| 2. | To make or oppose any interlocutory application | 87.70 |
| 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 | 197.70 |
| 4. | For any pleading (other than a statement of claim) | 153.60 |
| 5. | To amend any pleading | 52.90 |
| 6. | For a statement of facts or an agreed statement of facts in a matter | 153.60 |
| 7. | For interrogatories, answers to interrogatories, special affidavits or an affidavit (not being a formal affidavit) | 118.50 |
| 8. | For counsel to advise | 84.60 |

Item

9. For a document not otherwise provided for 33.00
10. For a brief for counsel on a hearing or application in Court or in Chambers or brief notes for solicitor 109.90

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 91.40
12. Concurrent Writ of Summons 32.80
13. Writ of Subpoena 47.80
14. If any of the above writs exceeds 3 folios, for each extra folio 6.60

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 56.10
- if more than 3 folios, for each extra folio 6.60

APPEARANCES AND NOTICES

16. Preparing and entering an appearance including duplicate memorandum and Notice of Appearance for service 92.50
17. Any necessary or proper notice or memorandum not otherwise provided for, or any demand 30.90
- if more than 3 folios, for each extra folio 6.60

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.

Item

DRAWING

- | | | |
|-----|---|-------|
| 18. | Drawing any pleading or affidavit not exceeding 5 folios | 87.70 |
| | — or, per folio | 12.30 |
| 19. | Drawing any other document where no other provision is made | 12.10 |
| | per folio | |

ENGROSSING

- | | | |
|-----|--------------------------------------|------|
| 20. | Marking each exhibit to an affidavit | 2.20 |
| 21. | Engrossing any document | 4.50 |
| | — per folio | |

COPIES

- | | | |
|-----|--|------|
| 22. | Of any document including carbon, photographic or machine made copy per page | 2.20 |
|-----|--|------|
- 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.

PERUSAL AND EXAMINATION

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|-----|---|-------|
| 23. | Perusal of any document including special letter, telegram, telex or similar document | 32.70 |
| | — or, per folio | 4.50 |
- 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 | 32.80 |
| | — clerk | 10.70 |

CORRESPONDENCE

- | | | |
|-----|---|-------|
| 25. | Short letter including a formal acknowledgment, making appointments, forwarding documents Without comment | 15.60 |
|-----|---|-------|

Item		
26.	Ordinary letter (including letters between principal and agent)	26.50
27.	Circular letter (after the first) each	8.80
28.	Special letter or letter containing opinion and including letters of substance between principal and agent	43.80
	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)	43.80
	or	
	Such sum as the Taxing Officer thinks reasonable in the circumstances.	
30.	Receiving and filing any incoming special letter, facsimile, telegram or telex	2.20
	NOTE: Postage and transmission fees may be claimed as a disbursement properly incurred.	
	SERVICE	
31.	Personal service of any process or proceeding where necessary	54.50
	or	
	Such sum may be allowed as is reasonable having regard to time occupied, distance travelled and other relevant circumstances.	
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	48.50
	(b) Agent's charges	92.60
	and such disbursements as may reasonably be incurred.	
33.	Service of any document at the office of the address for service either by delivery or by post	18.70

Item

ATTENDANCES

34.	An attendance which requires the attendance of a solicitor	52.40
	Per quarter hour	
35.	An attendance which is capable of being made by a clerk	32.70
	— or, per quarter hour	8.60
36.	Making an appointment or similar attendance by telephone	15.60
37.	An attendance on counsel:	33.30
	— with brief or other papers	
	— to appoint a conference or consultation	14.60
38.	A conference or consultation with counsel	87.70
	— or, per half hour	66.20
39.	On a summons or other application in Chambers	49.40
	— or, per half hour	87.70
40.	In Court or in Chambers instructing counsel on any hearing or application	
	— If a solicitor attends, per hour	210.90
	or	
	— If a clerk attends, per hour	87.80
41.	On an application or appearance before a Registrar or a Taxing Officer	109.90
	or	
	— Per hour	131.70
	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 of the Taxing Officer.	
42.	To hear judgment	57.50
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	440.80

Item

44. Where the Taxing Officer is satisfied that a solicitor's principal place of practice 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 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 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. 984.70
- not exceeding per day
45. An attendance for which no other provision is made 43.80
- 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 142.50
- clerk 47.50
47. Where appeal or application books are Prepared in a solicitor's office, the Taxing Officer may in his or her discretion 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 his or her 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.

Item

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 or her discretion the Taxing Officer may have regard to any matters which the Taxing Officer 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.

WITNESSES EXPENSES

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|-----|--|--------|
| 49. | Witnesses called because of their professional, scientific or other special skill or knowledge. | 802.10 |
| | Per day | |
| 50. | Witnesses called, other than those covered in item 49. | 84.60 |
| | Per day | |
| 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 cost of conveyance, together with a reasonable amount for sustenance or maintenance. | |
| 53. | The Taxing Officer may also allow such amount as he or she thinks reasonable and properly incurred and paid to witnesses for qualifying to give skilled evidence. | |

Item

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 or her discretion allow such additional charges or disbursements as the Taxing Officer considers reasonable.

Notes

1. These Rules amend Statutory Rules 1952 No. 23, as amended by 1953 Nos. 1 and 46; 1954 No. 102; 1955 Nos. 25 and 34; 1959 No. 107; 1960 Nos. 19 and 94; 1961 Nos. 19 and 89; 1968 No. 4; 1970 No. 17; 1973 Nos. 94 and 205; 1976 No. 44; 1977 No. 41; 1978 Nos. 10 and 46; 1980 Nos. 88 and 296; 1981 No. 24; 1982 Nos. 77, 164, 216 and 262; 1983 Nos. 257 and 263; 1984 No. 406; 1985 No. 387; 1986 Nos. 22, 290, 305 and 383; 1987 Nos. 46, 179 and 302; 1988 Nos. 218 and 230; 1989 Nos. 27 and 132; 1990 No. 349; 1991 Nos. 318 and 473; 1992 Nos. 40 and 85; 1993 Nos. 32 and 324; 1994 Nos. 1 and 144; 1995 Nos. 45 and 108; 1996 No. 260; 1997 No. 11; 1998 Nos. 61 and 298; 1999 No. 197; 2000 No. 274; 2001 No. 243.
2. Notified in the *Commonwealth of Australia Gazette* on *L* 2002. *18 September*