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# Government Gazette

OF

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PERTH: FRIDAY, 7th JUNE

[ 1957.

### LOCAL COURT RULES.

LOCAL COURTS ACT, 1904-1954.

Crown Law Department,  
Perth, 29th May, 1957.

HIS Excellency the Governor in Executive Council, acting pursuant to the powers conferred by section 159 of the Local Courts Act, 1904-1954, has been pleased to make the rules of court set out in the Schedule hereunder.

R. C. GREEN,  
Under Secretary.

Schedule.

#### RULES OF COURT.

1. In these rules of court the Local Court Rules, 1923 made under the provisions of the Local Courts Act, 1904, and published in the *Government Gazette* on the 22nd May, 1923 and amended from time to time thereafter by notices published in the *Government Gazette* are referred to as the principal rules.

2. These rules of court shall take effect on the expiry of one month after their publication in the *Government Gazette*.

3. The Appendix to the principal rules is amended by substituting for the Table of Court Fees contained in Part II a table as follows:—

TABLE OF COURT FEES.

| Item No. | Service.  | Not exceeding £5. | Over £5 and not exceeding £10. | Over £10 and not exceeding £50. | Over £50. | Notes.  |
|----------|---|-------------------|--------------------------------|---------------------------------|-----------|---|
|          |   | s. d.             | s. d.                          | s. d.                           | s. d.     |   |
| 1        | Entry of plaint or entry of filing or any other originating proceeding and summons thereon  | 4 0               | 10 0                           | 14 0                            | 24 0      | Fees are payable on the amount or the value of the claim.   |
| 2        | Hearing fee or assessment of damages or value of goods (when not made at trial), including entry of judgment  | 6 0               | 20 0                           | 24 0                            | 40 0      | Hearing fee is payable on the amount or the value of the claim before an action is called on in Court. If action is called on and adjourned, a hearing fee is payable. If Plaintiff does not pay the hearing fee, the Defendant may be heard without payment of the fee, provided that if judgment be given for Defendant and he (Defendant) enters judgment, a fee is payable according to item 4. No hearing fee is payable when action is struck out. No hearing fee is payable on a judgment summons. When hearing fee is paid, there is no fee on entry of judgment. In garnishee proceedings a hearing fee is payable on the amount of debt sought to be attached, provided the action comes to trial. Hearing fee is payable on the amount or the value of the claim, provided the Magistrate tries the action with the consent of all parties. If Defendant's counterclaim is greater than the plaintiff's claim, the defendant pays the hearing fee on the difference. |
| 3        | Hearing fee under Section 47A, subsection 7   | 6 0               | 20 0                           | 24 0                            | 40 0      | If plaintiff does not appear at trial and defendant obtains judgment, he may enter the judgment upon payment of the fees on the amount of the judgment. When notice of defence is not given by defendant, the plaintiff may enter judgment and pay the fees. When defendant admits the debt and files a confession, no entry of judgment fee is payable. Fees are payable on the amount or value of the claim, excepting where defendant obtains judgment, in which case the fee is on the amount of the judgment.  |
| 4        | Hearing fee (set off or counterclaim) including entry of judgment. (To be paid by defendant on the amount (if any) exceeding the amount of plaintiff's claim) | 6 0               | 20 0                           | 24 0                            | 40 0      |   |
| 5        | Entry of judgment in default of appearance of plaintiff or where notice of defence not given and no confession filed  | 4 0               | 10 0                           | 14 0                            | 24 0      |   |

TABLE OF COURT FEES—continued.

