

**1959/35**

## THE CROWN SOLICITORS REGULATIONS 1959

**COBHAM, Governor-General  
ORDER IN COUNCIL**

At the Government Buildings at Wellington this 18th day of March 1959

Present:

THE RIGHT HON. W. NASH PRESIDING IN COUNCIL

PURSUANT to the Public Revenues Act 1953, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

### REGULATIONS

#### PART I—PRELIMINARY

1. (1) These regulations may be cited as the Crown Solicitors Regulations 1959.  
 (2) These regulations shall come into force on the 1st day of April 1959.
2. These regulations shall apply to all work done by Crown Solicitors after the commencement of these regulations.
3. (1) In these regulations, unless the context otherwise requires,—  
 “Crown Solicitor” means a solicitor holding a warrant of appointment as such from the Governor-General;  
 “Registrar” means a Registrar of the Supreme Court; and includes a Deputy Registrar.  
 (2) These regulations prescribe the fees to be paid to Crown Solicitors for conducting the legal business of the Crown, and regulate the terms and conditions of their employment. They do not relate to the legal business of the Public Trustee, the Maori Trustee, the Government Insurance Department, the State Advances Corporation, or the State Fire and Accident Insurance Office, except as to the last named, where that office is acting as agent for a Government Department and not as an insurer.

#### PART II—EMPLOYMENT OF CROWN SOLICITORS

4. No Crown Solicitor shall accept employment, other than from the Crown, in any matter in which the Crown is directly concerned or appear against the Crown, except in special circumstances and with the express permission of the Solicitor-General.

5. The Crown may take any matter or business out of the hands of any Crown Solicitor, and may require that all deeds, instruments, and papers in his hands relating thereto shall be handed over to some other solicitor to be nominated by the Crown, or as the Crown shall direct.

6. No Crown Solicitor shall, as against the Crown in respect of any legal business he performs for the Crown, have any lien upon any document, deed, or instrument of title, or upon any papers whatsoever, being the property of the Crown, or any right to retain any fund or money in his hands belonging to the Crown in satisfaction of or by way of security for the payment of any claim for fees that he may have against the Crown.

### PART III—GENERAL PROVISIONS AS TO FEES

7. Fees claimed by a Crown Solicitor from the Crown shall not be assessed on the ordinary solicitor and client basis but shall be claimed in accordance with regulation 11 hereof without further charge for receiving instructions, for attendances, correspondence, or reports.

8. In any special case where he is satisfied that the fee payable under these regulations is inadequate or excessive having regard to exceptional circumstances, the Solicitor-General may authorise such fee as he considers fair and reasonable.

9. Nothing in these regulations shall be deemed to preclude the Crown from submitting costs for taxation in the usual way.

10. Where a Crown Solicitor has recovered and received costs in any transaction or proceeding on behalf of the Crown, he shall pay the same into the Public Account and forthwith forward the bank receipt therefor to the Department from which he received his instructions.

### PART IV—CERTIFICATION OF FEES

11. (1) A Crown Solicitor having a claim against the Crown for costs under these regulations shall on the completion of the matter or business to which the claim relates set out full particulars thereof in a voucher to be prepared and signed by him, and, if the claim is in respect of proceedings in the Supreme Court, shall forward the voucher to the Registrar of the Registry in which the proceedings were had, and in any other case shall forward it to a Registrar.

(2) Subject to subclause (3) of this regulation, the Registrar shall certify and deal with any such voucher having regard to the particulars set out therein in accordance with the following provisions:

(a) If satisfied that the fees claimed are correct in accordance with any scale prescribed by these regulations, he shall so certify on the voucher:

(b) If the appropriate scale prescribed by these regulations requires the fee to be fixed by reference to a maximum, the Registrar shall approve such fee not exceeding the prescribed maximum as he considers fair and reasonable, and shall so certify on the voucher:

(c) If no scale prescribed by these regulations is applicable, the Registrar shall approve such fee assessed at not more than £1 11s. 6d. per hour for the actual time involved as he considers fair and reasonable and shall so certify on the voucher:

