

**Reprint
as at 1 July 2013**



Crown Solicitors Regulations 1994

(SR 1994/142)

Crown Solicitors Regulations 1994: revoked, on 1 July 2013 (but continuing to apply to work done by Crown Solicitors (whether on criminal cases or civil matters) on or after 1 August 1994 but before this date), by regulation 3 of the Crown Solicitors Regulations Revocation Order 2013 (SR 2013/191).

Catherine A Tizard, Governor-General

Order in Council

At Wellington this 11th day of July 1994

Present:

Her Excellency the Governor-General in Council

Pursuant to section 81(1)(g) of the Public Finance Act 1989, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

Contents

	Page
1 Title and commencement	3

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Crown Law Office.

2	Interpretation	3
2A	Crown Solicitor appropriation criminal cases	4
3	Application of regulations	4
Part 1		
Duties and powers of Solicitor-General		
4	Senior hourly rate of remuneration	5
5	Classification of counsel	6
6	Certified scale of fees	6
7	Power of delegation	6
Part 2		
Employment of Crown Solicitors		
8	Obligation not to appear against Crown	7
9	Right to take matter or business out of hands of Crown Solicitor	7
10	No lien against Crown	7
Part 3		
General provisions as to fees		
11	Basis for claiming fees	7
12	Special cases	8
13	Right of Crown to require taxation	9
14	Costs recovered by Crown Solicitor	9
Part 4		
Approval and certification of fees		
14A	Crown Solicitor appropriation criminal cases: Solicitor-General approval	9
15	Other criminal cases or civil matters: Registrar certification	11
Part 5		
Business at a distance and travelling expenses		
16	Employment of agents	14
17	Fee for instructing agent	14
18	Travelling expenses	14
19	Special allowance for travelling time	15
Part 6		
Remuneration		
20	Fees for preparation	15
21	Fees for appearances	16
22	Appeals to High Court against sentence	17
23	Fee for instructing other counsel	18

24	Fees for arranging fixtures, attending callovers, etc	18
25	Second counsel	19
26	Fees where civil proceedings settled before trial	19
27	Counsel assisting	20

Part 7

Conveyancing

28	Instruments affecting interest of Crown in land or property	20
29	Conveyancing fees inclusive of all charges	20
30	Duty of Crown Solicitor where costs not payable by Crown	21
31	Certificate by Crown Solicitor	21

Part 8

Savings and revocation

32	Savings in respect of conduct of legal business of Crown	21
33	Revocation and savings	22

Regulations

1 Title and commencement

- (1) These regulations may be cited as the Crown Solicitors Regulations 1994.
- (2) These regulations (except regulation 6 as in force before 1 July 2012) come into force on 1 August 1994.
- (3) Regulation 6 (as in force before 1 July 2012) came into force on 15 July 1994.

Regulation 1(2): amended, on 1 July 2012, by regulation 4(1) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 1(3): inserted, on 1 July 2012, by regulation 4(2) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

2 Interpretation

In these regulations, unless the context otherwise requires,—
certified scale of fees means the certified scale of all regular fees claimable under these regulations prepared by the Solicitor-General in accordance with regulation 6(1)

civil matter includes any appeal from any commission, committee, board, authority, or other administrative tribunal

Crown Solicitor means a solicitor holding a warrant of appointment as such from the Governor-General

Crown Solicitor appropriation criminal case means a criminal case to the extent only that work done on the case by or on behalf of a Crown Solicitor under, or pursuant to, the Crown Solicitor's warrant of appointment is to be funded by way of an appropriation that—

- (a) is in Vote Attorney-General; and
- (b) covers outputs that are or include work of that kind

Registrar means a Registrar of the High Court; and includes a Deputy Registrar

year means the period of 12 months ending on the expiration of 30 June.

