

TASMANIA

SUPREME COURT AMENDMENT RULES 2022
STATUTORY RULES 2022, No. 80

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SUPREME COURT AMENDMENT RULES 2022

IN THE SUPREME COURT OF TASMANIA

Dated 14 October 2022.

We, the Honourable Alan Michael Blow, AO, Chief Justice, and the Honourable Helen Marie Wood, the Honourable Stephen Peter Estcourt AM, the Honourable Robert William Pearce, the Honourable Michael Joseph Brett, the Honourable Gregory Peter Geason, and the Honourable Tamara Kaye Jago, Puisne Judges of the Supreme Court of Tasmania, on the recommendation of the Rule Committee, make the following Rules of Court under the *Supreme Court Civil Procedure Act 1932*.

1. Short title

These Rules of Court may be cited as the *Supreme Court Amendment Rules 2022*.

2. Commencement

These Rules of Court commence on the day on which their making is notified in the *Gazette*.

3. Principal Rules

In these Rules of Court, the *Supreme Court Rules 2000** are referred to as the Principal Rules.

*S.R. 2000, No. 8

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4. Rule 500C substituted

Rule 500C of the Principal Rules is rescinded and the following rule is substituted:

500C. Disposal of documents and things produced

- (1) The Registrar may, in the Registrar's discretion, return to the addressee any document or thing produced in response to a subpoena.
- (2) The Registrar must not return any document or thing under subrule (1) unless the Registrar has given to the issuing party at least 14 days' notice of the intention to do so and that period has expired.
- (3) The addressee must complete the declaration within the subpoena, or copy of the subpoena, that accompanies the documents produced to the court under the subpoena.
- (4) The Registrar may, on the expiry of 4 months after the conclusion of the proceeding, cause to be destroyed all the documents produced in the proceeding in compliance with a subpoena that were not declared by the addressee to be original documents or things, and are no longer required in connection with the proceeding, including on any appeal.

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5. Schedules 1 and 3 amended

Schedules 1 and 3 to the Principal Rules are rescinded and the following Schedules are substituted:

SCHEDULE 1 – FEES AND COSTS

Rule 837

**PART 1 – SCALE OF FEES TO BE ALLOWED TO PRACTITIONERS
AND COUNSEL**

Item	Fee (\$)
------	----------

Instructions –

- | | |
|--|--------|
| 1. To institute or defend any original proceeding (including instructions to institute or defend interpleader proceedings) and to appeal | 189.00 |
|--|--------|

However –

- (a) no fee is allowable under this item to the Sheriff for instructions to interplead; and
- (b) no fee is allowable for instructions to take or oppose any interlocutory proceedings in a cause or matter, unless the taxing officer is satisfied that instructions were necessary, except in the case of a person, not a party to the action or matter, who is respondent to an application in a pending cause or matter

- | | |
|--|--------|
| 2. For a statement of claim, defence, counterclaim or special case | 189.00 |
|--|--------|

Where –

- (a) the instructions for a defence cover, or include, the instruction for a counterclaim, only one fee is allowable; and
- (b) separate instructions –
 - (i) are not required for pleadings, no fee should be allowed under this item; or

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Item		Fee (\$)
	(ii) are required for pleadings, the fee allowed under this item is an amount that the taxing officer determines after taking into account the fee allowed under item 1 and after being satisfied of the need for those instructions, the time spent taking them and the status of the person taking them	
3.	For other pleadings, processes, statements of fact, reports, accounts and other similar documents when proper and not otherwise provided for, for interrogatories, for affidavits verifying interrogatories and other special affidavits and for payment into or out of Court, if the taxing officer is satisfied that any special further instruction was necessary	140.00
	Where separate instructions –	
	(a) are not required for pleadings, no fee should be allowed under this item; or	
	(b) are required for pleadings, the fee allowed under this item is an amount that the taxing officer determines after taking into account the fee allowed under item 1 and after being satisfied of the need for those instructions, the time spent taking them and the status of the person taking them	
4.	To amend a pleading if the taxing officer is satisfied that any further special instruction was necessary	91.40
5.	For particulars to be supplied if the taxing officer is satisfied that any further special instruction was necessary	91.40
6.	For brief, such fee may be allowed as the taxing officer thinks fit having regard to all the circumstances of the case	
	No allowance is to be made under item 6 in respect of any attendance, perusal, work or service which is allowed for under some other item and, in fixing the amount to be allowed under item 6, the taxing officer is to have regard to any allowance made for earlier instructions in the cause or matter so that, in no case, are any instructions to be allowed for more than once	