| Item No. | Service.   | Not exceeding £5. | Over £5 and not exceeding £10. | Over £10 and not exceeding £50. | Over £50. | Notes.   |
|----------|--|-------------------|--------------------------------|---------------------------------|-----------|--|
|          |  | s. d.             | s. d.                          | s. d.                           | s. d.     |  |
| 6        | Entry of judgment under section 47A (except where hearing fee is payable under item 3 of this table of fees)   | 4 0               | 10 0                           | 14 0                            | 24 0      | Fees are payable on the amount or value of the claim.  |
| 7        | On summons to witness  | 4 0               | 4 0                            | 4 0                             | 6 0       | Fees are payable on the amount or value of the claim.  |
| 8        | Filing affidavits, notices, and other documents required to be filed (except notices of defence to summonses, confessions of claim, praecipes, affidavits of service, notices of discontinuance, or special defence) | 4 0               | 4 0                            | 4 0                             | 6 0       | Fees are payable on the amount or value of the claim.<br>No fees are payable on :—<br>Notices of defence to summonses.<br>Confessions of claim.<br>Praecipes.<br>Affidavits of Service.<br>Notices of discontinuance.<br>Special defence.  |
| 9        | Application for new trial  | 4 0               | 6 0                            | 8 0                             | 14 0      | Fees are payable on the amount or value of the claim.  |
| 10       | Hearing fee, new trial   | 4 0               | 10 0                           | 14 0                            | 24 0      | Fees are payable on the amount or value of the claim.  |
| 11       | Warrant of any kind  | 4 0               | 6 0                            | 6 0                             | 14 0      | Fees are payable on amount for which warrant is issued.<br>A warrant of delivery of specific goods shall be charged for according to the assessed value of the goods, or if the value has not been assessed, according to the value put on them by the plaintiff: provided that there shall be added to this value the amount of any moneys (other than costs) to be levied under the warrant.           |
| 12       | Judgment summonses   | 4 0               | 6 0                            | 6 0                             | 14 0      | Fees are payable on amount for which judgment summonses is issued.<br>No hearing fee is payable on a judgment summons.<br>When defendant (judgment debtor) is summoned as a witness the fees for a witness summonses (item 7) must be paid together with conduct money.  |
| 13       | Summons not otherwise specified  | 4 0               | 6 0                            | 6 0                             | 14 0      | Fees are payable on amount or value of claim.  |
| 14       | Plaint and summonses for recovery of possession of land  | 6 0               | 12 0                           | 12 0                            | 24 0      | Fees are payable on the annual value or where the tenancy is for a less term than a year, or is by the week, month, or other period less than a year, then on the value of such term or period provided that where the amount claimed as rent in arrears is greater than the rental value of the term or period of the tenancy then the fees shall be charged on such greater amount.<br>Do. do. do. do. |
| 15       | Hearing fee, including entry of judgment, in action for recovery of possession of land   | 12 0              | 24 0                           | 24 0                            | 40 0      | Do. do. do. do.  |

TABLE OF COURT FEES—continued.

| Item No. | Service.  | Not exceeding \$5. | Over \$5 and not exceeding \$10. | Over \$10 and not exceeding \$50. | Over \$50. | Notes.  |
|----------|---|--------------------|----------------------------------|-----------------------------------|------------|---|
| 16       | Search (within one year) .....  | s. d.              | s. d.                            | s. d.                             | s. d.      |   |
| 17       | Search (after one year) .....   | 4 0                | 4 0                              | 4 0                               | 4 0        |   |
| 18       | Certificate of judgment (issuing) .....   | 8 0                | 8 0                              | 8 0                               | 8 0        |   |
| 19       | Certificate of judgment (registering) .....   | 4 0                | 4 0                              | 4 0                               | 4 0        |   |
| 20       | Certificate of judgment of other States (registering) .....   | 12 0               | 12 0                             | 12 0                              | 12 0       |   |
| 21       | Taking bond of any kind .....   | 4 0                | 4 0                              | 4 0                               | 4 0        |   |
| 22       | Appointment to tax costs .....  | ...                | ...                              | 5 0                               | 5 0        |   |
| 23       | Service of summons authorised by post, inclusive of cost of postage .....   | 8 0                | 8 0                              | 10 0                              | 10 0       |   |
| 24       | Interpleader summons .....  | 4 0                | 6 0                              | 6 0                               | 12 0       | Issued on application of the Bailiff.   |
| 25       | Interpleader—Hearing fee on .....   | 6 0                | 20 0                             | 24 0                              | 40 0       | Hearing fee shall be prepaid by claimant, calculated on the amount of money in Court or in the hands of the Bailiff, or the amount of money claimed, or the assessed value of the goods claimed, or if the value has not been assessed, the value put on them by the claimant; and the magistrate at the hearing shall direct by whom such fee shall ultimately be borne. |
| 26       | Garnishee summons .....   | 4 0                | 10 0                             | 14 0                              | 24 0       | Fees shall be payable on the amount of the debt sought to be attached.  |
| 27       | Garnishee summons—Hearing fee .....   | 6 0                | 20 0                             | 24 0                              | 40 0       | Hearing fee is payable on the amount of the debt sought to be attached, provided the action comes to trial.   |
| 28       | For issuing any duplicate warrant, summons, order, or other document under Order XXXVIII., Rule 21 or 22—The same fee as is prescribed for the issue of the original thereof. |                    |                                  |                                   |            |   |
| 29       | Examination of witnesses <i>de bene esse</i> before Clerk.—For the first hour or part thereof, 16s. 0d., and for every subsequent hour or part thereof, 8s. 0d.               |                    |                                  |                                   |            |   |
| 30       | Copies of documents, 1s. per folio with a minimum of 5s.  |                    |                                  |                                   |            |   |
| 31       | Taxing costs, 8d. in the £1 on amount of filed bill, any less than £1 to be disregarded.  |                    |                                  |                                   |            |   |

