

**CW302**

LOCAL COURTS ACT 1904  
**LOCAL COURT AMENDMENT RULES 1993**

Made by His Excellency the Governor in Executive Council.

**Citation**

1. These rules may be cited as the *Local Court Amendment Rules 1993*.

**Commencement**

2. These rules shall come into operation on 1 March 1993.

**Appendix amended**

3. The Appendix to the *Local Court Rules 1961\** is amended in Part II —

- (a) by deleting the Table headed “Table of Court Fees” and substituting the following Table —

“ Table of Court Fees

| Item | Service  | Claim not exceeding \$5 000 | Fee Claim exceeding \$5 000 but not exceeding \$10 000 | Claim exceeding \$10 000 | Notes |
|------|--|-----------------------------|--|--------------------------|-------|
| 1.   | For entering any plaint: excluding service fee, but including —  |                             |  |                          |       |
|      | (a) any re-issue of summons;   |                             |  |                          |       |
|      | (b) postage of any process issued for service by bailiff of foreign court;   |                             |  |                          |       |
|      | (c) any summons for recovery of possession;  |                             |  |                          |       |
|      | (d) any originating summons not otherwise specified;   |                             |  |                          |       |
|      | (e) any application ancillary to entry of plaint (but prior to entry of defence) including for substituted service, extension of time, addition of parties or appointment of guardian; |                             |  |                          |       |
|      | (f) entry of judgment by default;  |                             |  |                          |       |
|      | (g) issue of certificate of judgment,  |                             |  |                          |       |
|      | in the Small Disputes Division —   | \$40.00                     |  |                          |       |
|      | in other than the Small Disputes Division . . . . .  | \$40.00                     | \$80.00  | \$160.00                 |       |

| Item | Service  | Claim not exceeding \$5 000 | Fee Claim exceeding \$5 000 but not exceeding \$10 000 | Claim exceeding \$10 000 | Notes  |
|------|--|-----------------------------|--|--------------------------|--|
| 2.   | Defence, set-off or counter-claim on filing notice of defence: including —   | \$30.00                     | \$30.00  | \$30.00                  | 1. Subject to Order 10 rule 1A.<br>2. Only one fee payable irrespective of number of defendants. |
|      | (a) filing all necessary applications and affidavits including applications in Chambers, interrogatories or discovery (including replies thereto);   |                             |  |                          |  |
|      | (b) all necessary witness summonses;   |                             |  |                          |  |
|      | (c) appointment to tax costs (but not including taxing fee payable on amount of Bill filed for taxation),  |                             |  |                          |  |
|      | and where set-off or counterclaim involved, the hearing fee, and entry of judgment on set-off or counterclaim.   |                             |  |                          |  |
| 3.   | Trial - Hearing fee: (Payable, where the action is not an action for a small debt, upon application to list for trial or other application consequential upon filing of defence) including — | \$50.00                     | \$100.00   | \$150.00                 |  |
|      | (a) filing all necessary applications and affidavits including applications in Chambers, interrogatories or discovery (including replies thereto);   |                             |  |                          |  |
|      | (b) pretrial conference, trial of defended action, or assessment of damages;   |                             |  |                          |  |

| Item | Service  | Claim not exceeding \$5 000 | Fee Claim exceeding \$5 000 but not exceeding \$10 000 | Claim exceeding \$10 000 | Notes  |
|------|--|-----------------------------|--|--------------------------|--|
|      | (c) hearing of recovery of possession applications;  |                             |  |                          |  |
|      | (d) application for new trial;   |                             |  |                          |  |
|      | (e) appointment to tax costs (but not including taxing fee payable on amount of Bill filed).   |                             |  |                          |  |
| 3A.  | Applications for summary judgement pursuant to s.47A   | \$40.00                     | \$80.00  | \$120.00                 |  |
| 4.   | Enforcement proceeding of any kind: including —  | \$20.00                     | \$40.00  | \$80.00                  |  |
|      | (a) filing certificates of judgments in any Local Court;   |                             |  |                          |  |
|      | (b) issue of any judgment summons, any warrant of execution or possession, order of commitment, garnishee proceedings, or other enforcement action and including any necessary re-issue of such process (one fee only is payable for issue of any one or more of above processes). |                             |  |                          |  |
| 5.   | Search . . . . .   | \$6.00                      | \$6.00   | \$6.00                   | But where search made by recognized reporting service approved by the Attorney General \$1.00. |
| 6.   | Service of summons authorized by post, inclusive of cost of postage . . . . .  | \$15.00                     | \$15.00  | \$15.00                  |  |

