

## **SOLICITORS COSTS - TAXATION GUIDELINES**

### **1. Basis of taxation:**

On a taxation, a Taxing Master will allow a reasonable amount in respect of all costs reasonably incurred.

The rules provide two bases of taxation, the standard basis and the indemnity basis (r63.25). When costs are taxed on the standard basis, the benefit of the doubt is given to the paying party. Where costs are taxed on the indemnity basis, the benefit of the doubt goes to the receiving party.

### **2. Procedure:**

A person seeking taxation of a bill files a summons in the prescribed form (r63.36) and, at the same time, files a bill of costs. The summons is made returnable before a Taxing Master. The rules prescribe a time for service and for the lodging before taxation of a notice of objection. On the return date or any adjourned date, the bill is taxed and the Taxing Master states the result in the form of an order (r63.54). Where no notice of objection is filed, the Taxing Master retains a discretion "to tax the bill and allow or disallow the amount of costs in it in whole or in part" (r63.47).

### **3. Format of bill:**

The bill should start with a narrative (as rule 63.40(2) indicates) setting out the issues involved in the proceeding. This narrative should be *short and succinct*. It should indicate the status of the fee-earner to assist the Taxing Master in considering the claims made in the bill.

The rules provide that a bill be divided into 7 columns:

- (a) the first for the consecutive numbering of the items;
- (b) in the second, the dates of the items are to be set out chronologically;
- (c) the third is to contain sufficient details of each item to enable the other party and the Taxing Master to ascertain the nature of the attendance or correspondence for which the claim is made.
- (d) the fourth is for the amounts claimed for disbursements;
- (e) the fifth is for the amount claimed for professional costs; and
- (f) the last two are for the Taxing Master to record the amounts taxed off, one column headed "disbursements taxed off" and the other "costs taxed off".

Rule 63.40(7) requires every bill lodged for taxation to be signed by the solicitor whose bill it is.

### **4. Charges:**

The appropriate charge for an item of work is ascertained by reference either to the composite scale or to the time taken to perform the work. A good deal of work which is chargeable is done by a solicitor's clerk. Work of this kind includes such things as making and answering simple telephone calls, filing, service, searching and tasks of that nature. Where a solicitor does work which is essentially clerk's work (*ie no legal skill involved*) he or she can claim only for clerk's time with no loading for care and conduct.

#### **Composite scale:**

Part 3 of the Appendix to Order 63 comprises the composite scale. It covers letters, drawing and engrossing documents, telephone calls, marking annexures and copying. It differentiates between work requiring the application of legal skill and work not requiring such skill. It then provides a composite scale for specific aspects or parts of litigation such as work done relating to discovery, interrogatories and the like. The set charges vary each year with the percentage increase in the unit rate.

Practitioners are not bound by the composite scale and, if they choose to, may charge for an item by reference to the time taken to perform the task. To be allowable, that charge must be for work reasonably done and time reasonably spent.

If the reasonable charge does not exceed by 20% or more the relevant composite scale fee for that item, only the composite fee is allowable (*O63, Appendix Part 3, Note 4A*).

**Composite scale fee for winding up applications:**

A composite scale fee has been determined for winding up applications. See Master's memorandum to practitioners dated 15 July 1993.

**5. General care and conduct:**

In a bill of costs, a party may, claim general care and conduct.

In exercising a discretion in relation to care and conduct (*or any item in a bill where he or she has a discretion*), the Taxing Master is required to have regard to the factors listed in r 63.46(2).

General care and conduct, concerns the general care, conduct and skill applied by a solicitor in a proceeding as a whole, for which no direct time can be substantiated, and includes the general supervision of, and indirect responsibility for, the conduct of the proceeding.

Thus, general care and conduct covers the imponderables for which no direct time can be substantiated. It is a percentage mark-up of the costs allowed depending on the difficulty, responsibility and importance of the case to the client.

**6. Travelling time:**

Travelling time, where appropriate, will be allowed in respect of each item based on the solicitor's hourly rate. Waiting time will be similarly allowed.