Regulation 2 **certified scale of fees**: amended, on 1 July 2012, by regulation 5(1) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 2 **Crown Solicitor appropriation criminal case**: inserted, on 1 July 2012, by regulation 5(2) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

2A **Crown Solicitor appropriation criminal cases**

The Solicitor-General must make available to Crown Solicitors information that enables them to determine what classes, descriptions, or kinds of work done on a criminal case by them or on their behalf under, or pursuant to, their warrants of appointment fall, at a particular time or times on or after 1 July 2012, within the definition in regulation 2 of a Crown Solicitor appropriation criminal case.

Regulation 2A: inserted, on 1 July 2012, by regulation 6 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

3 **Application of regulations**

- (1) These regulations shall apply to all legal business of the Crown conducted by Crown Solicitors on or after 1 August 1994.
- (1A) Despite subclause (1), Crown Solicitors' claims for fees for work done (whether on criminal cases or civil matters) before 1 July 2012 must be dealt with as if the Crown Solicitors Amendment Regulations 2012 had not been made, except that this subclause and the following regulations (as inserted, amended, or replaced, on 1 July 2012) apply to those claims:

- (a) regulation 4(2) (senior hourly rate of remuneration):
 - (b) regulation 12 (special cases).
- (2) Nothing in these regulations shall apply to the legal business of Public Trust or the Māori Trustee, except where any such trustee is acting as agent for a government department.

Regulation 3(1A): inserted, on 1 July 2012, by regulation 7 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 3(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Regulation 3(2): amended, on 1 March 2002, pursuant to section 152(1) of the Public Trust Act 2001 (2001 No 100).

Part 1

Duties and powers of Solicitor-General

4 Senior hourly rate of remuneration

- (1) In preparing under regulation 6(1) and after 30 June 2012 a certified scale of fees, the Solicitor-General must determine, for the purposes of these regulations and of the certified scale of fees, the senior hourly rate of remuneration for each financial year to which the certified scale of fees is to apply.
- (2) The senior hourly rate of remuneration determined under subclauses (1) to (5) (as in force before 1 July 2012), and in force immediately before 1 July 2012, continues in force, and applies or continues to apply in respect of claims for fees for work done before, on, or after 1 July 2012 in respect of criminal cases or civil matters, until it is replaced by a new rate determined under subclause (1) (as replaced on 1 July 2012).
- (3) After 30 June 2012 and until a replacement certified scale of fees is prepared and certified under regulation 6(1), the hourly rates prescribed in the certified scale of fees in force immediately before 1 July 2012 and prescribed for the purposes of regulation 15(2)(c) (as in force before 1 July 2012) must be taken to be the hourly rates prescribed for the purposes of regulations 14A(2)(b) and 15(2)(b) (as replaced on 1 July 2012).
- (4) Subclause (3) does not limit the generality of subclause (2).
- (5) *[Revoked]*

Regulation 4(1): replaced, on 1 July 2012, by regulation 8 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 4(2): replaced, on 1 July 2012, by regulation 8 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 4(3): replaced, on 1 July 2012, by regulation 8 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 4(4): replaced, on 1 July 2012, by regulation 8 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 4(5): revoked, on 1 July 2012, by regulation 8 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

5 Classification of counsel

Where any work is undertaken by any counsel on instructions by the Solicitor-General or the Crown Solicitor, whether or not that counsel is a member or employee of the Crown Solicitor's practice, the Solicitor-General shall determine whether that counsel is to be regarded for the purposes of these regulations as a senior counsel, an intermediate counsel, or a junior counsel.

6 Certified scale of fees

- (1) The Solicitor-General may, before 1 July in any year, prepare and certify a scale of all regular fees claimable in accordance with these regulations, and shall forward a copy to each Crown Solicitor and each Registrar.
- (2) Each of the following applies to each financial year until it is revoked and replaced under subclause (1):
 - (a) the certified scale of fees in force immediately before 1 July 2012;
 - (b) each scale of fees prepared and certified under subclause (1) after 30 June 2012.