| Item | Service  | Claim not exceeding \$5 000 | Fee Claim exceeding \$5 000 but not exceeding \$10 000 | Claim exceeding \$10 000 | Notes   |
|------|--|-----------------------------|--|--------------------------|---|
| 7.   | For issuing any duplicate warrant, summons, order or other document under Order 38 Rule 21 or 22 . . . . .   | \$11.00                     | \$11.00  | \$11.00                  |   |
| 8.   | Examination of witnesses <i>de bene esse</i> before clerk —  |                             |  |                          |   |
|      | for the first hour or part thereof . . . . .   | \$15.00                     | \$30.00  | \$45.00                  |   |
|      | and for every subsequent hour or part thereof . . . . .  | \$10.00                     | \$20.00  | \$30.00                  |   |
| 9.   | Copies of transcript of proceedings or notes of evidence supplied to a party to the proceedings —  |                             |  |                          |   |
|      | per page . . . . .   | \$4.00                      | \$4.00   | \$4.00                   |   |
|      | second and subsequent copies per page . . . . .  | \$1.00                      | \$1.00   | \$1.00                   | When supplied to the same applicant.  |
|      | Minimum charge   | \$12.00                     | \$12.00  | \$12.00                  |   |
|      | Photocopies of other documents — per page . .  | \$1.00                      | \$1.00   | \$1.00                   | For certifying that a document is a true copy — an additional fee of \$5.00 is payable. |
| 10.  | Taxing costs, \$0.05 in each amount of \$1.00 on amount of filed bill, any less amount than \$1.00 to be disregarded — provided that where the bill exceeds \$1 000 the fee is reduced to \$0.025 in the \$1.00 for the excess — minimum charge \$10.00. |                             |  |                          |   |

| Item | Service   | Claim not exceeding \$5 000 | Fee Claim exceeding \$5 000 but not exceeding \$10 000 | Claim exceeding \$10 000 | Notes  |
|------|---|-----------------------------|--|--------------------------|--|
| 11.  | (1) For an application for the production of records or documents that are required to be produced to any court or tribunal (including an umpire or arbitrator) . . . . .   | \$10.00                     | \$20.00  | \$40.00                  |  |
|      | (2) If an officer is required to attend at any court or place out of the court building —   |                             |  |                          |  |
|      | (a) for each hour or part of an hour during which he is necessarily absent from his office . . .  | \$20.00                     | \$20.00  | \$20.00                  |  |
|      | and   |                             |  |                          |  |
|      | (b) in addition, his reasonable expenses.   |                             |  |                          |  |
| 12.  | Fees payable in proceedings under the <i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i> , Part VIII (6) (iii), in respect of —  |                             |  |                          | Includes filing of certificate of rates unpaid, advertisement in <i>Government Gazette</i> , issue of notices and services by registered post. |
|      | (a) each lot or parcel of land . . . . .  | \$50.00                     | \$100.00   | \$150.00                 |  |
|      | (b) warrant of execution . . . . .  | \$20.00                     | \$40.00  | \$80.00                  |  |
| 13.  | Fees payable in connection with an appeal, motion, application or proceeding under any statute now or hereafter in force, where the matter is not otherwise specifically provided for in the Act or these Rules — |                             |  |                          |  |
|      | (a) on lodging notice of appeal, notice of motion, application or other document initiating proceedings . . . . .   | \$50.00                     | \$100.00   | \$150.00                 | Includes hearing fee, summons to witness, and issue of order.  |

| Item | Service                            | Claim not exceeding \$5 000 | Fee Claim exceeding \$5 000 but not exceeding \$10 000 | Claim exceeding \$10 000 | Notes |
|------|------------------------------------|-----------------------------|--|--------------------------|-------|
| (b)  | stating case for Supreme Court . . | \$75.00                     | \$75.00  | \$75.00                  |       |

”;

and

(b) by deleting the Table headed “Bailiff’s Fees” and substituting the following table —

“

BAILIFF FEES

| Item   | Service   | Fee \$   |
|--------|---|--|
| 1. (a) | <u>Service</u> of any process when non-personal service may be utilized.  | \$10.80  |
| 1. (b) | <u>Service</u> of any process requiring personal service.   | \$15.00  |
| 1. (c) | <u>Additional Fee</u> where an attempt to effect any service is unsuccessful and the clerk is satisfied that the failure was not due to any fault of the bailiff and that a further attempt to effect the service is necessary one additional fee not exceeding 50% of fee prescribed by either Item 1 (a) or 1 (b) is payable. |  |
| 2. (a) | <u>Execution</u> of any process or for an arrest or for each seizure of goods, including service of any notice and returns and conveying a debtor to Court when executing a Bench Warrant or for investigation and appraisal of seizable assets.  | \$30.00  |
| 2. (b) | <u>Attempted Execution</u>  | \$15.00  |
| 2. (c) | <u>Enquires</u> or <u>Attendances</u> prior to Execution  | \$10.80  |
| 2. (d) | <u>Inspection</u> of chattels under seizure   |  |
|        | <u>NOTE:</u> Where the bailiff has several warrants only one fee is chargeable to the first Warrant in priority   | \$10.80  |
| 3. (a) | <u>Kilometreage</u><br>For kilometres travelled on execution of a warrant or other process, or on service of a summons other process or document, or on making an arrest or for all other necessary attempts, attendances and inspections for each kilometre (one way) from the bailiff’s office . . . . .                      | \$0.70<br>For travel in the metropolitan area: \$0.70<br>For travel outside the metropolitan area or such additional fee as the clerk may allow. |
|        | <u>NOTE:</u> Where more than one process or document is executed or served at the same time on the same person or on different persons at the same address, only one allowance for kilometres travelled shall be chargeable.  |  |

