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DISTRICT COURT OF WESTERN AUSTRALIA
ACT 1969

**DISTRICT COURT (FEES)
REGULATIONS 2002**

Western Australia

District Court (Fees) Regulations 2002

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District Court of Western Australia Act 1969

District Court (Fees) Regulations 2002

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

1. Citation

These regulations may be cited as the *District Court (Fees) Regulations 2002*.

2. Commencement

These regulations come into operation on 1 January 2002.

3. Interpretation

In these regulations unless the contrary intention appears —

“**corporation**” has the same meaning as it has in the *Corporations Act 2001* of the Commonwealth;

“**Rules**” means the *District Court Rules 1996* or the rules applicable to the District Court under section 87 of the Act;

“**small business**” means —

- (a) a society, club, institution, or body that is not for the purpose of trading or securing pecuniary profit for its members from its transactions;
- (b) an individual or individuals in partnership who wholly own and operate a business undertaking that has less than 20 full-time equivalent employees and partners;

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- (c) a corporation that has less than 20 full-time equivalent employees and that is not a subsidiary of a corporation that has 20 or more full-time equivalent employees;
- (d) a company within the meaning of the *Companies (Co-operative) Act 1943* that has less than 20 full-time equivalent employees and that is not, under section 130(1) of that Act, deemed to be a subsidiary company of another company or corporation that has 20 or more full-time equivalent employees;
- (e) a corporation within the meaning of the *Statutory Corporations (Liability of Directors) Act 1996* that has less than 20 full-time equivalent employees and that is not a body that would be a subsidiary, if the corporation were a corporation to which the *Corporations Act 2001* of the Commonwealth applies, of a corporation within the meaning of the *Corporations Act 2001* of the Commonwealth or the *Statutory Corporations (Liability of Directors) Act 1996* that has 20 or more full-time equivalent employees;

“**subsidiary**” has the same meaning as it has in the *Corporations Act 2001* of the Commonwealth.

4. Fees and poundage to be charged

- (1) Subject to the provisions of these regulations, the fees and poundage specified in Schedules 1 and 2 are to be charged in respect of the matters referred to in section 89A of the Act in relation to which they are applicable.

District Court (Fees) Regulations 2002

r. 4

- (2) In relation to a matter specified in column 2 of Schedule 1, the fee shown opposite the matter —
- (a) in column 3 applies if an individual is required to pay the fee or if a fee is to be paid in relation to an action for personal injury; or
 - (b) in column 4 applies if a person other than an individual is required to pay the fee (other than a fee relating to an action for personal injury),
- as the case requires.
- (3) A note to an item in Schedule 1 or 2 has effect according to its tenor as if it were a provision of these regulations.
- (4) Except as provided in Schedule 1, a fee must not be charged in respect of any of the following —
- (a) filing an affidavit;
 - (b) filing a pleading;
 - (c) search by a party;
 - (d) sealing a copy of a document;
 - (e) drawing up, settling or signing a judgment, order, or decree;
 - (f) amending a pleading;
 - (g) making a request under the Rules;
 - (h) filing, depositing, giving, issuing, or serving any other document required or permitted by the Rules to be filed, deposited, given, issued, or served in connection with proceedings in the District Court.
- (5) No fee is to be charged in respect of any attendance in chambers if the attendance is required by an order of the District Court made on its own motion.
- (6) On the lodgement of a declaration in the form of Schedule 3 Form 1, a person that is a small business is to be charged fees specified in Schedule 1 as if the person were an individual.

District Court (Fees) Regulations 2002**r. 4**

- (7) Subregulation (6) does not apply to fees payable by joint parties if at least one of the parties is not a small business.
- (8) A person who has lodged a declaration under subregulation (6) must immediately advise the Principal Registrar if the person ceases to be a small business.
Penalty: \$1 000.
- (9) Whether or not the person has complied with subregulation (8), a person is not entitled to be charged fees as if the person were an individual if the person is not a small business.
- (10) If a person is charged a fee under subregulation (6) when the person was not a small business, the District Court may —
- (a) order that the person pay the difference between the fee the person paid and the fee that the person would otherwise have been required to pay; and
 - (b) make orders to enforce the order for the payment.
- (11) An order under subregulation (10)(b) may provide that —
- (a) a pleading, application, or other document must not be filed, issued, or otherwise dealt with on the request of the person or that no other matter or thing is to be done in the District Court or by an officer of the Court for the benefit of the person until the sum ordered to be paid is paid; and
 - (b) a pleading, application, or other document filed, issued, or otherwise dealt with on the request of the person or any other matter or thing done in the District Court or by an officer of the Court for the benefit of the person is of no effect until the sum ordered to be paid is paid.
- (12) A person who makes a statement or representation in a declaration under subregulation (6) that the person knows or has reason to believe is false or misleading in a material particular commits an offence.
Penalty: \$1 000.