Regulation 6(1): amended, on 1 July 2012, by regulation 9(1) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 6(2): replaced, on 1 July 2012, by regulation 9(2) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

7 Power of delegation

The Solicitor-General may from time to time delegate to any officer of the Crown Law Office all or any of the powers exercisable by the Solicitor-General under these regulations.

Part 2

Employment of Crown Solicitors

8 Obligation not to appear against Crown

- (1) Subject to subclause (2), no Crown Solicitor or any member or employee of the Crown Solicitor's practice, shall accept employment, other than from the Crown, in any matter in which the Crown is directly concerned, or appear against the Crown.
- (2) The Solicitor-General may exempt a Crown Solicitor or Crown Solicitors from compliance with subclause (1) in a particular case or class of case generally.

9 Right to take matter or business out of hands of Crown Solicitor

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

10 No lien against Crown

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

Part 3

General provisions as to fees

11 Basis for claiming fees

Fees that a Crown Solicitor claims from the Crown must be—

- (a) assessed not on the ordinary solicitor and client basis, but under these regulations; and

- (b) claimed under regulation 14A so far as they are fees for work done after 30 June 2012 in respect of Crown Solicitor appropriation criminal cases; and
- (c) claimed under regulation 15 so far as they are fees for work done after 30 June 2012 in respect of—
 - (i) criminal cases that are not Crown Solicitor appropriation criminal cases; or
 - (ii) civil matters.

Regulation 11: replaced, on 1 July 2012, by regulation 10 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

12 Special cases

- (1) This regulation applies to a fee claimed under the rest of these regulations by a Crown Solicitor after 30 June 2012 (whether for work done before, on, or after 30 June 2012 in respect of a criminal case or a civil matter) (the **fee claimed**) if the Solicitor-General—
 - (a) is, under regulation 14A(4), to determine under this regulation the amount payable; or
 - (b) is, under regulation 15(4), referred the invoice for the fee claimed to determine under this regulation the amount payable; or
 - (c) is satisfied that the fee claimed (whether or not it could properly be claimed under the rest of these regulations) is inadequate or excessive having regard to exceptional circumstances.
- (2) The Solicitor-General may authorise, instead of the fee claimed, any special fee (whether lesser or greater than the fee that could properly be claimed under the rest of these regulations) the Solicitor-General considers fair and reasonable.
- (3) In determining whether to authorise under subclause (2) a special fee greater than the fee that could properly be claimed under the rest of these regulations, the Solicitor-General may have regard to the extent (if any) to which—
 - (a) the Solicitor-General was so far as practicable notified promptly by or on behalf of the Crown Solicitor of—
 - (i) the work for which the special fee is claimed by the Crown Solicitor; and

- (ii) every reason why the Solicitor-General might under subclause (2) authorise the special fee; and
 - (b) the Crown Solicitor has complied with any current relevant guidelines issued under subclause (4).
- (4) The Solicitor-General may for the purposes of this regulation issue guidelines relating to special fees.
- (5) Subclauses (3) and (4) do not limit the generality of the Solicitor-General's discretion under subclause (2), and subclause (2) does not limit, and is not limited by, the Solicitor-General's discretion under regulation 26(2).

Regulation 12: replaced, on 1 July 2012, by regulation 11 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

13 Right of Crown to require taxation

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

14 Costs recovered by Crown Solicitor

Where a Crown Solicitor has recovered and received costs in any transaction or proceeding on behalf of the Crown, the Crown Solicitor shall pay the same into his or her practice's trust account and forward his or her practice's cheque, together with a description of the matter to which the cheque relates, to the government department from which the Crown Solicitor received instructions.