**7. Letters and telephone calls:**

For letters and telephone calls, a minimum of one unit applies. A solicitor is free, in the case of a letter, to adopt item 1 of the Composite Scale, or, in the case of a telephone call, to adopt item 4 of that scale. The solicitor is also free to base a charge on the time involved in producing the letter or making the telephone call and charge accordingly at the relevant rate.

The 6 minute unit for a letter includes perusing and considering incoming letters. Therefore, no separate charge is allowable for incoming letters - see paragraph 6 of Part 1 of the Appendix.

For a Taxing Master to allow a sum larger than the Composite Scale provides, the charge must be based on the actual time involved for letters of substance and for telephone calls which properly amount to attendances. Details of the work done must be provided by the solicitor and time records produced.

**8. Service of process:**

If it is proper for service of process (*other than an originating process*) to be effected by a solicitor or clerk, a relevant chargeable item should be shown in the bill.

If service is effected by a process server or by a solicitor's agent, the process server's or the agent's charges should be shown as a disbursement.

**9. Witness fees:**

Witness fees are at large and are allowed on the basis of what is reasonable (*r63.32(3)*).

**10. Time records:**

Correctly kept and detailed time records will be helpful in support of a bill if they explain the nature of the work as well as recording the time involved. The absence of these records may result in the

disallowance or diminution of the charges claimed. Time records cannot, however, be accepted as conclusive evidence that the time recorded either has been spent, or, if spent, is reasonably chargeable.

Accounts must be produced for all payments claimed (*other than ordinary out-of-pocket disbursements*). In the case of substantial witness expenses and professional fees, (*other than fees to counsel or medical experts*), the account must be accompanied by details showing the work done and the computation of the charge. Copies of these details should be annexed to the copy bill served on the paying party. Failure to comply with this requirement will delay the taxation and may result in a reduction or a disallowance of the costs allowable on taxation.

11. **Travelling expenses:**

Where travelling expenses are claimed, they should be shown as a disbursement and details supplied. Local travelling expenses will not be allowed. The meaning of "local" is a matter for the discretion of a Taxing Master. While no absolute rule can be laid down, as a matter of guidance, in a proceeding in Darwin or in Alice Springs, "local" will be taken to mean "within a radius of 50 kilometres from the office of the relevant Registry."

12. **Postage etc:**

The cost of postage, outgoing telephone calls and facsimile messages is, in general, part of the solicitor's normal overhead expenses and must not be claimed in a bill. The Taxing Master may, in his or her discretion, allow it as a disbursement in unusual circumstances, or where the cost is so unusually heavy that the solicitor could not reasonably be supposed to have taken it into account as part of normal overheads.

13. **Agency:**

Where the agent is an interstate solicitor, rule 63.42 must be complied with. It would assist the Taxing Master if a copy of the relevant interstate costs scale were attached to the agent's bill.

Agency charges for advising the principal how to proceed are not recoverable on the standard basis of taxation.

14. **Part (f) – Taxation:**

Drawing a bill of costs is a chargeable attendance under the rules.

When bills are lodged for taxation, the relevant papers should be available to the Taxing Master. Failure to observe this requirement can substantially increase the time and expense of the taxation process and may result in the bill being refused or disallowed. For the purpose of this paragraph, "relevant papers" are:

- (1) Where –
  - (a) costs are to be taxed pursuant to a judgment or order of this Court - the judgment or order duly authenticated;
  - (b) the entitlement to have costs taxed arose by virtue of a direction given by the court - that direction;
  - (c) a party is entitled to have costs taxed under the *Supreme Court Rules* the relevant order made or notice given or a copy of the amended pleading (*as the case may be*);
  - (d) a person entitled to have taxed costs payable under an arbitration – the original or a certified copy of the award; and
  - (e) a party is entitled to have taxed costs payable under an order, award or determination of a tribunal or other body constituted by or under an Act the original or a certified copy of the order, award or determination (*as the case may be*); and

- (2) Unless the Taxing Master otherwise orders, the papers and vouchers specified below in the order mentioned -
- (a) unless the relevant information is included in the judgment or order, or the parties have agreed the time of the hearings, a certificate of those times or a copy of the associate's report of listing;
  - (b) a bundle comprising fee notes of counsel and accounts for other disbursements;
  - (c) one complete set of pleadings arranged in chronological order, with any interlocutory summonses and lists of documents annexed to it;
  - (d) brief to counsel to advise with counsel's advice and opinions, and instructions to counsel to settle documents and briefs to counsel with enclosures, arranged in chronological order;
  - (e) reports and opinions of medical and other experts arranged in chronological order;
  - (f) the solicitor's correspondence and attendance notes; and
  - (g) any other relevant papers duly bundled and labelled.