(d) If in the opinion of the Registrar the nature of the service actually performed in any case does not justify the payment of the full fees prescribed by these regulations, or the work occasioned in

any transaction or proceeding is reduced by the fact that the transaction or proceeding is one of a number or series of transactions or proceedings that are similar or that arise out of the same set of circumstances, he shall approve such lesser fee as he considers fair and reasonable and shall so certify on the voucher:

- (e) In respect of appearances in the Supreme Court, the Registrar shall further certify on the voucher that the appearances of which particulars are given were duly made;
- (f) In respect of criminal cases in the Supreme Court or Court of Appeal, the Registrar shall forward the voucher so certified to the Crown Law Office for payment and in all other cases he shall return the voucher so certified to the Crown Solicitor for submission to the appropriate Government Department whose Permanent Head or other authorised certifying officer, if satisfied that the services charged for have been duly performed, shall so certify and arrange payment.

(3) If the fee claimed exceeds any amount which in the opinion of the Registrar could properly be claimed under subclause (2) of this regulation, and is claimed by reason of special circumstances, or if the Registrar is in doubt as to whether the fee is a proper fee for him to certify, he shall refer the voucher with a memorandum setting forth his reasons to the Solicitor-General, to determine the amount payable pursuant to regulation 8 hereof.

#### **PART V—BUSINESS AT A DISTANCE AND TRAVELLING EXPENSES**

**12.** Where it is necessary for a Crown Solicitor to transact Crown business at a distance from his usual place of business—

- (a) He shall employ an agent unless, from the nature of the case or for special reasons, it is necessary that the Crown Solicitor himself should transact the business;
- (b) Except for special reasons and with the approval of the Solicitor-General, or in pursuance of any existing departmental arrangement, he shall employ as agent in any town in which a Crown Solicitor has been appointed only that Crown Solicitor.

**13.** Where a Crown Solicitor employs an agent, a fee not exceeding £3 3s. will be allowed for preparing instructions.

**14.** The following travelling expenses will be allowed to a Crown Solicitor required to travel on Crown business more than three miles from his usual place of business:

- (a) Fares actually paid for public transport, subject to the production of receipts for fares exceeding 10s. and not fixed by law or readily ascertainable;
- (b) Car allowance at 1s. 9d. a mile one way where a private car is used;
- (c) Subsistence expenses actually and reasonably incurred by him during the period of his absence from his residence (subject to the production of a receipt for any item in excess of 10s.) plus a sum of 2s. 6d. per day or part of a day.

**15.** A special allowance of £5 5s. for each half day occupied during ordinary office hours in travelling on Crown business will be allowed to a Crown Solicitor in addition to the travelling allowance provided in regulation 14 (c) hereof but not in addition to any other payment for preparation or otherwise in respect of the same time.

## PART VI—CRIMINAL AND QUASI-CRIMINAL PROCEEDINGS

*In the Supreme Court*

16. In proceedings in the Supreme Court on trials of indictable offences the following scale shall apply:

(a) Preparing for trial with all matters incidental thereto—	£ s. d.
(i) Indictments for murder, for each hour .....	2 2 0
(ii) Other cases, for each separate trial .....	6 6 0
(b) Appearance—	
(i) Indictments for murder, for each half day occupied .....	10 10 0
(ii) Other cases, for each half day occupied .....	7 17 6
(iii) Where accused pleads guilty on arraignment to all charges in an indictment (other than for murder) and there is no other person jointly indicted with him in respect of whom the trial proceeds .....	2 2 0
(iv) Where the trial does not proceed after arraignment in an indictment for murder and there is no other person jointly indicted with the accused in respect of whom the trial proceeds .....	3 3 0
(v) Where the Crown offers no evidence against an accused, or enters with respect to him a stay of proceedings without evidence being given, and there is no other person jointly indicted with him in respect of whom the trial proceeds .....	2 2 0

17. The amounts hereinbefore prescribed in this Part of these regulations shall not be paid in respect of indictments that might properly have been included with others presented, and any question arising as to the applicability of this regulation shall be referred to the Solicitor-General whose decision shall be final.

