

MAGISTRATES COURT (CIVIL JURISDICTION) (SOLICITORS' COSTS)
REGULATIONS (AMENDMENT)

OUTLINE/SUMMARY

1. The regulations prescribe a new costs scale for the Magistrates Court which will apply from 1 January 1991.
2. The regulations provide that the Supreme Court scale of costs (which are set out in the Fourth Schedule to the Rules) be adopted for the Magistrates Court with a sliding percentage depending upon the amount at issue.
3. The scale of costs specifies what costs are recoverable by the successful party, not the amount which a solicitor may charge a client. The current Magistrates Court scale is out of date with the effect that successful parties are recovering significantly less than their actual costs.
4. A common scale for both the Magistrates and Supreme Courts reduces the complexity of costing matters.

EXPLANATORY MEMORANDUM

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REGULATIONS (AMENDMENT)

CLAUSE NOTES

Regulation 1 provides that the amending regulations commence on 1 January 1991.

Regulation 2 defines the 'Principal Regulations' as the Magistrates Court (Civil Jurisdiction) (Solicitors' Costs) Regulations.

Regulation 3 inserts certain definitions into the interpretation provision of the Principal Regulations which set out the prescribed percentages of the Fourth Schedule to the Supreme Court Rules as being:-

less than \$10,000	-	33%
between \$10,000 - \$25,000	-	67%
between \$25,000 - \$40,000	-	80%
between \$40,000 - \$50,000	-	90%

Regulations 4 to 7 (inclusive) make consequential amendments to the Principal Regulations which have the effect of applying the existing scales to work done performed up until and including 31 December 1990.

Regulation 8 inserts two new regulations into the Principal Regulations.

New Regulation 7 provides that for work done on or after 1 January 1991 the prescribed cost for issuing an ordinary claim (being a claim for an unliquidated amount of money) is the amount referred to in Order 4, paragraph 6(3)(a) of the Supreme Court Rules (currently \$494) multiplied by the prescribed percentage. For the purposes of section 251 of the Magistrates Court (Civil Jurisdiction) Act 1982 - which provides that costs shall be ascertained by having regard to the amount for which proceedings were instituted or the amount of judgement (as applicable) - the relevant scale of costs is the one set out in the Fourth Schedule of the Supreme Court Rules multiplied by the prescribed percentage.

New Regulation 8 provides that for work done on or after 1 January 1991 the prescribed cost for issuing a special claim (being a claim for a specific sum of money) is the same for an ordinary claim. For the purposes of section 41 of the above Act - final judgement by default - the prescribed cost is the amount referred to in Order 4, subrule 6(4) of the Supreme Court Rules (currently \$552) multiplied by the prescribed percentage.