Part 4

Approval and certification of fees

Heading: amended, on 1 July 2012, by regulation 12 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

14A Crown Solicitor appropriation criminal cases: Solicitor-General approval

- (1) A Crown Solicitor who has a claim against the Crown for fees under these regulations for work done after 30 June 2012 in respect of a Crown Solicitor appropriation criminal case must—
 - (a) claim those fees at the rate or rates applicable when the work, or each part of the work, concerned was done or, as the case may be, as special fees payable only if

- authorised by the Solicitor-General under regulation 12;
and
- (b) set out full particulars of the claim in an invoice prepared and signed by the Crown Solicitor; and
 - (c) forward the invoice to the Solicitor-General.
- (2) The Solicitor-General must (unless subclause (3) or (4) requires the Solicitor-General to do otherwise) approve the fees claimed as payable in accordance with these regulations if,—
- (a) so far as the fees claimed are subject to a maximum specified in, or are of a kind or kinds otherwise provided for in, the certified scale of fees, the Solicitor-General is satisfied that,—
 - (i) so far as they are required by these regulations to be fixed by reference to a maximum, they are fair and reasonable and do not exceed the maximum specified in the certified scale of fees:
 - (ii) so far as they are not required by these regulations to be fixed by reference to a maximum, they are correct in accordance with the certified scale of fees; and
 - (b) so far as the fees claimed are not subject to a maximum specified in, or are not of a kind or kinds otherwise provided for in, the certified scale of fees, in the Solicitor-General's opinion they are fair and reasonable and do not exceed, for each hour actually involved,—
 - (i) in the case of a Crown Solicitor or senior counsel, the senior hourly rate of remuneration; or
 - (ii) in the case of an intermediate counsel, 80% of the senior hourly rate of remuneration; or
 - (iii) in the case of a junior counsel, 65% of the senior hourly rate of remuneration.
- (3) The Solicitor-General must, however, approve a fee that is less than the fee claimed, but that the Solicitor-General nevertheless considers fair and reasonable, if, in the Solicitor-General's opinion,—
- (a) the time involved or the nature of the service actually performed in any case does not justify the payment of the fee claimed; or

- (b) 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; or
 - (c) the fee claimed appears to the Solicitor-General to be excessive in the light of the amount that, in the Solicitor-General's opinion, could properly be claimed under subclause (2), experience with comparable claims, or both.
- (4) The Solicitor-General must, however, determine under regulation 12 the amount payable (instead of approving all, or the relevant part, of the invoice, under subclause (2) or (3)) if—
 - (a) the fee claimed exceeds the amount that, in the Solicitor-General's opinion, could properly be claimed under subclause (2), and is claimed by reason of special circumstances; or
 - (b) the Solicitor-General considers that the fee is not a proper fee to approve under subclause (2) or (3).
- (5) The Solicitor-General must arrange the payment by the Crown Law Office of the following:
 - (a) an invoice approved under subclause (2) or (3):
 - (b) a special fee authorised under regulation 12 for work done in respect of a Crown Solicitor appropriation criminal case.

Regulation 14A: inserted, on 1 July 2012, by regulation 13 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

15 Other criminal cases or civil matters: Registrar certification

- (1) A Crown Solicitor who has a claim against the Crown for fees under these regulations for work done after 30 June 2012 in respect of a criminal case that is not a Crown Solicitor appropriation criminal case, or for work done after 30 June 2012 in respect of a civil matter, must—
 - (a) claim those fees at the rate or rates applicable when the work, or each part of the work, concerned was done or, as the case may be, as special fees payable only if