The Taxing Master may require a party seeking taxation of a bill to deposit with the Taxing Master before the taxation any of the relevant papers referred to in paragraph (2) above.

16. ***Reconsideration and review:***

A party dissatisfied or aggrieved with a ruling of the Taxing Master may apply to the Taxing Master to reconsider. The rules prescribe the procedure (*r63.55*). A request for reconsideration must be made within 14 days after the date of the decision to which it relates.

Any party dissatisfied with the decision of the Taxing Master following a reconsideration may apply to a Judge for review (*r63.55(11)*)

**VARIATION TO SCALE APPLICABLE  
UNDER APPENDIX TO ORDER 63 OF THE SUPREME COURT RULES**

**PART 3  
COMPOSITE SCALE**

| ITEM   | MATTER IN RESPECT OF WHICH CHARGE IS MADE  | 1/1/13-<br>31/12/13 | 1/1/14-<br>31/12/14 | 1/1/15-<br>31/12/15 | 1/1/16-<br>31/12/16 | 1/1/17-<br>31/12/17 | 1/1/18-<br>31/12/18 | 1/1/19-<br>31/12/19 | 1/1/20-<br>31/12/20 | 1/1/21 –<br>31/12/21 |
|--|--|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|
| <u>1. LETTERS</u>  |  |                     |                     |                     |                     |                     |                     |                     |                     |                      |
|  | a. Special   | 127                 | 132                 | 127                 | 132                 | 138                 | 140                 | 143                 | 143                 | 143                  |
|  | b. Ordinary  | 91                  | 95                  | 91                  | 95                  | 99                  | 101                 | 103                 | 104                 | 104                  |
|  | c. Circular  | 14                  | 14                  | 13                  | 14                  | 15                  | 15                  | 15                  | 15                  | 15                   |
| <u>2. DRAWING AND ENGROSSING</u>   |  |                     |                     |                     |                     |                     |                     |                     |                     |                      |
|  | a. Court document  |                     |                     |                     |                     |                     |                     |                     |                     |                      |
|  | i. requiring skill   | 142                 | 148                 | 142                 | 148                 | 154                 | 157                 | 160                 | 162                 | 162                  |
|  | ii. Using form or standard document or in case of a standard form of judgment, order or the like | 77                  | 80                  | 77                  | 80                  | 84                  | 85                  | 87                  | 87                  | 87                   |
|  | b. Other   |                     |                     |                     |                     |                     |                     |                     |                     |                      |
|  | i. requiring skill   | 39                  | 41                  | 39                  | 41                  | 43                  | 44                  | 45                  | 45                  | 45                   |
|  | ii. Not requiring skill  | 26                  | 27                  | 26                  | 27                  | 28                  | 28                  | 29                  | 29                  | 29                   |
| <u>3. ENGROSSING A DOCUMENT DRAWN BY SOMEONE OTHER THAN SOLICITOR MAKING THE CHARGE - PER UNIT</u> |  |                     |                     |                     |                     |                     |                     |                     |                     |                      |
|  |  | 14                  | 14                  | 13                  | 14                  | 15                  | 15                  | 15                  | 15                  | 15                   |
| <u>4. TELEPHONE CALLS</u>  |  |                     |                     |                     |                     |                     |                     |                     |                     |                      |
|  | a. Requiring skill - per unit  | 25                  | 26                  | 25                  | 26                  | 27                  | 27                  | 28                  | 28                  | 28                   |
|  | b. Not requiring skill - per unit  | 14                  | 14                  | 13                  | 14                  | 15                  | 15                  | 15                  | 15                  | 15                   |