District Court (Fees) Regulations 2002

r. 5**5. Exemptions**

The provisions of these regulations apply to all proceedings in the District Court in any jurisdiction conferred on the Court or a Judge other than criminal proceedings.

6. Fees to be paid before documents etc. filed

Subject to the provisions of these regulations —

- (a) a pleading, application, or other document must not be filed, issued, or otherwise dealt with; and
- (b) no other matter or thing is to be done in the District Court or by an officer of the Court,

unless the fee (if any) payable upon or in respect of filing, sealing, issuing, or otherwise dealing with that pleading, application, or other document or upon or in respect of the doing of that matter or thing, has been paid.

7. Court or Registrar may remit fees or poundage

- (1) The District Court or a Registrar may, in a particular case for special reasons, including financial hardship, direct —
 - (a) that a fee or poundage be waived or reduced;
 - (b) that the whole or part of the fee or poundage be refunded; or
 - (c) that the payment of the whole or a part of a fee or poundage be deferred until such time, and upon such conditions, if any, as the Court or Registrar thinks fit.
- (2) An application for a fee or poundage to be waived, reduced, refunded or deferred must be in the form of Schedule 3 Form 2.
- (3) Schedule 3 Form 2 must be completed in accordance with the directions specified in it.

District Court (Fees) Regulations 2002**r. 8**

- (4) A person who makes a statement or representation in an application under subregulation (2) that the person knows or has reason to believe is false or misleading in a material particular commits an offence.

Penalty: \$1 000.

- (5) If the fee or poundage payable by a person is waived, reduced, refunded or deferred and the person has made a statement or representation in an application under subregulation (2) that the person knows or has reason to believe is false or misleading in a material particular, so much of the fee or poundage as was waived, reduced, refunded or deferred may be recovered by the Principal Registrar in a court of competent jurisdiction as a debt due by the person to the Crown and any sum so recovered must be paid into the Consolidated Fund.

8. Conventions

If, by a Convention that applies to the State, it is provided that a fee is not required to be paid in respect of specified proceedings, the fees referred to in regulation 4 are not to be taken in respect of those proceedings.

9. Schedule 1 item 6 fee

The fee referred to in Schedule 1 item 6 or so much of it as has not been waived or reduced under regulation 7 must be paid immediately after the District Court determines the number of days to be allocated for a hearing or appeal.

10. Schedule 1 item 7 fee

If a fee is to be paid under Schedule 1 item 7, the hearing or appeal is not to be reconvened until that fee has been paid or so much of it as has not been waived or reduced under regulation 7 has been paid.

District Court (Fees) Regulations 2002

r. 11**11. *District Court (Fees) Regulations 2001* repealed**

The *District Court (Fees) Regulations 2001* are repealed.

12. Transitional

A fee is not to be charged under Schedule 1 item 6 or item 7 in respect of days allocated for a hearing or appeal or hearing days if—

- (a) the matter was part heard before 1 January 2002;
- (b) the matter is one for which hearing days had been allocated before 1 January 2002; or
- (c) dates for a hearing were allocated before 1 January 2002, the hearing did not proceed on those dates on the District Court's own motion, and the Court has allocated other hearing dates on or after 1 January 2002.

