

APPENDIX B

PARTY AND PARTY COSTS

Interpretation

- 1 In this Appendix "**process**" means the drawing, filing, service or delivery of a document and any amendment to it or particulars of it, but does not include an application made with respect to the process or any part of the process.

Scale of costs

- 2 (a) Where a court has made an order for costs, it may fix the scale, from Scale A to Scale C in subsection (b), under which the costs will be assessed, and may order that one or more steps in the proceeding be assessed under a different scale from that fixed for other steps.
 - (b) In fixing the scale of costs the court shall have regard to the following principles:
 - (i) Scale A is for matters of little or less than ordinary difficulty;
 - (ii) Scale B is for matters of ordinary difficulty;
 - (iii) Scale C is for matters of more than ordinary difficulty.
 - (c) In fixing the appropriate scale under which costs will be assessed, the court may take into account the following:
 - (i) whether a difficult issue of law, fact or construction is involved;
 - (ii) whether an issue is of importance to a class or body of persons, or is of general interest;
 - (iii) whether the result of the proceeding effectively determines the rights and obligations as between the parties beyond the relief that was actually granted or denied.
 - (d) If, after December 31, 2006, a settlement is reached under which payment of assessed costs is agreed to or an order for costs is made, and if no scale is fixed or agreed to in that settlement or order, the costs must be assessed under Scale B, unless a party, on application, obtains an order of the court that the costs be assessed under another scale.
 - (e) If, after it fixes the scale of costs applicable to a proceeding under subsection (a) or (d), the court finds that, as a result of unusual circumstances, an award of costs on that scale would be grossly inadequate or unjust, the court may order that the value for each unit allowed for that proceeding, or for any step in that proceeding, be 1.5 times the value that would otherwise apply to a unit in that scale under section 3 (a).

(f) For the purposes of subsection (e), an award of costs is not grossly inadequate or unjust merely because there is a difference between the actual legal expenses of a party and the costs to which that party would be entitled under the scale of costs fixed under subsection (a) or (d).

(g) Where costs may be assessed without order or agreement, the scale of costs shall be fixed by the clerk upon the assessment.

(h) If an offer to settle is made under Rule 39 after December 31, 2006, any costs payable on acceptance of that offer must be assessed under Scale B.

Value of units

3 (a) The value for each unit allowed on an assessment conducted after December 31, 2006 in relation to orders and settlements made after that date is as follows:

(i) Scale A — \$60;

(ii) Scale B — \$110;

(iii) Scale C — \$170.

(b) Where maximum and minimum numbers of units are provided for in an Item in the Tariff, the clerk has the discretion to allow a number within that range of units.

(c) In assessing costs where the Tariff indicates a range of units, the clerk shall have regard to the following principles:

(i) one unit is for matters upon which little time should ordinarily have been spent;

(ii) the maximum number of units is for matters upon which a great deal of time should ordinarily have been spent.

Per diem rates

4 (a) Where in a Tariff Item a number of units is allowed for each day but the time spent during a day is not more than 2 1/2 hours, only 1/2 of the number of units shall be allowed for that day.

(b) Where in a Tariff Item a number of units is allowed for each day but the time spent during a day is more than 5 hours, the number of units allowed for that day shall be increased by 1/2 of the number.

(c) Where in a Tariff Item a number of units is allowed for preparation for an attendance but the time spent on the attendance is not more than 2 1/2 hours, only 1/2 of the number of units for preparation shall be allowed.

(d) Where in the Tariff units may be allowed for preparation for an activity, the clerk may allow units for preparation for an activity that does not take place or is adjourned up to the maximum allowable for one day.

Uncontested family law proceedings

- 5 In a family law proceeding in which no claim, other than a claim for costs, has been contested, the costs shall be assessed under Scale B.

Uncontested foreclosure proceedings

- 6 In a proceeding under Rule 57, uncontested at the hearing on any issue except costs, the costs shall be assessed under Scale B.

Default judgment and process for execution

- 7 (a) Where judgment is entered upon default of appearance or of pleading, the costs shall be in accordance with Schedule 1.
- (b) Where a writ of execution or garnishing order, or process in Forms 45 to 47, is issued, the costs shall be endorsed on the process and allowed in accordance with Schedule 2, instead of Item 32.
- (c) The amount involved under subsection (a) is the amount for which the judgment is entered.
- (d) The amount involved under subsection (b) is the amount payable, if any, that is endorsed on the process.
- (e) In addition to the fees set out in Schedules 1 and 2, the costs of any application to the court relating to the judgment or to the process for execution may be ordered to be assessed under the Tariff.

Apportionment where proceedings tried together

- 8 Where 2 or more proceedings have, by order, been tried at the same time or tried one after the other and no order has been made as to apportionment of costs, the clerk may
- (a) assess 2 or more bills as one bill,
- (b) allow an item once or more than once, or
- (c) apportion the costs of an item or of the whole bill between the proceedings.