| ITEM | MATTER IN RESPECT OF WHICH CHARGE IS MADE   | 1/1/13-31/12/13 | 1/1/14-31/12/14 | 1/1/15-31/12/15 | 1/1/16-31/12/16 | 1/1/17-31/12/17 | 1/1/18-31/12/18 | 1/1/19-31/12/19 | 1/1/20-31/12/20 | 1/1/21 – 31/12/21 |
|------|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------------|
|      | <u>5. MARKING ANNEXURES, EXHIBITS, ENCLOSING NOTICES OF APPOINTMENT AND THE LIKE - PER UNIT</u> | 14              | 14              | 13              | 14              | 15              | 15              | 15              | 15              | 15                |
|      | <u>6. COPYING - PER UNIT</u>  | 14              | 14              | 13              | 14              | 15              | 15              | 15              | 15              | 15                |
|      | <u>7. INSTRUCTIONS TO SUE TO NOTICE OF TRIAL</u>  | 1766            | 1837            | 1766            | 1837            | 1908            | 1941            | 1981            | 1998            | 2001              |
|      | <u>8. INSTRUCTIONS TO DEFEND TO NOTICE OF TRIAL</u>   | 1279            | 1330            | 1279            | 1330            | 1381            | 1405            | 1434            | 1446            | 1448              |
|      | <u>9. APPLICATION IN A PROCEEDING -</u>   |                 |                 |                 |                 |                 |                 |                 |                 |                   |
|      | a. Contested  | 1132            | 1177            | 1132            | 1177            | 1222            | 1243            | 1269            | 1279            | 1281              |
|      | b. Uncontested  | 905             | 941             | 905             | 941             | 977             | 994             | 1015            | 1023            | 1025              |
|      | <u>10. REQUIRING DISCOVERY AND INSPECTION</u>   | 679             | 706             | 679             | 706             | 733             | 746             | 762             | 768             | 769               |
|      | <u>11. PROVIDING DISCOVERY AND INSPECTION</u>   | 509             | 529             | 509             | 529             | 549             | 558             | 570             | 574             | 575               |
|      | <u>12. SEEKING ANSWERS TO INTERROGATORIES</u>   | 781             | 812             | 781             | 812             | 843             | 858             | 876             | 883             | 885               |
|      | <u>13. FURNISHING ANSWERS TO INTERROGATORIES</u>  | 827             | 860             | 827             | 860             | 893             | 908             | 927             | 934             | 936               |
|      | <u>14. ATTENDANCE AT LISTING HEARING OR OTHER DIRECTIONS HEARING*</u>                           | N/A             | N/A             | N/A             | N/A             | 300             | 305             | 311             | 314             | 315               |

\*Item introduced on 12 July 2017 and in calendar year 2017, only applies to Listing Hearings, Directions Hearings and Settlement Conferences occurring post 12 July 2017

| ITEM | MATTER IN RESPECT OF WHICH CHARGE IS MADE       | 1/1/13-31/12/13 | 1/1/14-31/12/14 | 1/1/15-31/12/15 | 1/1/16-31/12/16 | 1/1/17-31/12/17 | 1/1/18-31/12/18 | 1/1/19-31/12/19 | 1/1/20-31/12/20 | 1/1/21 – 31/12/21 |
|------|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------------|
|      | <u>15. ATTENDANCE AT SETTLEMENT CONFERENCE*</u> | N/A             | N/A             | N/A             | N/A             | 500             | 509             | 520             | 524             | 525               |

\*Item introduced on 12 July 2017 and in calendar year 2017, only applies to Listing Hearings, Directions Hearings and Settlement Conference occurring post 12 July 2017

**PART 4 - FIXED COSTS**

**BASIC COSTS**

| ITEM | MATTER IN RESPECT OF WHICH CHARGE IS MADE | 1/1/13-31/12/13 | 1/1/14-31/12/14 | 1/1/15-31/12/15 | 1/1/16-31/12/16 | 1/1/17-31/12/17 | 1/1/18-31/12/18 | 1/1/19-31/12/19 | 1/1/20-31/12/20 | 1/1/21 - 31/12/21 |
|------|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------------|
| 1.   | <u>COSTS TO BE CLAIMED ON WRIT</u>        | 679             | 706             | 679             | 706             | 733             | 746             | 762             | 768             | 769               |