District Court (Fees) Regulations 2002**Schedule 1 Fees****Schedule 1 — Fees to be taken in the Registry**

[r. 4]

Item	Matter	Fee for individuals /personal injury \$	Fee for person other than an individual \$
1.	On filing any originating process by which a cause, matter or other proceeding in the court is commenced, other than proceedings of the kind referred to in Item 2, 3 or 8	325	500
2.	On filing: <ul style="list-style-type: none"> (a) a counterclaim; (b) a third party notice; (c) an application: <ul style="list-style-type: none"> (i) to extend a period of time fixed by law, including an application to extend time before proceedings are commenced; (ii) to limit a period of time within which proceedings may be taken; (iii) for leave to serve a writ or notice of a writ out of jurisdiction; (iv) for leave to appeal; (d) any other application for which no fee has been provided in this Schedule 	150	200
3.	Commencing an appeal	50	100

NOTE:

In addition to the filing fee a sum of \$200 by way of security for costs is to be lodged with the Court.

District Court (Fees) Regulations 2002

		Fees	Schedule 1
Item	Matter	Fee for individuals /personal injury \$	Fee for person other than an individual \$
4.	Registering a certificate or judgment in proceedings under the <i>Service and Execution of Process Act 1992</i> of the Commonwealth ...	60	80
5.	Entering for hearing a cause or matter	200	300
	NOTE: This item does not apply to entering an appeal for hearing		
6.	For allocation of a date or dates of hearing of the proceedings or appeal, for each day allocated	350	700
	NOTE 1: No fee is payable if the proceedings are of an interlocutory nature only.		
	NOTE 2: The fee to be charged is to be determined on the basis that the days allocated for a hearing are the number of days determined by the Court for a hearing at a Listings Conference or, in the case of an appeal, at a mention hearing.		
	NOTE 3: If a hearing date allocated by the Court is a half day or less then a fee equal to half the daily prescribed amount is payable for that date.		

District Court (Fees) Regulations 2002**Schedule 1 Fees**

Item	Matter	Fee for individuals /personal injury \$	Fee for person other than an individual \$
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NOTE 4:

The fee is to be refunded or transferred to a new allocated date or dates if a Court or Registrar is satisfied that an adjournment was due to circumstances beyond the control of the parties. Otherwise the fee is non-refundable in respect of any allocated dates that are not required.

NOTE 5:

If written advice of settlement or written notice of intended adjournment is received by a Court no later than 42 days prior to the date allocated for the commencement of the hearing of the proceedings, an amount equal to 75% of the fee is refundable. If written advice of settlement or written notice of intended adjournment is received by a Court no later than 28 days prior to the date allocated for the commencement of the hearing of the proceedings, an amount equal to 50% of the fee is refundable.

- | | | | |
|----|---|-----|-----|
| 7. | Daily hearing fee before a Court constituted by a Judge | 350 | 700 |
|----|---|-----|-----|

NOTE 1:

No fee is payable if the proceedings are of an interlocutory nature only.

NOTE 2:

The fee to be charged is to be paid in respect of any number of hearing days greater than the number of hearing days for which a fee has been paid under item 6.

District Court (Fees) Regulations 2002

		Fees	Schedule 1
Item	Matter	Fee for individuals /personal injury \$	Fee for person other than an individual \$
	NOTE 3: This fee is payable for each additional day or part day that a hearing proceeds beyond the date or dates allocated in Item 6.		
	NOTE 4: If the Court only allocates a half day or less for the continuation of the hearing then a fee equal to half the prescribed amount is payable for that period.		
	NOTE 5: The daily fee becomes payable on a day to day basis and is payable prior to the daily reconvening of the hearing.		
8.	On filing of an interlocutory application, summons or motion returnable before a Judge or Registrar in Chambers	100	150
	NOTE 1: This fee includes the first day of hearing of the application or summons and includes any adjournment of the hearing.		
	NOTE 2: This fee is payable in respect of any application exercising liberty to apply to relist.		
9.	If the hearing of an interlocutory application, summons or motion before a Judge or Registrar proceeds for more than one day the fee prescribed in Item 8 is payable for each additional day or part day of hearing		