Process –

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	Item	Fee (\$)
7.	An originating process	131.00
8.	The renewal of a writ	54.40
9.	A subpoena	78.00
	The names of any number of witnesses may be included in a subpoena to give evidence and the taxing officer is not to allow any costs in respect of such a subpoena which has been issued unnecessarily	
10.	A writ of execution or other writ to enforce a judgment or an order	126.00
11.	A writ not included above	131.00
	The fees specified in items 7 to 11 include drawing and engrossing and any endorsement and copy to be filed on the sealing of the writ, any attendance to issue the writ and any copy for service, but exclude the service of the writ	
12.	An interlocutory application to attend in chambers or in Court as in chambers (including drawing and engrossing and copy for judge and attending to issue the interlocutory application and copies for service)	from 66.00 up to and including 96.30
13.	A certificate of readiness	96.30
	<i>Appearances –</i>	
14.	Entering an appearance (including preparation of notice and attending to enter appearance, copy and service)	54.40
	<i>Drawing documents –</i>	
15.	Drawing a document, including a pleading, particulars, affidavit, brief, judgment, bill of costs and any other document not otherwise provided for, for each 100 words	17.40
	No fee is allowable for drawing in respect of a matter which is a copy, repetition or adaptation of an existing document or part of an existing document (including the title of the Court and the cause or matter)	
	<i>Copies –</i>	

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	Item	Fee (\$)
16.	A copy of a document, if no other provision is made –	
	(a) for each 100 words of an original copy	9.30
	(b) for each page of a photocopy	1.20
	<i>Perusals –</i>	
17.	Perusal of all necessary documents, other than formal and ordinary letters and entries of appearance, for each 100 words	8.20
	However –	
	(a) no allowance is to be made for perusal of a document when preparing for trial, but the time occupied in that perusal may be considered in fixing an allowance under item 6; and	
	(b) if the practitioner is already familiar with the contents of the document, no allowance, or a smaller allowance than that mentioned above, is to be made as the taxing officer thinks proper; and	
	(c) the allowance for perusal is to be allowed once only for each document	
	<i>Attendances –</i>	
18.	A proper attendance of a practitioner –	
	(a) being other than a formal attendance –	
	(i) for each hour, a fee may be allowed as the taxing officer thinks fit, having regard to the degree of difficulty of the case, the experience and any particular expertise of the practitioner and all the circumstances of the case	from 194.00 up to and including 423.00
	(ii) proportionately for part of an hour	
	(b) being a formal attendance	26.70

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Item	Fee (\$)
19. A proper attendance of a clerk –	
(a) being other than a formal attendance –	
(i) for each hour	76.40
(ii) proportionately for part of an hour	
(b) being a formal attendance	17.40
(c) for sending a document by facsimile transmission anywhere in Australia, including disbursements (or, if a very long document, at the discretion of the taxing officer)	9.30
<i>Services –</i>	
20. The following fees are allowable:	
(a) For service, or filing instead of service, of any writ, application, order or notice on a person proper to be served therewith who has not entered an appearance, and if not authorised to be served by post (or any other fee as in special circumstances the taxing officer thinks proper)	62.50
(b) If served at a distance of more than 2 kilometres from the nearest place of business or office of the practitioner (whether principal or agent) serving the same or through whom service is effected –	
(i) if served by the practitioner or the practitioner’s clerk, for each 2 kilometres (one way) beyond each such 2 kilometres, and in addition to the fee allowed under paragraph (a)	7.00
(ii) if served by any other person, the sum actually and reasonably paid	
(c) If, in the opinion of the taxing officer, a more expensive means of service has been adopted than should have been adopted, the taxing officer is to allow for the service only the fee as would have been paid if the less or the least expensive means of service had been adopted	