In addition, stamp duty paid on filing the writ and on relevant copies or fees payable under the *Supreme Court Regulations*, Schedule, Part 2, Item 1

2. COSTS ON JUDGMENT IN DEFAULT OF APPEARANCE

|    |  |      |      |      |      |      |      |      |      |      |
|----|--|------|------|------|------|------|------|------|------|------|
| a. | Where Writ served by post                                | 905  | 941  | 905  | 941  | 977  | 994  | 1015 | 1023 | 1025 |
| b. | Where Writ served by solicitors' clerk                   | 1019 | 1060 | 1019 | 1019 | 1092 | 1111 | 1134 | 1143 | 1145 |
| c. | Where Writ served by person other than solicitors' clerk | 905  | 941  | 905  | 941  | 977  | 994  | 1015 | 1023 | 1025 |

In addition:

|    |  |    |    |    |    |    |    |    |    |    |
|----|--|----|----|----|----|----|----|----|----|----|
| d. | Where more than one defendant - for each | 25 | 26 | 25 | 26 | 27 | 27 | 28 | 28 | 28 |
|----|--|----|----|----|----|----|----|----|----|----|

e. The cost of stamp duty paid on filing the Writ and on relevant copies or fees payable under the *Supreme Court Regulations*, Schedule, Part 2, item 1.

f. Where paragraph (c) applies, a reasonable amount paid for service.

**ADDITIONAL COSTS**

| <b>ITEM</b>   | <b>MATTER IN RESPECT OF WHICH CHARGE IS MADE</b>   | <b>1/1/13-31/12/13</b> | <b>1/1/14-31/12/14</b> | <b>1/1/15-31/12/15</b> | <b>1/1/16-31/12/16</b> | <b>1/1/17-31/12/17</b> | <b>1/1/18-31/12/18</b> | <b>1/1/19-31/12/19</b> | <b>1/1/20-31/12/20</b> | <b>1/1/21 - 31/12/21</b> |
|---|--|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|--------------------------|
| <u>3. IN ADDITION TO COSTS PAYABLE UNDER ITEM 2 -</u> |  |                        |                        |                        |                        |                        |                        |                        |                        |                          |
|   | a. Costs in default of defence   | 114                    | 119                    | 114                    | 119                    | 124                    | 126                    | 129                    | 130                    | 130                      |
|   | b. Where service out of the jurisdiction is ordered and effected   |                        |                        |                        |                        |                        |                        |                        |                        |                          |
|   | i. in the case of service in the Commonwealth  | 341                    | 355                    | 341                    | 355                    | 369                    | 375                    | 383                    | 386                    | 387                      |
|   | ii. in the case of service overseas  | 453                    | 471                    | 453                    | 471                    | 489                    | 497                    | 507                    | 511                    | 512                      |
|   | c. Where substituted service is ordered and effected   |                        |                        |                        |                        |                        |                        |                        |                        |                          |
|   | i. on only Defendant   | 905                    | 941                    | 905                    | 941                    | 977                    | 994                    | 1015                   | 1023                   | 1025                     |
|   | ii. Where more than one defendant so served - in respect of each defendant served and in addition,                             | 114                    | 119                    | 114                    | 119                    | 124                    | 126                    | 129                    | 130                    | 130                      |
|   | iii. The reasonable fees incurred for any advertising required under an order for substituted service; and                     |                        |                        |                        |                        |                        |                        |                        |                        |                          |
|   | d. Where a judgment is registered under the <i>Service and Execution of Process Act 1992</i> (Cth) - for costs or registration | 226                    | 235                    | 226                    | 235                    | 244                    | 248                    | 253                    | 253                    | 253                      |
|   | e. Where leave to proceed is given under the <i>Service and Execution of Process Act 1992</i> (Cth) - on entry of judgment     | 679                    | 706                    | 679                    | 706                    | 733                    | 746                    | 762                    | 762                    | 763                      |