District Court (Fees) Regulations 2002**Schedule 1 Fees**

Item	Matter	Fee for individuals /personal injury \$	Fee for person other than an individual \$
	NOTE: The daily fee becomes payable on a day to day basis and is payable prior to the daily reconvening of the hearing.		
10.	On an appointment to tax a bill of costs in a cause or matter or under the <i>Commercial Arbitration Act 1985</i> :		
	(a) lodgement fee	100	150
	(b) in addition to the lodgement fee, a taxing fee at the rate of	2.5%	2.5%
	NOTE 1: The % rate is to be applied to the amount at which the bill is drawn.		
	NOTE 2: The taxing Officer must allow, against the person chargeable with the costs as taxed, taxing fees at the rate indicated in Item 10(b) of the amount found to be due on taxation.		
11.	For searching any record or proceeding other than a search made by or on behalf of a party to the proceedings	20	20
	NOTE: But if the search is made by recognised service approved by Attorney General \$1.00.		
12.	(a) On an application for the production of records or documents that are required to be produced to any court, tribunal, arbitrator or umpire	30	30

District Court (Fees) Regulations 2002

		Fees	Schedule 1
Item	Matter	Fee for individuals /personal injury \$	Fee for person other than an individual \$
	(b) If an officer is required to attend at any court or place out of the District Court building, the officer's reasonable expenses and, in addition for each hour when the officer is necessarily absent from his or her office	50	50
13.	(a) For a photographic copy of a document of any kind or an exhibit, including marking as an office copy if required, for each page or part thereof	3	3
	(b) For a photographic copy of reasons for judgment —		
	(i) for each copy consisting of not more than 10 pages issued to a person not a party to the proceedings and for each copy in excess of one copy issued to a party to the proceedings	7	7
	(ii) for each copy consisting of 10 or more pages an additional fee per page of	1	1
	(c) for certifying under seal that a document is a true copy, an additional fee of	10	10
	(d) for a certificate under the hand of a Registrar	40	40

District Court (Fees) Regulations 2002**Schedule 2** Fees to be taken by the bailiff**Schedule 2 — Fees to be taken by the bailiff**

[r. 4]

Item	Matter	Fee \$
1.	(a) For receiving and entering a writ or order for execution including issuing warrant and statement under Order 47 rule 11 of the <i>Rules of the Supreme Court 1971</i>	56.00
	(b) For receiving and entering a writ or other process for service	22.50
2.	For service of a writ of summons or other process or document (including the execution of any affidavit of such service)	33.00
	(a) For attempted service: If after reasonable inquiry the process or other document cannot be served (in addition to an allowance for kilometres travelled)	23.50
	(b) If the process or document is subsequently served at another address, for attempted service in the discretion of the Registrar or bailiff (in addition to an allowance for kilometres travelled)	23.50
NOTE:		
If a person is or could have been served with more than one document at the one time, only one fee must be allowed.		
3.	(a) For executing a writ or other process or for an arrest or for each seizure of goods	52.50
	(b) For the release from arrest of any person	33.00
	(c) For inquiries concerning judgment debtor's property or for attempted execution (if item 3(a) above is not payable)	33.00
4.	If it is necessary to travel to execute a warrant or other process, or on service of a writ, summons, other process or document, or on making an arrest or attending a view, from the Bailiff's Office or the office of the assistant bailiff —	
	(a) For each kilometre travelled (one way) in the metropolitan area	0.85

District Court (Fees) Regulations 2002**Fees to be taken by the bailiff Schedule 2**

Item	Matter	Fee \$
	(b) For each kilometre travelled (one way) outside the metropolitan area	0.95 or such higher fee as the bailiff may allow.

NOTE:

If 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 is chargeable.

5. (a) Poundage on executing a writ of fieri facias or other process under or by reason of which money is received by the bailiff or by the judgment creditor, after seizure —
- | | |
|--|------|
| For amounts up to and including \$13 000, a fee at the rate of | 5% |
| For the balance over \$13 000, a fee at the rate of | 2.5% |
- (b) Poundage on a sale of land, interest in land, or goods or chattels conducted by a licensed auctioneer instructed by the bailiff —
- | | |
|--|-------|
| For amounts up to and including \$13 000, a fee at the rate of | 2.5% |
| For the balance over \$13 000, a fee at the rate of | 1.25% |

NOTE:

For the purposes of this item —

- (a) with respect to land, or an interest in land, the service of the writ of fieri facias on the Registrar of Titles under section 133 of the *Transfer of Land Act 1893*;
- (b) the seizure of chattels in the possession or apparent possession of the judgment debtor; or