- authorised by the Solicitor-General under regulation 12;
and
- (b) set out full particulars of the claim in an invoice prepared and signed by the Crown Solicitor; and
 - (c) forward the invoice to a Registrar (as defined in regulation 2).
- (2) The Registrar must (unless subclause (3) or (4) requires the Registrar to do otherwise) certify that the fees claimed are payable in accordance with these regulations if,—
- (a) so far as the fees claimed are subject to a maximum specified in, or are of a kind or kinds otherwise provided for in, the certified scale of fees, the Registrar is satisfied that,—
 - (i) so far as they are required by these regulations to be fixed by reference to a maximum, they are fair and reasonable and do not exceed the maximum specified in the certified scale of fees;
 - (ii) so far as they are not required by these regulations to be fixed by reference to a maximum, they are correct in accordance with the certified scale of fees; and
 - (b) so far as the fees claimed are not subject to a maximum specified in, or are not of a kind or kinds otherwise provided for in, the certified scale of fees, in the Registrar's opinion they are fair and reasonable and do not exceed, for each hour actually involved,—
 - (i) in the case of a Crown Solicitor or senior counsel, the senior hourly rate of remuneration; or
 - (ii) in the case of an intermediate counsel, 80% of the senior hourly rate of remuneration; or
 - (iii) in the case of a junior counsel, 65% of the senior hourly rate of remuneration.
- (3) The Registrar must, however, certify a fee that is less than the amount that, in the Registrar's opinion, could properly be claimed under subclause (2), but that is a lesser fee that the Registrar nevertheless considers fair and reasonable, and must certify on the invoice that the Registrar is doing so if, in the Registrar's opinion,—

- (a) the time involved or the nature of the service actually performed in any case does not justify the payment of the full fees set out in the certified scale of fees; or
 - (b) 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.
- (4) The Registrar must, however, refer all, or the relevant part, of the invoice uncertified (along with a memorandum setting out the Registrar's reasons for referring all, or the relevant part, of the invoice) to the Solicitor-General to determine under regulation 12 the amount payable, if—
 - (a) the fee claimed exceeds the amount that, in the Registrar's opinion, could properly be claimed under subclause (2), and is claimed by reason of special circumstances; or
 - (b) the Registrar is in doubt as to whether the fee is a proper fee for the Registrar to certify.
- (5) If the Registrar certifies the invoice under subclause (2) or (3), or receives a copy of the Solicitor-General's authorisation under regulation 12 of a special fee for work done in respect of a criminal case that is not a Crown Solicitor appropriation criminal case or in respect of a civil matter,—
 - (a) the Registrar must return the certified invoice, or the copy of the authorisation of the special fee, to the Crown Solicitor for submission to the appropriate government department (for example, to the Crown Law Office if the invoice or the special fee is for work done by the Crown Solicitor for the Crown Law Office in respect of a criminal case that is not a Crown Solicitor appropriation criminal case); and
 - (b) the appropriate government department's chief executive or other authorised certifying officer, if satisfied that the services charged for have been duly performed, must so certify and arrange payment.

Regulation 15: replaced, on 1 July 2012, by regulation 13 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Part 5
Business at a distance and travelling
expenses

16 Employment of agents

Where it is necessary for a Crown Solicitor to transact Crown business at a distance from his or her usual place of business,—

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

17 Fee for instructing agent

Where a Crown Solicitor employs an agent, the following fee shall be paid for preparing instructions:

- (a) where the instructions are prepared by the Crown Solicitor himself or herself, or by a senior counsel, a fee equal to the senior hourly rate of remuneration:
- (b) where the instructions are prepared by an intermediate counsel, a fee equal to 80% of the senior hourly rate of remuneration:
- (c) where the instructions are prepared by a junior counsel, a fee equal to 65% of the senior hourly rate of remuneration.

18 Travelling expenses

The following travelling expenses shall be allowed to a Crown Solicitor required to travel on Crown business more than 5 kilometres from his or her usual place of business:

- (a) fares paid for public transport, subject to the production of receipts for fares exceeding \$20.00, and not fixed by law or readily ascertainable:
- (b) car allowance, where a private car is used, at the rate from time to time recommended by the State Services

Commission as payable to employees of the Public Service:

- (c) subsistence expenses reasonably incurred by the Crown Solicitor during the period of absence from his or her residence, subject to the production of a receipt for any item in excess of \$20.00, plus an incidentals allowance for each day or part of a day, at the rate from time to time recommended by the State Services Commission as payable to employees of the Public Service:
- (d) the cost paid for hiring a rental car if that cost together with subsistence expenses under this regulation and the special allowance provided for in regulation 19 does not exceed the total of the fares, subsistence expenses, and special allowance that would have been payable if public transport had been used.