**COMPOSITE FEES FOR WINDING UP OF COMPANIES**

(See Master's Memoranda No 3/93 and 1/13)

|   | <b>1/1/13-<br/>31/12/13</b> | <b>1/1/14-<br/>31/12/14</b> | <b>1/1/15-<br/>31/12/15</b> | <b>1/1/16-<br/>31/12/16</b> | <b>1/1/17-<br/>31/12/17</b> | <b>1/1/18-<br/>31/12/18</b> | <b>1/1/19-<br/>31/12/19</b> | <b>1/1/20-<br/>31/12/20</b> | <b>1/1/21 -<br/>31/12/21</b> |
|---|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|------------------------------|
| Composite fee for winding up order (not including disbursements)  | 3023                        | 3144                        | 3023                        | 3144                        | 3265                        | 3321                        | 3390                        | 3418                        | 3424                         |
| Composite fee for appointment of provisional liquidator (not including disbursements and additional to the above) | 1335                        | 1388                        | 1335                        | 1388                        | 1441                        | 1466                        | 1496                        | 1509                        | 1512                         |
| Additional fee for adjournment where allowed or reserved by the Court, for each adjournment                       | 250                         | 260                         | 250                         | 260                         | 270                         | 275                         | 281                         | 283                         | 283                          |

## ***INTEREST RATES ON JUDGMENT DEBTS***

The following table sets out the rate for the calculation of post-judgment interest pursuant to Order 59 of the Supreme Court Rules.

Note: Before relying on the information in this table for any purpose, including in calculating post-judgment interest, users should independently verify its accuracy, currency and completeness.

| <b>Period</b>            | <b>%</b> |
|--------------------------|----------|
| 01/01/2012 to 30/06/2012 | 10.25    |
| 01/07/2012 to 31/12/2012 | 9.50     |
| 01/01/2013 to 30/06/2013 | 9.00     |
| 01/07/2013 to 31/12/2013 | 8.75     |
| 01/01/2014 to 31/12/2014 | 8.50     |
| 01/01/2015 to 30/06/2015 | 8.50     |
| 01/07/2015 to 31/12/2015 | 8.00     |
| 01/01/2016 to 30/06/2016 | 8.00     |
| 01/07/2016 to 31/12/2016 | 7.75     |
| 01/01/2017 to 30/06/2017 | 7.50     |
| 01/07/2017 to 31/12/2017 | 7.50     |
| 01/01/2018 to 30/06/2018 | 7.50     |
| 01/07/2018 to 31/12/2018 | 7.50     |
| 01/01/2019 to 30/06/2019 | 7.50     |
| 01/07/2019 to 31/12/2019 | 7.25     |
| 01/01/2020 to 30/06/2020 | 6.75     |
| 01/07/2020 to 31/12/2020 | 6.25     |
| 01/01/2021 to 30/06/2021 | 6.10     |
| 01/07/2021 to 31/12/2021 | 6.10     |

## **CLAIMS FOR NON PECUNIARY DAMAGES FOR PERSONAL INJURIES**

(ss27 and 28 of the *Personal Injuries (Liabilities and Damages) Act 2003*)

| <b>Period</b>       | <b>Amount</b> |
|---------------------|---------------|
| 1.10.2009-30.9.2010 | \$457,000.00  |
| 1.10.2010-30.9.2011 | \$476,500.00  |
| 1.10.2011-30.9.2012 | \$511,500.00  |
| 1.10.2012-30.9.2013 | \$555,500.00  |
| 1.10.2013-30.9.2014 | \$571,000.00  |
| 1.10.2014-30.9.2015 | \$583,500.00  |
| 1.10.2015-30.9.2016 | \$585,500.00  |
| 1.10.2016-30.9.2017 | \$625,500.00  |
| 1.10.2017-30.9.2018 | \$660,000.00  |
| 1.10.2018-30.9.2019 | \$664,000.00  |
| 1.10.2019-30.9.2020 | \$662,000.00  |
| 1.10.2020-30.9.2021 | \$679,000.00  |
| 1.10.2021-30.9.2021 | \$686,500.00  |