District Court (Fees) Regulations 2002**Schedule 2** Fees to be taken by the bailiff

Item	Matter	Fee \$
	(c) the seizure of books of account in the possession of the judgment debtor, is to be taken to be “seizure”.	
6.	Poundage on the proceeds of the sale conducted by the bailiff or an assistant bailiff, whether by public auction or otherwise, without the intervention of an auctioneer or agent, (in addition to that prescribed by item 5(a)) — For amounts only up to and including \$13 000, at a fee at the rate of	1%
7.	(a) For poundage on executing a writ of possession — on the annual rental value of property as fixed by the bailiff For amounts up to and including \$13 000, a fee at the rate of	5%
	For the balance over \$13 000, a fee at the rate of	2.5%
	(b) For poundage on executing a writ of delivery — on the value of property delivered, as fixed by the bailiff For amounts up to and including \$13 000, a fee at the rate of	5%
	For the balance over \$13 000, a fee at the rate of	2.5%
8.	For auctioneer’s or agent’s commission, advertising, and sundry expenses on account of sale by auction or otherwise of goods or chattels or land or any interest in land, whether or not a sale takes place.	A fee fixed in accordance with the recognised scale of charges for auctioneers and agents in the State of Western Australia, or such other fee as the bailiff may allow.

*District Court (Fees) Regulations 2002*Fees to be taken by the bailiff **Schedule 2**

Item	Matter	Fee \$
9.	When a sale takes place by auction or private contract, or when no sale takes place —	As to paragraphs (a), (b) and (c), the sums actually and reasonably paid.
	(a) For advertising and giving publicity to any sale, or intended sale, printing catalogues and bills and distributing and posting the same;	
	(b) For labour (if any) employed in lotting and showing goods or chattels, preparing catalogues and if a sale takes place by auction attending the sale and superintending the removal of goods or chattels by purchaser;	
	(c) Travelling expenses.	
10.	(a) For each hour and part of an hour it is necessary that an officer engaged by the bailiff is left in possession	33.00
	(b) For leaving a person in possession;	As to
	(c) For assistants required to execute a writ of possession;	paragraphs (b), (c), (d), (e), (f), (g) and (h),
	(d) For out-of-pocket expenses incurred by the bailiff or assistant bailiff while executing any process including postage, telegraphic and telephonic messages, and travelling expenses of the bailiff and assistants;	the sums actually and reasonably paid.
	(e) For clerical assistance when necessary;	
	(f) For warehousing or storage of goods or vehicles which are being or about to be, or have been removed, and insurance for them against fire, damage and in the case of motor vehicles, accident and third party risk;	
	(g) For removal or cartage expenses;	
	(h) If animals or other livestock have been seized — for taking charge of same and for their keep while in custody of the bailiff whether or not they are removed.	

District Court (Fees) Regulations 2002**Schedule 2** Fees to be taken by the bailiff

Item	Matter	Fee \$
11.	For the preparation of the sale of real or personal property including drawing advertisements and particulars and conditions of sale but excluding actual disbursements (see items 8, 9 and 10	147.50
12.	For attendance at sale	52.50
13.	If an assistant bailiff is required to attend Court in charge of any person including a prisoner ordered to attend for examination pursuant to a judge's order, or to lodge any person in a lockup —	
	(a) For travelling and other expenses of the assistant bailiff and the prisoner;	A sum that the bailiff may reasonably allow.
	(b) For each hour when the assistant bailiff is properly engaged in respect to, and in addition to, (a), above	33.00
14.	If the bailiff, an assistant bailiff or other person employed under the bailiff is necessarily put to and incurs extra trouble and expense in the discharge of any duty incidental to his or her office or employment or for any duty or service not herein provided.	A sum or additional sum that the bailiff may reasonably allow.