Offer to settle bill of costs

- 9 A party to an assessment may deliver to another party an offer to settle the amount of the bill of costs in Form 114 and, after the assessment has been completed, may produce the offer to the clerk, and the clerk shall determine whether the offer should have been accepted and, if so, may disallow items of the Tariff which relate to the assessment to the party presenting the bill, and
- (a) allow, by way of set off, items of the Tariff which relate to the assessment to the party making the offer, or

(b) allow double the value of items of the Tariff which relate to the assessment to the party presenting the bill and making the offer.

Transitional

10 This Appendix, as it read on December 31, 2006, applies to

- (a) orders for costs made before January 1, 2007,
- (b) settlements reached before January 1, 2007 under which payment of assessed costs is agreed to,
- (c) costs payable on acceptance of an offer to settle made under Rule 39, if that offer to settle was made before January 1, 2007, and
- (d) all assessments related to those orders, settlements and costs.

SCHEDULE 1

Item		
1	If the amount involved is	
	(a) less than \$5 000	\$160
	(b) \$5 000 or more, but less than \$15 000	240
	(c) \$15 000 or more, but less than \$25 000	320
	(d) \$25 000 or more, but less than 35 000	400
	(e) \$35 000 or more, but less than \$45 000	480
	(f) \$45 000 or more, but less than \$55 000	560
	(g) \$55 000 or more, but less than \$65 000.....	620
	(h) more than \$65 000	680
2	If no amount is involved	320
3	And in addition, disbursements.	

SCHEDULE 2

Item		
1	If the amount involved is	
	(a) less than \$5 000	\$30
	(b) \$5 000 or more, but less than \$15 000	50
	(c) \$15 000 or more, but less than \$25 000	75

	(d) \$25 000 or more, but less than \$35 000	100
	(e) \$35 000 or more, but less than \$45 000	125
	(f) \$45 000 or more, but less than \$55 000	150
	(g) \$55 000 or more, but less than \$65 000	170
	(h) more than \$65 000	185
2	If no amount is involved	95
3	And in addition, disbursements.	

SCHEDULE 3

Item		
1	If the application is unopposed	
	(a) Scale A	\$240
	(b) Scale B.....	440
	(c) Scale C.....	680
	And, in addition,	
	(d) in lieu of disbursements	\$120
	(e) if one or more taxes is payable in respect of legal services by the party entitled to costs, an additional amount to compensate for that tax, which additional amount must be determined by multiplying the amount of costs to which the party is entitled under this Item by the aggregate of the percentage rates of the taxes.	
2	If the application is opposed and requires 1/2 a day or less for the hearing	
	(a) Scale A	\$300
	(b) Scale B	550
	(c) Scale C	850
	And, in addition,	
	(d) in lieu of disbursements	\$120
	(e) if one or more taxes is payable in respect of legal services by the party entitled to costs, an additional amount to compensate for that tax, which additional amount must be determined by multiplying the amount of costs to which the party is entitled under this Item by the aggregate of the percentage rates of the taxes.	
3	If the application is opposed and requires more than 1/2 a day for the hearing	

(a)	Scale A	\$540
(b)	Scale B	990
(c)	Scale C	1 530
And, in addition,		
(d)	in lieu of disbursements	\$120
(e)	if one or more taxes is payable in respect of legal services by the party entitled to costs, an additional amount to compensate for that tax, which additional amount must be determined by multiplying the amount of costs to which the party is entitled under this Item by the aggregate of the percentage rates of the taxes.	

TARIFF

Item	Description	Units	
		Minimum	Maximum
	<i>Instructions and investigations</i>		
1A	Correspondence, conferences, instructions, investigations or negotiations by a party until the commencement of the proceeding, for which provision is not made elsewhere in this tariff.	Minimum	1
		Maximum	10
1B	Correspondence, conferences, instructions, investigations or negotiations by a party after the commencement of the proceeding to the completion of the trial or hearing, for which provision is not made elsewhere in this tariff.	Minimum	10
		Maximum	30
1C	Correspondence, conferences, instructions, investigations or negotiations by a party after the trial or hearing to enforce any final order obtained in that trial or hearing, for which provision is not made elsewhere in this tariff.	Minimum	1
		Maximum	10
2	Instructions to an agent to appear at a trial, hearing, application, examination, reference, inquiry, assessment, or other analogous proceeding, where necessary or proper, and where held more than 40 km from the place where the instructing lawyer carries on business.		1
	<i>Pleadings</i>		
3	All process, for which provision is not made elsewhere in this tariff, for commencing and prosecuting a proceeding.	Minimum	1
		Maximum	10
4	All process, for which provision is not made elsewhere in this tariff, for defending a proceeding, and for commencing and prosecuting a counterclaim.	Minimum	1
		Maximum	10
5	All process for which provision is not made elsewhere in this tariff for commencing and prosecuting or defending a third party proceeding.	Minimum	1
		Maximum	10
6	Defence to counterclaim and, where necessary, reply.	Minimum	1
		Maximum	10
6A	Process for obtaining particulars.	Minimum	1
		Maximum	3
6B	Process for supplying particulars.	Minimum	1
		Maximum	3