## **MAXIMUM AMOUNT OF DAMAGES FOR NON-ECONOMIC LOSS**

*Section 32(3) of the Defamation Act*

| <b>Relevant Period</b> | <b>Amount</b> | <b>Relevant Date</b>                |
|------------------------|---------------|-------------------------------------|
| 1.7.2010-30.6.2011     | \$311,000.00  | 7 June 2010 Gazette G25 23.06.2010  |
| 1.7.2011-30.6.2012     | \$324,000.00  | 15 June 2011 Gazette G25 22.06.2011 |
| 1.7.2012-30.6.2013     | \$339,000.00  | 14 June 2012 Gazette G26 27.06.2012 |
| 1.7.2013-30.6.2014     | \$355,000.00  | 30 May 2013 Gazette G24 12.06.2013  |
| 1.7.2014-30.6.2015     | \$366,000.00  | 5 June 2014 Gazette G41 23.06.2014  |
| 1.7.2015-30.6.2016     | \$376,500.00  | 19 May 2015 Gazette G23 10.06.2015  |
| 1.7.2016-30.6.2017     | \$381,000.00  | 16 May 2016 Gazette G21 25.05.2016  |
| 1.7.2017-30.6.2018     | \$389,500.00  | 29 May 2017 Gazette G23 07.06.2017  |
| 1.7.2018-30.6.2019     | \$398,500.00  | 22 May 2018 Gazette G22 30.05.2018  |
| 1.7.2019-30.6.2020     | \$407,500.00  | 11 June 2019 Gazette G26 26.06.2019 |
| 1.7.2020-30.6.2021     | \$421,000.00  | 10 June 2020 Gazette G23 15.06.2020 |
| 1.7.2021-30.6.2022     | \$432,500.00  | 11 June 2021 Gazette G25 23.06.2021 |

**COUNSEL' S FEES - GUIDELINES TO TAXATION OF COSTS  
AND SUPPLEMENTARY RULES**

The following guidelines apply in respect of work done on or after 16 May 1988.

These guidelines apply only to members of the independent bar.

As a general rule, where counsel briefed is a member of a firm, the following should be noted

- (1) where Counsel is briefed by himself, the rate allowed to counsel will be 3/4 of the rate allowed to the independent bar calculated to the nearest dollar; and
- (2) where counsel is briefed by a member of the same firm in which he is employed, the rate allowed will be 5/6 of the rate allowed to counsel at the independent bar. (*See Rule 63.73 of the Supreme Court Rules*)

These guidelines do not fetter the discretion of the Taxing Master to allow a higher or lower rate in an appropriate case.

The two-third rule does not apply to junior counsel who shall be entitled to charge a proper fee which may be more or less than two-thirds of the fee for senior counsel.

The rule that refreshers are allowed at two-thirds of the brief fee no longer applies. Rates for appearances in Court are calculated at a calendar daily rate. Preparation time previously reflected in the fee on brief and refresher rates is now allowed for separately. The full daily rate will include the following -

- (1) attendance in Court during the hearing in excess of 2 1/2 hours;
- (2) short conferences before or after the hearing, or during the luncheon or other adjournments; and
- (3) work done outside of hearing time on that day including perusing transcript, preparing oral addresses, legal research and normal work for the continuance of the hearing.

Preparation time involved prior to the commencement of the hearing is allowed at a calendar daily rate and will include -

- (1) reasonable reading time and legal research time; and
- (2) preparation of chronologies, list of authorities, written submissions or outlines of written submissions (*where reasonably necessary*).

Conferences will be allowed where it is reasonable for a conference to have taken place, either by Counsel, or by instructing solicitor. Where a conference has occurred but could have, or should have, been avoided or reduced in time had the witnesses concerned been adequately proofed by the instructing solicitor, counsel's fees will be allowed at instructing solicitor's rates, and no allowance or a reduced allowance will be made on the solicitor's bill for such conferences. It is generally accepted that a conference or conferences will be allowed to counsel where the witness is -

- (1) the lay client;
- (2) a witness of substantial importance to the case including an expert witness; and
- (3) from interstate or from a place remote from the solicitor's office and it was not reasonable or practicable for the witness to be proofed by the solicitor before trial commences.

Conferences of the kind referred to above held during a day when a fee at the daily rate has been allowed will not normally be allowed unless the conference was lengthy and would have been allowed for separately if it had occurred prior to trial, and will not be allowed at all where the Taxing Master considers that counsel has been adequately remunerated by the daily rate for that day.