District Court (Fees) Regulations 2002Forms **Schedule 3****Schedule 3 — Forms**

[r. 4(6), 7(2)]

Form 1	
Declaration that a person is a small business	
In the District Court of Western Australia	No. of 2
Plaintiff:	
Defendant:	
Applicant: Full name
 Address
 Name of small business
 Position held by applicant in the small business
I declare that the person in respect of which the application is made is a small business ¹ within the meaning of that term in the <i>District Court (Fees) Regulations 2002</i> .	
Signature of applicant:	
Date:	
<i>Note: It is an offence under regulation 4(12) of the District Court (Fees) Regulations 2002 for a person to make a statement or representation in this declaration that the person knows or has reason to believe is false or misleading in a material particular. The maximum fine is \$1 000.</i>	
¹ Under regulation 3 of the Supreme Court (Fees) Regulations 2002 a small business is — a society, club, institution, or body that is not for the purpose of trading or securing pecuniary profit for its members from its transactions; an individual or individuals in partnership who wholly own and operate a business undertaking that has less than 20 full-time equivalent employees and partners; a corporation that has less than 20 full-time equivalent employees and that is not a subsidiary of a corporation that has 20 or more full-time equivalent employees;	

District Court (Fees) Regulations 2002**Schedule 3 Forms**

a company within the meaning of the Companies (Co-operative) Act 1943 that has less than 20 full-time equivalent employees and that is not, under section 130(1) of that Act, deemed to be a subsidiary company of another company or corporation that has 20 or more full-time equivalent employees; or a corporation within the meaning of the Statutory Corporations (Liability of Directors) Act 1996 that has less than 20 full-time equivalent employees and that is not a body that would be a subsidiary, if the corporation were a corporation to which the Corporations Act 2001 of the Commonwealth applies, of a corporation within the meaning of the Corporations Act 2001 of the Commonwealth or the Statutory Corporations (Liability of Directors) Act 1996 that has 20 or more full-time equivalent employees.

Form 2	
Application to remit fees	
In the District Court of Western Australia	No. of 2
Plaintiff:	
Defendant:	
Applicant: Full name
 Address
 Date of birth
 MDL No.
The following reasons are my special reasons for applying to have the fees and poundage in relation to the above matter waived/ reduced/ refunded/ deferred*.	
* <i>Strike out those that are not applicable.</i>	
If the special reasons include financial hardship the information required in the following part of this form must be provided by the applicant.	
I am employed as a by *	
Their business address is *	

*District Court (Fees) Regulations 2002*Forms **Schedule 3**

I am unemployed/ a pensioner* and registered with the Department of Social Security at			
I am single/ married/ separated.*			
I have/ do not have* a dependant wife/ husband/ de facto spouse* and dependant children.			
My weekly/ fortnightly* income and expenditure is as follows (in whole dollars) —			
Income		Expenditure	
Wage/salary/benefit (net)		Rent/board	\$
Self	\$	Mortgage payment	\$
Spouse	\$	Maintenance for dependants	\$
De facto	\$	Food	\$
Total	\$	Electricity/gas	\$
Money in bank or other financial institution		Telephone	\$
Self	\$	Water	\$
Spouse	\$	Rates and taxes	\$
De facto	\$	Court orders	\$
Total	\$	Lease or other (give details)	\$
Income from investments	\$	Other debts owing (give details)	\$
Other income	\$		

District Court (Fees) Regulations 2002**Schedule 3** Forms

Money owed to me	\$		
TOTAL		TOTAL	
ASSETS		VALUE	\$
My assets and liabilities are as follows —			
House or other real property (give addresses)			
.....		
.....		
TOTAL			
Motor vehicles (car, utility, motor cycle, truck, etc.)			
Make and model		Reg. No.	
TOTAL			
Home contents			
Television		yes / no	
Video recorder		yes / no	
Stereo system		yes / no	
Furniture		yes / no	
Dishwasher		yes / no	
Microwave oven		yes / no	
Collection of coins, stamps, etc.			
Other collectables			
Interest in business or company			

District Court (Fees) Regulations 2002

Forms **Schedule 3**

Other assets	
TOTAL	
LIABILITIES	
Mortgage to for \$	
Other to for \$	
Time to pay order for \$	
TOTAL	
Signature of applicant:	
Date:	
<p><i>* Strike out words that are not applicable.</i></p> <p><i>Note: It is an offence under regulation 7(4) of the District Court (Fees) Regulations 2002 for a person to make a statement or representation in this application that the person knows or has reason to believe is false or misleading in a material particular. The maximum fine is \$1 000.</i></p>	

By Command of the Lieutenant-Governor
and deputy of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
