

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 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 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 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 by a clerk 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 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, 2018 in relation to orders and settlements made after that date is as follows:
 - (i) Scale A — \$70;
 - (ii) Scale B — \$130;
 - (iii) Scale C — \$200.
- (b) Where maximum and minimum numbers of units are provided for in an Item in the Tariff, the court 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 court 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 court 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 proceeds

- (6) [repealed by O.I.C. 2022/168]

Default judgment and process for execution

- (7)
 - (a) Where judgment is entered upon default of appearance or of pleading, the costs shall be \$600 plus disbursements.
 - (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 at \$100 plus disbursements.
 - (c) [repealed by O.I.C. 2022/168]
 - (d) [repealed by O.I.C. 2022/168]
 - (e) In addition to the fees in (a) and (b), 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 court 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 Costs in Form 114 the amount of the bill of costs and, after the assessment has been completed, may produce the offer to the court, and the court 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- orders, settlements and costs before the coming into force of updated Rules

- 10 This Appendix, as it read pursuant to O.I.C. 2009/65 applies to
- (a) orders for costs made before the updated Rules come into force,
 - (b) settlements reached before the updated Rules come into force 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 the updated Rules come into force, and
 - (d) all assessments related to those orders, settlements and costs.

Transitional- orders, settlements and costs on or after coming into force of updated Rules

- 11 This Appendix, as it read on or after the date that the updated Rules come into force applies to
- (a) orders for costs made on or after the date the updated Rules come into force,
 - (b) settlements reached on or after the date the updated Rules come into force 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 on or after the date that the updated Rules come into force, and
 - (d) all assessments related to those orders, settlements and costs.

SCHEDULE 1

[repealed by O.I.C. 2022/168]

SCHEDULE 2

[repealed by O.I.C. 2022/168]

SCHEDULE 3

[repealed by O.I.C. 2022/168]

TARIFF

Item	Description	Units	
	<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 Maximum	1 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 Maximum	10 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 Maximum	1 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 Maximum	1 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 Maximum	1 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 Maximum	1 10
6	Defence to counterclaim and, where necessary, reply.	Minimum Maximum	1 10
6A	Process for obtaining particulars.	Minimum Maximum	1 3
6B	Process for supplying particulars.	Minimum Maximum	1 3
	<i>Discovery</i>		
7	Process for receiving and inspecting documents.		
	(a) 1 to 999 documents,	Minimum Maximum	1 10
	(b) 1000 to 5000 documents, or	Minimum Maximum	10 20
	(c) over 5000 documents	Minimum Maximum	10 30
8	Process for producing documents for inspection.		
	(a) 1 to 999 documents,	Minimum Maximum	1 10
	(b) 1000 to 5000 documents, or	Minimum Maximum	10 20
	(c) over 5000 documents	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 commenced (a) where unopposed. (b) where opposed.		2 3
17	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) (b) for a hearing referred to in Item 17.2 (c) for a hearing referred to in Item 19		2 2 4
20	Preparation for attendance referred to in Item 21, for each day of attendance.		2
21	Attendance before a judge or 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 5
23	Attendance at a pre-trial, settlement conference, judicial case conference or case management conference, for each day.	Minimum Maximum	1 10
	<i>Applications, Hearings and Conferences</i>		
23A	All process for obtaining the comments and recommendations of the Public Guardian and Trustee or Child Lawyer.	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	Chambers Record	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 has 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.		