Where waiting or travelling time is reasonably incurred and is not part of the brief fee or refresher fee, that time will be allowed (*up to a maximum of 5 hours per day*) at a rate per hour equal to 15% of the daily rate.

These guidelines are to be read subject to Order 63 of the *Supreme Court Rules*.

A fee commensurate with the daily rate will be allowed, sufficient to reward counsel for the need to refresh his memory if the case is interrupted by lengthy adjournments.

In deciding upon a rate within a range, the Taxing Master will usually have regard to the standing of counsel involved, and the fees reasonably charged by counsel in matters of a similar kind. For the range itself to be applicable it is assumed –

- (1) that the case is of ordinary complexity for the category of counsel concerned;
- (2) that the amount involved, (*where applicable*), is neither significantly above nor below the normal range of Supreme Court matters for the category of counsel concerned;
- (3) that there has been no interlocutory or other work done which has significantly reduced the work otherwise necessary in relation to the brief; and
- (4) that there was no real possibility that counsel would be called upon to argue on behalf of a party not represented at the hearing.

Where the rate per unit for solicitors' fees fixed under Part 1 of the Appendix to Order 63 of the *Supreme Court Rules* is varied, the rates published in these guidelines shall be adjusted *pro tanto* in accordance with the percentage by which the rate per unit has been adjusted, (*rounded off to the nearest \$10.00*), such adjustments to take effect as and from the same date as the Chief Justice fixes for any adjustment to the rate per unit for solicitors fees.

Associate Justice Luppino

## **COUNSEL'S FEES (\$)**

### **COUNSEL'S FEES**

|                                       | 1/1/13-<br>31/12/13 | 1/1/14-<br>31/12/14 | 1/1/15-<br>31/12/15 | 1/1/16-<br>31/12/16 | 1/1/17-<br>31/12/17 | 1/1/18-<br>31/12/18 | 1/1/19-<br>31/12/19 | 1/1/20-<br>31/12/20 | 1/1/21 -<br>31/12/21 |
|---------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|
| <b>1. Court Preparation</b>           |                     |                     |                     |                     |                     |                     |                     |                     |                      |
| a. Per hour up to                     |                     |                     |                     |                     |                     |                     |                     |                     |                      |
| Junior                                | 320                 | 333                 | 320                 | 333                 | 346                 | 352                 | 359                 | 362                 | 363                  |
| Senior junior                         | 420                 | 437                 | 420                 | 437                 | 454                 | 462                 | 472                 | 475                 | 476                  |
| Senior                                | 670                 | 697                 | 670                 | 697                 | 724                 | 737                 | 752                 | 758                 | 759                  |
| b. Per day up to                      |                     |                     |                     |                     |                     |                     |                     |                     |                      |
| Junior                                | 1860                | 1934                | 1860                | 1934                | 2008                | 2043                | 2085                | 2103                | 2107                 |
| Senior junior                         | 2910                | 3026                | 2910                | 3026                | 3142                | 3196                | 3262                | 3289                | 3295                 |
| Senior                                | 4655                | 4841                | 4655                | 4841                | 5027                | 5114                | 5220                | 5263                | 5272                 |
| <b>2. Opinions up to</b>              |                     |                     |                     |                     |                     |                     |                     |                     |                      |
| Junior                                | 790                 | 821                 | 789                 | 821                 | 853                 | 868                 | 886                 | 893                 | 895                  |
| Senior junior                         | 1245                | 1295                | 1245                | 1295                | 1345                | 1368                | 1396                | 1408                | 1410                 |
| Senior                                | 1990                | 2070                | 1990                | 2070                | 2150                | 2187                | 2232                | 2251                | 2255                 |
| <b>3. Drawing or Settling - up to</b> |                     |                     |                     |                     |                     |                     |                     |                     |                      |
| Junior                                | 410                 | 426                 | 410                 | 426                 | 442                 | 450                 | 459                 | 463                 | 464                  |
| Senior junior                         | 635                 | 660                 | 635                 | 660                 | 685                 | 697                 | 711                 | 717                 | 718                  |
| Senior                                | 995                 | 1035                | 995                 | 1035                | 1075                | 1094                | 1117                | 1126                | 1128                 |