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Item	Fee (\$)
(d) If more than one attendance is necessary to effect service or to ground an application for substituted service, a further allowance may be made as the taxing officer thinks fit	
(e) For service out of the jurisdiction, an allowance may be made as the taxing officer thinks fit	
(f) If any writ, application, order, notice of motion, summons, petition, notice or other process or any 2 of them have to be, are or ought to be, or the taxing officer is of the opinion that they should have been, served together, one fee only for service is to be allowed	
<i>Correspondence, &c. –</i>	
21. The following fees are allowable:	
(a) formal letter	26.70
(b) ordinary letter	34.80
(c) special letter	60.20
or, if very long or very special, at the discretion of the taxing officer	
(d) circular letters after the first	7.00
If 2 or more letters in similar terms are to be sent to 2 or more persons, all the letters except the first are to be allowed for as circular letters	
No letter (other than a letter before action) is to be allowed for, unless the taxing officer is satisfied that it was necessary	
22. For any necessary postage, carriage or transmission of a document, at the discretion of the taxing officer	
<i>Default judgments –</i>	
23. Entering judgment by default without an order (including any instructions, drawing, engrossing any copy and attendance to have judgment entered)	76.40

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PART 2 – FEES

Fees on the scale specified in Part 1 of Schedule 1 to the *Magistrates Court (Civil Division) Rules 1998* as applicable to the amount involved in the action

PART 3 – COSTS TO BE ENDORSED ON WRITS AND CLAIMED ON SIGNING JUDGMENT

Item	Fee - claim exceeding \$50 000.00 (\$)
1. Costs of writ for service within the jurisdiction	309.00
2. Costs of writ for service outside the jurisdiction	412.00
In addition to the fees allowed in items 1 and 2, the practitioner may claim the Court fees set out in the <i>Supreme Court (Fees) Rules 2017</i> , and the fee, if any, prescribed under section 5(1) of the <i>Appeal Costs Fund Act 1968</i>	
3. Costs of signing judgment	80.80

PART 4 – GARNISHEE AND JUDGMENT SUMMONS PROCEEDINGS (INCLUSIVE OF COURT COSTS)

<i>Judgment creditor's costs</i>	Rules 912 and 921 Fee (\$)
In respect of a debt exceeding \$50 000.00	234.00
In respect of a debt not exceeding \$50 000.00	157.00

PART 5 – COSTS TO BE ENDORSED ON APPLICATION UNDER SECTION 146(1) OF THE LAND TITLES ACT 1980 FOR POSSESSION OF PROPERTY

	Rule 601
1. Costs of the application	\$484.00

In addition to the above fee, the practitioner may claim the Court fees set out in the *Supreme Court (Fees) Rules 2017*, and the fee, if any, prescribed under section 5(1) of the *Appeal Costs Fund Act 1968*.

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SCHEDULE 3 – EXPENSES OF EXECUTION

Rule 902

**Costs of a writ of execution which may be directed to be
levied**

1. In a case where the amount of debt does not exceed \$50 000	\$77.50
2. In a case where the amount of debt exceeds \$50 000	\$112.00

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A. M. BLOW
Chief Justice

H. M. WOOD
Puisne Judge

S. P. ESCOURT
Puisne Judge

R. W. PEARCE
Puisne Judge

M. J. BRETT
Puisne Judge

G. P. GEASON
Puisne Judge

T. K. JAGO
Puisne Judge

Countersigned,

B. P. MCMANUS
Registrar

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 26 October 2022.

These Rules of Court are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the Rules of Court)

These rules amend the *Supreme Court Rules 2000* by –

- (a) altering some procedures relating to the disposal and return of certain documents and things produced in response to a subpoena; and
- (b) increasing various fees charged under Schedules 1 and 3 of those Rules.