| Item   | Service   | Fee<br>\$ |
|--------|---|-----------|
|        | <p><u>NOTE:</u> In addition to the above the bailiff may charge kilometreage to convey a debtor from a place of arrest to Court or a lockup provided the clerk is satisfied those duties have been carried out and where a bailiff will be required to travel an excessive distance the clerk may require kilometreage to be prepaid into Court. Prepaid fees shall be allowed or disallowed by the clerk upon completion of execution.</p> <p><u>NOTE:</u> Outside the metropolitan region kilometreage is not claimable for the first 6 kilometres by bailiffs stationed at Albany, Bunbury, Geraldton or Kalgoorlie when serving or executing a process.</p> |           |
| 3. (b) | Special Fee to bailiff at Albany, Bunbury, Geraldton or Kalgoorlie (per process for service or execution).  | \$4.50    |
| 4.     | <p><u>Preparation for Sale</u><br/>Providing the clerk is satisfied duties have been carried out the following fees are allowed:</p> <p><u>for personalty</u><br/>REVS search \$5.00<br/>Bill of Sale and Encumbrance Search \$10.00<br/><u>for realty</u><br/>Encumbrance investigation \$30.00<br/><u>for personalty or realty</u><br/>Implementation of an advertising program \$40.00</p>   |           |
| 5.     | <u>Attendance at Sale</u><br>(or to cancel same)  | \$30.00   |
| 6.     | <p><u>Poundage</u></p> <p>(a) Poundage on executing a Warrant of Execution or other process under or by reason of which money is received by the bailiff or by the Judgment creditor — after seizure 5% on the first \$10,000.00 and 2.5% on the balance above that amount.</p> <p>(b) Where the sale of land, interest in land, or goods or chattels is conducted by a licensed auctioneer instructed by the bailiff, poundage shall be charged at one-half the abovementioned rates.</p>  |           |

NOTE: In the case of land or an interest in land, service of the Warrant of Execution on the Registrar of Titles under s.133 of the *Transfer of Land Act 1893* shall be deemed to be "seizure" for the purpose of this item.

NOTE: Poundage is to be calculated on the amount realized at the sale but the maximum amount upon which poundage is to be calculated is the amount of the judgment debt notwithstanding sale proceeds may exceed the amount of the judgment debt.





| Item    | Service  | Fee<br>\$                                    |
|---------|--|--|
| 12.     | (a) Assistants required to execute a Warrant or Order . . . . . )<br>(b) Man in possession . . . . . )<br>(c) Out-of-pocket expenses incurred by the bailiff or officer while serving or executing any process including postage, telegraphic and telephonic messages, and travelling expenses of himself and assistants . . . . . )<br>(d) Warehousing or storage of goods or vehicles which are being or about to be, or have been removed, and insurance thereof against fire, damage and in the case of motor vehicles, accident and third party risk . . . . . )<br>(e) Removal or cartage expenses . . . . . )<br>(f) Where animals or other livestock have been removed, for taking charge of same and for their keep while in custody of the bailiff whether before or after removal . . . . . )<br>(g) REVS searches, corporate searches and any other search allowed by the clerk. ) | The sums<br>actually and<br>reasonably paid. |
| 13.     | Where a bailiff is required to attend Court in charge of any person including a prisoner ordered to attend for examination pursuant to an order of the Court, or to lodge any person in a lock up, the reasonable travelling and other expenses of the officer and the person or prisoner, and in addition for each hour or part of an hour when the officer is necessarily engaged . . . . .  | \$27.00                                      |
| 14. (a) | <u>Attendance</u> on a Judgment Summons hearing or related matter  | \$1.00                                       |
| 14. (b) | <u>Attendance</u> at trial   | \$2.00                                       |
| 15.     | Where a bailiff, or other person employed under a bailiff, shall be necessarily put to and incur extra trouble and expense in the discharge of any duty incidental to his office or employment or for any duty or service not herein provided, such sum or such additional sum, as the case may be, as the clerk may allow.  |  |

**Various rules amended**

4. The *Local Court Rules 1961\** are amended by deleting "\$10 000" wherever it appears in the provisions referred to in the Table to this rule and substituting in each place the following —

" \$25 000 "

## TABLE

Order 5 rule 16 (a)  
Order 5 rule 17  
Order 16 rule 13  
Order 16 rule 14 (heading)  
Order 16 rule 14  
Order 37 rule 20

[\* *Reprinted in the Gazette of 17 November 1976 at pp.4329-560.  
For amendments to 8 January 1993 see 1991 Index to Legislation of  
Western Australia p.403-4 and Gazette of 28 July 1992.*]

By His Excellency's Command,

D. G. BLIGHT, Clerk of the Council.