19 Special allowance for travelling time

- (1) Subject to subclause (2), for each hour occupied on any day in travelling on Crown business, there shall be allowed in addition to the travelling expenses provided for by regulation 18, a special allowance at the following rate:
 - (a) in the case of a Crown Solicitor or senior counsel, 66% of the senior hourly rate of remuneration:
 - (b) in the case of an intermediate counsel, 53% of the senior hourly rate of remuneration:
 - (c) in the case of a junior counsel, 43% of the senior hourly rate of remuneration.
- (2) Such special allowance shall not be claimable in addition to any other payment for preparation or otherwise in respect of the same time.

Regulation 19: amended, on 1 July 2012, by regulation 14 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

**Part 6
Remuneration**

20 Fees for preparation

- (1) For preparation in respect of any trial, hearing, or interlocutory matter in respect of any criminal or civil matter before any

court, commission, committee, board, authority, or other administrative tribunal remuneration may be claimed at the following rate per hour:

- (a) in the case of a Crown Solicitor or a senior counsel, the senior hourly rate of remuneration:
- (b) in the case of an intermediate counsel, 80% of the senior hourly rate of remuneration:
- (c) in the case of a junior counsel, 65% of the senior hourly rate of remuneration.

(1A) Subclause (1) is subject to subclauses (2) and (3).

(2) The maximum number of hours for which payment may be claimed under subclause (1) shall be as follows:

- (a) in respect of appeals against conviction from a District Court to the High Court 5 hours
- (b) in respect of indictments for murder, the time actually spent:
- (c) in respect of any other proceedings in the Court of Appeal or the Supreme Court or the High Court, or matters heard on indictment in a District Court 10 hours
- (d) in respect of all other proceedings 7 hours.

(3) Nothing in this regulation applies in respect of appeals against sentence from a District Court to the High Court, or to appearances on sentencing as provided in regulation 21(2).

Regulation 20(1): amended, on 1 July 2012, by regulation 15(1)(a) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 20(1): amended, on 1 July 2012, by regulation 15(1)(b) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 20(1A): inserted, on 1 July 2012, by regulation 15(2) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 20(2)(c): amended, on 1 April 2004, by regulation 4 of the Crown Solicitors Amendment Regulations 2004 (SR 2004/31).

21 Fees for appearances

(1) For appearance in respect of any trial or hearing, whether of a criminal or civil nature, before any court, commission, committee, board, authority, or other administrative tribunal remuneration may be claimed at the following rate, multiplied in each case by 4, for each half day or part of a half day:

- (a) in the case of a Crown Solicitor or a senior counsel, the senior hourly rate of remuneration:
 - (b) in the case of an intermediate counsel, 80% of the senior hourly rate of remuneration:
 - (c) in the case of a junior counsel, 65% of the senior hourly rate of remuneration.
- (1A) Subclause (1) is subject to subclauses (2) to (4).
- (2) For appearance in respect of interlocutory matters argued before trial or hearing, including applications for bail, and in respect of appearances on sentencing of prisoners in respect of each indictment or as the result of one committal hearing or committal for sentence, regardless of the number of prisoners or charges, there shall be paid remuneration at the following rate per hour:
- (a) in the case of a Crown Solicitor or a senior counsel, the senior hourly rate of remuneration:
 - (b) in the case of an intermediate counsel, 80% of the senior hourly rate of remuneration:
 - (c) in the case of a junior counsel, 65% of the senior hourly rate of remuneration.
- (3) If more than 1 matter is dealt with on any appearance to which subclause (2) applies, only one fee shall be charged for the appearance and that fee to be apportioned between the different matters.
- (4) Nothing in this regulation applies in respect of appeals against sentence from a District Court to the High Court.