18. (1) For appearances upon the sentencing of prisoners the following scale shall apply, irrespective of the number of charges:

(a) Where only one prisoner is sentenced on one appearance .....	£ s. d.
.....	2 2 0
(b) Where more prisoners than one are sentenced on one appearance and all such prisoners have been committed for sentence on one information or as the result of one preliminary hearing, one fee of .....	2 2 0
(c) Where more prisoners than one are sentenced on the same appearance, for each prisoner sentenced .....	1 11 6
.....	
Provided that where more than one of such prisoners have been committed for sentence on one information or as the result of one preliminary hearing, one fee of £1 11s. 6d. will be allowed upon the sentencing of all of them so committed.	

(2) No fee shall be payable in respect of appearance upon the sentencing of a prisoner where the sentence is pronounced on the same day as the verdict, unless that appearance alone necessitates a separate attendance of the Crown Solicitor.

*Under the Criminal Appeal Act 1945*

19. In proceedings under the Criminal Appeal Act 1945 the following scale shall apply:

(a) For preparation and appearance on application to a Judge for a certificate that the case is a fit case for appeal (but excluding cases arising under rule 9 of the Criminal Appeal Rules 1946*) .....	£ s. d.
	2 2 0
(b) For preparation and appearance of application to the Court of Appeal for leave to appeal against conviction or against conviction and sentence (except where the application is heard concurrently with or immediately before the hearing of the appeal) .....	5 5 0
(c) For preparation on appeal against conviction, appeal against conviction and sentence, or reference of an application for the exercise of the mercy of the Crown; for each hour occupied .....	2 2 0
(d) For appearance on appeal against conviction, appeal against conviction and sentence, or reference of an application for the exercise of the mercy of the Crown; for each half day occupied .....	10 10 0
(e) For preparation of application for leave to appeal against sentence or on appeal against sentence, such sum as may be certified by the Registrar of the Court of Appeal as fair and reasonable, not exceeding in each case .....	4 4 0
(f) For preparation of application for leave to appeal against sentence or on appeal against sentence where argument of question of law is involved, such sum as may be certified by the Registrar of the Court of Appeal as fair and reasonable, not exceeding for each hour occupied .....	2 2 0
(g) Appearance on leave to appeal against sentence or on appeal against sentence, such sum as may be certified by the Registrar of the Court of Appeal as fair and reasonable, not exceeding for each half day, irrespective of number of cases .....	10 10 0

*Other Criminal Matters in the Court of Appeal*

20. In criminal matters in the Court of Appeal not arising under the Criminal Appeal Act 1945 the following scale shall apply:

(a) For preparation upon an application to the Court of Appeal for leave to appeal made under section 443 (1) of the Crimes Act 1908 (except where the application is heard concurrently with or immediately before the hearing of the appeal), or upon a case stated under section 442 or section 443 (5) of the Crimes Act 1908, or upon any motion under section 443 (6) of the Crimes Act 1908, for each hour occupied .....	£ s. d.
	2 2 0
(b) For appearance in respect of any such application or case stated, for each half day occupied .....	10 10 0

*Summary Cases Before Magistrates or Justices*

**21.** For conducting prosecutions in cases that are tried summarily before a Magistrate or Justices the following scale shall apply:

	£ s. d.
(a) For each case (subject to paragraphs (b) and (c) of this regulation) including drawing information, preparation, and appearance .....	5 5 0
(b) Where there are more informations than one arising out of the same or similar circumstances, so that in the opinion of the Department directing the proceedings the work done in preparing and conducting one reduces materially the work of preparing and conducting the others, whether against the same defendant or against several defendants, and whether heard separately or together, the fee prescribed in paragraph (a) of this regulation shall be allowed on one information only, and on each other information there may be allowed an additional amount, to be agreed upon between that Department and the Crown Solicitor or, failing such agreement, to be fixed by a Registrar, but not exceeding .....	3 3 0
(c) Where under any Act there are more offences than one charged in any information, the fee prescribed in paragraph (a) of this regulation shall be allowed in respect of one offence only and for each other offence there may be allowed an additional amount to be agreed upon between the Department directing the proceedings and the Crown Solicitor or, failing such agreement, to be fixed by a Registrar, but not exceeding .....	3 3 0
(d) Where for any reason the information is withdrawn, or where the defendant pleads guilty, for drawing the information and preparing the case for hearing, not exceeding .....	3 3 0
(e) Where paragraph (d) of this regulation applies, but there are more informations than one, for each additional information, not exceeding .....	1 1 0

**22.** The fees that may be allowed under regulation 21 hereof shall, as far as applicable, be paid in respect of complaints and criminal or quasi-criminal matters of any other kind which may be heard and disposed of before a Magistrate or a Justice or Justices.

**23.** The scales prescribed in regulations 21 and 22 hereof may be exceeded to the extent that party and party costs exceeding the scale may be awarded to the Crown.

*Preliminary Hearing of Indictable Offences*

**24.** A Crown Solicitor conducting the preliminary investigation of an indictable offence shall be allowed the same fee for preparation and appearance as if the preliminary hearing were a trial before the Supreme Court, and the scale prescribed by regulation 16 hereof shall apply accordingly and shall cover all proceedings up to committal of the accused for trial or his discharge, including a general supervision over all matters necessary to make the case complete.

*Before Coroners*

25. For an inquest before a Coroner, a fee not exceeding £5 5s. shall be allowed for each half day occupied in preparation and appearance. Where the inquest is on two or more bodies, only one fee shall be paid.

*Appeals and Other Proceedings Under or Relating to the Summary Proceedings Act 1957*

26. In proceedings in the Supreme Court under or relating to the Summary Proceedings Act 1957, whether by way of appeal against conviction or order, certiorari, mandamus, prohibition, or otherwise (except appeals against sentence), the fee allowed shall be £1 11s. 6d. for each hour for preparation and £10 10s. for the first day and £5 5s. for each subsequent half day of the hearing.

27. On an appeal against sentence before the Supreme Court the fee for preparation and appearance shall be such amount not exceeding £4 4s., as may be certified by the Registrar as fair and reasonable.

*Bankruptcy*

28. For investigating a case submitted under section 144 of the Bankruptcy Act 1908, and giving or refusing a certificate thereon, a fee of £3 3s. shall be allowed.

*Second Counsel in Criminal Matters*

29. In trials and appeals on a charge of murder in which second counsel is engaged, and in preliminary investigations of such charges where the Solicitor-General has authorised the engagement of second counsel, and in any other trials or criminal proceedings on appeal in which the Solicitor-General has authorised the employment of second counsel, the fee payable to second counsel from the Crown Solicitor's own office for preparation and hearing shall be at the rate of half the fee prescribed for the Crown Solicitor.

**PART VII—CIVIL PROCEEDINGS**

*In the Court of Appeal*

30. The fee to be allowed in any civil matter heard in the Court of Appeal, whether the Crown is successful or not, shall be the scale party and party costs, on the amount of the judgment appealed from, or, if no money is claimed, such amount as the Court shall have awarded as costs to the successful party, but without any allowance as for cases from a distance.

*In the Supreme Court*

31. (1) The fee to be allowed in any civil matter heard in the Supreme Court, whether the Crown is successful or not, shall be the scale party and party costs on the amount claimed, or, if no money is claimed, such amount as the Court shall have awarded as costs to the successful party.

(2) Notwithstanding anything to the contrary in subclause (1) of this regulation,—

(a) If the Crown succeeds in a claim against it for an unduly excessive amount, the fee shall not be the scale party and party costs but shall be fixed by the Solicitor-General having regard to all the circumstances:

- (b) Where costs in excess of the fee assessed under the foregoing provisions have been awarded to the Crown, such costs may be allowed instead of the assessed fee.