	<i>Discovery</i>		
7	Process for obtaining discovery and inspection of documents.	Minimum Maximum	1 10
	(a) 1 to 999 documents	(a) Minimum Maximum	1 10
	(b) 1000 to 5000 documents	(b) Minimum Maximum	10 20
	(c) over 5000 documents	(c) Minimum Maximum	10 30
8	Process for giving discovery and inspection of documents.	Minimum Maximum	1 10
	(a) 1 to 999 documents	(a) Minimum Maximum	1 10
	(b) 1000 to 5000 documents	(b) Minimum Maximum	10 20
	(c) over 5000 documents	(c) Minimum Maximum	10 30
9	Process for delivering interrogatories	Minimum Maximum	1 10
10	Process for answering interrogatories.	Minimum Maximum	1 10
11	Process for delivering notices to admit.	Minimum Maximum	1 5
12	Process for making admission of facts.	Minimum Maximum	1 5
13	Process for preparation of accounts, statement of property or financial information where required by statute or regulation or by order of court.	Minimum Maximum	1 10
	<i>Expert Evidence and Witnesses</i>		
13A	All process and correspondence associated with retaining and consulting all experts for the purposes of obtaining opinions for use in the proceeding.	Minimum Maximum	1 10
13B	All process and correspondence associated with contacting, interviewing and issuing subpoenas to all witnesses.	Minimum Maximum	1 10
	<i>Examinations</i>		
14	Preparation for examination of a person coming under Item 15 for each day of attendance (a) by party conducting examination. (b) by party being examined.		4 3

15	Attendance on examination of a person for discovery, on affidavit, upon a subpoena to debtor, or in aid of execution, or of a person before trial under Rule 28 or 40, or any other analogous proceeding, for each day (a) by party conducting examination. (b) by party being examined.		8 5
	<i>Applications, Hearings and Conferences</i>		
16	Preparation for an application or other matter referred to in Item 17, for each day of hearing where hearing commenced (a) where unopposed. (b) where opposed.		2 3
17	Interlocutory application or other application for which provision is not made elsewhere in this tariff, for each day (a) where unopposed. (b) where opposed		4 5
17.1	Preparation for a hearing referred to in Item 17.2, for each day of hearing.		3
17.2	Reference to, or inquiry, assessment, accounting or hearing before, or on appeal from, a clerk or special referee, with or without witnesses and whether before or after judgment, for each day.		6
18	Preparation for an application or other matter referred to in Item 19, for each day of hearing. (a) if unopposed (b) if opposed		4 5
19	Hearing of proceeding including originating application, special case, proceeding on a point of law, interpleader or any other analogous proceeding, and applications for judgment under Rules 18, 19 and 31 (6), for each day. (a) if unopposed (b) if opposed		6 10
19A	Preparation for a hearing referred to in Item 17 (b), 17.2 or 19 (b), which hearing was initially contested but for which no attendance was required as a result of an agreement reached as to the issues that would have been the subject of the hearing.		
	(a) for a hearing referred to in Item 17 (b)		2
	(b) for a hearing referred to in Item 17.2		2
	(c) for a hearing referred to in Item 19		4
20	Preparation for attendance referred to in Item 21, for each day of attendance.		2
21	Attendance before a clerk to assess costs, for each day.		4
22	Preparation for attendance referred to in Item 23, for each day of attendance	Minimum Maximum	1 3
23	Attendance at a pre-trial, settlement conference, judicial case conference or mini-trial, for each day.		10
	<i>Applications, Hearings and Conferences</i>		

23A	All process for obtaining the comments and recommendations of the Public Guardian and Trustee or Child Advocate.	Minimum Maximum	1 10
	<i>Trial</i>		
24	Preparation for trial, if proceeding set down for each day of trial		5
25	Attendance at trial of proceeding or of an issue in a proceeding, for each day.		10
26	Written argument	Minimum Maximum	1 10
26.1	Preparation of an outline under Rule 48	Minimum Maximum	1 5
27	Attendance at the court for trial or hearing where party is ready to proceed and when trial or hearing not commenced.		3
28	Attendance to speak to trial or hearing list.		1
	<i>Attendance at Registry</i>		
29	Process for payment into or out of court.		1
30	(a) process for setting down proceeding for trial, and (b) where case management or trial plan filed.		1 1
31	Process relating to entry of an order or a certificate of costs when Item 21 or 34 does not apply.		1
32	All process, for which provision is not made elsewhere in this tariff, relating to execution upon or enforcement of an order, exclusive of any application to the court.		1
	<i>Miscellaneous</i>		
33	Conduct of sale where property sold by order of court.	Minimum Maximum	1 10
34	Negotiations, including mediation, and process for settlement, discontinuance, or dismissal by consent of any proceeding if settled, discontinued, or dismissed by consent as a result of the negotiations.		5
34A	Attendance at mediation, per day.		5
34B	Preparation for a mediation, for each day of attendance.		3
34C	Preparation for a mediation if the mediation is not held due to a reason other than the party's refusal, failure or neglect to attend.		3
35	Travel by a lawyer to attend at any trial, hearing, application, examination, reference, inquiry, assessment, or other analogous proceeding where held more than 40 km from the place where the lawyer carries on business, for each day upon which lawyer travels.		2
	In addition, reasonable travelling and subsistence expenses shall be allowed as a disbursement.		