Regulation 21(1): amended, on 1 July 2012, by regulation 16(1)(a) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 21(1): amended, on 1 July 2012, by regulation 16(1)(b) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 21(1A): inserted, on 1 July 2012, by regulation 16(2) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 21(2): amended, on 29 June 2009, by section 18 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

22 Appeals to High Court against sentence

For preparation and appearance in respect of an appeal against sentence only in the High Court, the following fee may be claimed:

- (a) where the appeal is brought by the person convicted, a fee equal to the senior hourly rate of remuneration multiplied by one and a half:
- (b) where the appeal is brought by the informant pursuant to section 115A of the Summary Proceedings Act 1957, a fee equal to the senior hourly rate of remuneration multiplied by 3.

Regulation 22: amended, on 1 July 2012, by regulation 17 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

23 Fee for instructing other counsel

Where a Crown Solicitor instructs counsel from outside the Crown Solicitor's own practice to appear on any prosecution or appeal (including preparing and presenting the indictment), the following fee may be claimed for preparing instructions:

- (a) where the instructions are prepared by the Crown Solicitor himself or herself, or by a senior counsel, a fee equal to 150% of the senior hourly rate of remuneration:
- (b) where the instructions are prepared by an intermediate counsel, a fee equal to 120% of the senior hourly rate of remuneration:
- (c) where the instructions are prepared by a junior counsel, a fee equal to 97.5% of the senior hourly rate of remuneration.

Regulation 23: amended, on 1 July 2012, by regulation 18 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

24 Fees for arranging fixtures, attending callovers, etc

For attendance before a Registrar or Judge in the High Court or a District Court for the arrangement of fixtures and the discussion and settlement of related matters, a Crown Solicitor may claim a fee at such hourly rate as the Solicitor-General shall determine for the time actually spent in such attendance, one such fee being claimable regardless of the number of fixtures or other matters dealt with on the attendance.

Regulation 24: amended, on 1 July 2012, by regulation 19(a) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 24: amended, on 1 July 2012, by regulation 19(b) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

25 Second counsel

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 civil or criminal matter in respect of which the Solicitor-General has authorised the employment of second counsel, the remuneration claimable in respect of that second counsel, whether or not from the Crown Solicitor's own practice, for preparation and appearance shall be determined in accordance with the foregoing provisions of this Part as if the second counsel were acting as sole counsel.

Regulation 25: amended, on 1 July 2012, by regulation 20 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

26 Fees where civil proceedings settled before trial

- (1) The claimable fee in any civil matter that is settled between the parties before the trial is either—
- (a) half of such amount as would have been awarded by the court as party and party costs in accordance with the appropriate court scale on the amount of the claim if the matter had gone to trial and had occupied 1 full day; or
 - (b) a fee calculated in accordance with regulations 20 and 21,—
- whichever is the greater.
- (1A) Subclause (1) is subject to subclause (2).
- (2) The Solicitor-General may, in any case to which subclause (1) of this regulation applies, fix a higher or lower fee than the fee that would otherwise be claimable in accordance with that subclause if, having regard to all the circumstances of the case including the amount of the claim, the Solicitor-General thinks such a different fee would be appropriate.
- (3) Subclause (2) does not limit, and is not limited by, regulation 12(2).

Regulation 26(1): amended, on 1 July 2012, by regulation 21(1) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 26(1A): inserted, on 1 July 2012, by regulation 21(2) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 26(2): amended, on 1 July 2012, by regulation 21(3)(a) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 26(2): amended, on 1 July 2012, by regulation 21(3)(b) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Regulation 26(3): inserted, on 1 July 2012, by regulation 21(4) of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

27 Counsel assisting

Where, at the request of a court or an administrative tribunal, and with the prior approval of the Solicitor-General, a Crown Solicitor appears in any matter or action, or on any appeal, and argues any question of law or of fact arising in the matter, action, or proceedings, and the court makes no order as to the payment of the Crown Solicitor's costs pursuant to section 99A of the Judicature Act 1908, the fees claimable by that Crown Solicitor for preparation and appearance shall be determined in accordance with regulations 20 and 21 as if the Crown Solicitor were representing the Crown.