*In the Compensation Court or the Land Valuation Court*

32. (1) Subject to the provisions of regulations 34 and 35 hereof and to subclause (2) of this regulation, the fee to be allowed in any matter heard in the Compensation Court, or the Land Valuation Court, whether the Crown is successful or not, shall be the party and party costs from time to time normally allowed by that Court on the amount claimed, or, if no money is claimed, such amount as the Court shall have awarded as costs to the successful party.

(2) Subclause (2) of regulation 31 hereof shall apply to the fixing of fees under this regulation.

*In Inferior Courts*

33. The fee to be allowed in any civil matter heard in a Magistrate's Court or in a Warden's Court, whether the Crown is successful or not, shall be the scale party and party costs on the amount claimed, or, if no money is claimed, such amount as the Court shall have awarded as costs to the successful party with a minimum of £3 3s.:

Provided that where the Crown is a party to several cases heard at the same sitting of a Magistrate's Court or a Warden's Court, such sum shall be allowed in each case as may be agreed upon between the Department directing the proceedings and the Crown Solicitor or, failing agreement, fixed by a Registrar.

*In Compensation Cases Under the Public Works Act 1928*

34. The fee to be allowed in any claim for compensation heard under Part III of the Public Works Act 1928 shall be the scale party and party costs in the Supreme Court on the amount of the claim, but shall not exceed £300, exclusive of disbursements, unless otherwise specially authorised by the Solicitor-General.

35. Where the Crown is respondent in a series of compensation cases arising in respect of any public work, the fee to be allowed shall be fixed by the Solicitor-General.

**PART VIII—CONVEYANCING**

36. The fee to be allowed in respect of any instrument or dealing affecting any estate or interest of the Crown or any person or body on behalf of the Crown in land,—

(a) If payable by the Crown, shall be half the appropriate fee prescribed by the Scale of Conveyancing Charges for the time being approved by the Council of the New Zealand Law Society with a minimum fee of £3 3s.:

(b) If payable by any other party, shall not exceed the appropriate fee prescribed by the said Scale of Conveyancing Charges.

37. The fees prescribed in this Part of these regulations are inclusive of all charges for attendances, correspondence, reports, searches, and investigation of title, but are exclusive of actual and necessary disbursements.

38. Where by the ordinary course of practice the costs of preparing and completing any instrument or a counterpart thereof ought to be borne by one of the parties thereto, other than the Crown, the Crown Solicitor shall arrange that the costs properly chargeable to that party are paid by him.

39. Where it is necessary that any instrument should be executed on behalf of the Crown, the Crown Solicitor in submitting it for execution shall certify that he has perused or prepared the instrument and that in his opinion it is a proper instrument to be executed by or on behalf of the Crown.

40. On the completion of any transaction affecting any estate or interest of the Crown or any person or body on behalf of the Crown in land, the Crown Solicitor shall deliver with the documents of title a certificate setting out the nature of the transaction and his opinion that it has been duly and properly completed.

41. (1) The Crown Legal Business Regulations 1952\* are hereby revoked.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the revocation of any provision by these regulations shall not affect any document made or any thing whatsoever done under the provision so revoked or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the revocation and could have been made or done under these regulations, shall continue and have effect as if it had been made or done under the corresponding provision of these regulations and as if that provision had been in force when the document was made or the thing was done.

T. J. SHERRARD,  
Clerk of the Executive Council.

\* S.R. 1952/211

---

#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations relate to the employment of Crown Solicitors (not being members of the Public Service) for conducting the legal business of the Crown. They regulate the terms of the employment of Crown Solicitors, and prescribe the fees to be paid to them. They are in substitution for the Crown Legal Business Regulations 1952, which are revoked.

---

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 March 1959.

These regulations are administered in the Crown Law Office.