TABLE OF COURT FEES—continued.

32 The following fees shall be payable in respect of appeals against valuations or rates of Municipal Corporations, Roads Boards, Local Authorities, and Metropolitan Water Supply, Sewerage and Drainage Department :—

|                                |     |     |     |     |    |    |
|--------------------------------|-----|-----|-----|-----|----|----|
| Filing notice                  | ... | ... | ... | ... | s. | d. |
| Hearing fee                    | ... | ... | ... | ... | 5  | 0  |
| Summons to witness             | ... | ... | ... | ... | 5  | 0  |
| Filing affidavit, etc.         | ... | ... | ... | ... | 4  | 0  |
| Stating case for Supreme Court | ... | ... | ... | ... | 4  | 0  |
|                                | ... | ... | ... | ... | 12 | 0  |

33 Fees payable in proceedings under Subdivision (III.) of Division 6 of Part XXIII. of the Municipal Corporations Act, 1906, and of the Metropolitan Water Supply, Sewerage and Drainage Act, 1909, Part VIII., (6) (iii) :—

|  |     |     |     |     |    |    |
|--|-----|-----|-----|-----|----|----|
| (1) On filing certificate of rates unpaid—Each parcel of land                                | ... | ... | ... | ... | s. | d. |
| (2) Advertising in Government Gazette—Each parcel of land                                    | ... | ... | ... | ... | 4  | 0  |
| (3) On issuing and signing notice and service thereof by registered post—Each parcel of land | ... | ... | ... | ... | 5  | 0  |
| (4) On issuing and signing any other notice  | ... | ... | ... | ... | 10 | 0  |
| (5) On filing any affidavit  | ... | ... | ... | ... | 4  | 0  |
| (6) On warrant of execution—Each parcel of land  | ... | ... | ... | ... | 4  | 0  |
|  | ... | ... | ... | ... | 12 | 0  |

34 Applications or proceedings by motion or otherwise under the Workers' Compensation Act, other than agreements for lump sum settlements :—  
Such fees as would be applicable to a plaint, summons, or other proceedings under the Local Courts Act for a similar amount.

35 The following fees shall be 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 :—

|   |     |     |     |     |    |    |
|---|-----|-----|-----|-----|----|----|
| (1) On lodging notice of appeal, notice of motion, application or other document initiating proceedings | ... | ... | ... | ... | s. | d. |
| (2) Hearing fee   | ... | ... | ... | ... | 5  | 0  |
| (3) Summons to witness  | ... | ... | ... | ... | 5  | 0  |
| (4) Filing affidavit  | ... | ... | ... | ... | 4  | 0  |
| (5) Order   | ... | ... | ... | ... | 4  | 0  |
|   | ... | ... | ... | ... | 5  | 0  |

36 Postage on any process issued for service or execution by bailiff of foreign Court