Regulation 27: amended, on 1 July 2012, by regulation 22 of the Crown Solicitors Amendment Regulations 2012 (SR 2012/108).

Part 7 Conveyancing

28 Instruments affecting interest of Crown in land or property

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 or property, whether payable by the Crown or by any other party, shall be a fair and reasonable fee calculated in accordance with the Principles of Charging set out in Part Two of the *Costing and Conveyancing Practice Manual* of the New Zealand Law Society as approved by the Council of that Society on 22 June 1984.

29 Conveyancing fees inclusive of all charges

The fees prescribed in this Part are inclusive of all charges for attendances, correspondence, reports, searches, and investigation of title, but are exclusive of disbursements that comprise

out-of-pocket expenses actually incurred by the Crown Solicitor.

30 Duty of Crown Solicitor where costs not payable by Crown

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

31 Certificate by Crown Solicitor

- (1) 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 or she has perused or prepared the instrument and that in his or her opinion it is a proper instrument to be executed by or on behalf of the Crown.
- (2) 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 or her opinion that it has been duly and properly completed.

Part 8
Savings and revocation

32 Savings in respect of conduct of legal business of Crown

Nothing in these regulations restricts the right of the Solicitor-General—

- (a) to appoint or instruct counsel other than a Crown Solicitor to represent Crown interests in any particular matter of legal business of the Crown; or
- (b) to appoint panels comprised of counsel other than Crown Solicitors to conduct prosecutions in particular regions; or
- (c) to require that any counsel who is a member of a panel of the kind described in paragraph (b) shall be instructed in relation to—

- (i) any particular matter; or
- (ii) any particular class of matters; or
- (iii) any particular number of matters in a period of time specified by the Solicitor-General.

33 Revocation and savings

- (1) The Crown Solicitors Regulations 1987 (SR 1987/58) are hereby revoked.
- (2) The Crown Solicitors Regulations 1980 shall, notwithstanding their revocation by the Crown Solicitors Regulations 1981, continue to apply to work done on or after 1 April 1980, but before 1 April 1981.
- (3) The Crown Solicitors Regulations 1981 shall, notwithstanding their revocation by the Crown Solicitors Regulations 1982, continue to apply to work done on or after 1 April 1981, but before 1 April 1982.
- (4) The Crown Solicitors Regulations 1982 shall, notwithstanding their revocation by the Crown Solicitors Regulations 1985, continue to apply to work done on or after 1 April 1982, but before 1 April 1985.
- (5) The Crown Solicitors Regulations 1985 shall, notwithstanding their revocation by the Crown Solicitors Regulations 1986, continue to apply to work done on or after 1 April 1985, but before 1 October 1986.
- (6) The Crown Solicitors Regulations 1986 shall, notwithstanding their revocation by the Crown Solicitors Regulations 1987, continue to apply to work done on or after 1 October 1986, but before 1 April 1987.
- (7) The Crown Solicitors Regulations 1987 shall, notwithstanding their revocation by subclause (1), continue to apply to work done on or after 1 April 1987 but before 1 August 1994.

Marie Shroff,
Clerk of the Executive Council.

Reprinted as at
1 July 2013

Crown Solicitors Regulations 1994

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 14 July 1994.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes**1 *General***

This is a reprint of the Crown Solicitors Regulations 1994. The reprint incorporates all the amendments to the regulations as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Crown Solicitors Regulations Revocation Order 2013 (SR 2013/191)

Crown Solicitors Amendment Regulations 2012 (SR 2012/108)

Māori Trustee Amendment Act 2009 (2009 No 12): section 30(2)(a)

Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41): section 18

Crown Solicitors Amendment Regulations 2004 (SR 2004/31)

Public Trust Act 2001 (2001 No 100): section 152(1)
