



**THE MAGISTRATES' COURTS RULES 1948, AMENDMENT
NO. 15**

—
KEITH HOLYOAKE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 1st day of August 1978

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Magistrates' Courts Act 1947, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following rules.

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RULES

1. Title and commencement—(1) These rules may be cited as the Magistrates' Courts Rules 1948, Amendment No. 15, and shall be read together with and deemed part of the Magistrates' Courts Rules 1948* (hereinafter referred to as the principal rules).

(2) These rules shall come into force on the 21st day of August 1978.

2. When default action may be brought—Rule 73 of the principal rules (as amended by rule 5 (2) of the Magistrates' Courts Rules 1948, Amendment No. 2) is hereby amended by omitting from subclause (3), and also from subclause (4), the expression "10", and substituting in each case the expression "15".

3. New scale of Court fees prescribed—(1) The principal rules are hereby amended by revoking the Third Schedule (as substituted by rule 2 (1) of the Magistrates' Courts Rules 1948, Amendment No. 13), and substituting the new Third Schedule set out in the Schedule to these rules.

(2) The new Third Schedule substituted by this rule shall apply in respect of any proceedings commenced on or after the date of the coming into force of these rules.

*S.R. 1948/197 (Reprinted with Amendments Nos. 1 to 12: S.R. 1974/204)
Amendment No. 13: S.R. 1975/133
Amendment No. 14: S.R. 1977/219

(3) In respect of any proceedings commenced before the date of the coming into force of these rules, no further fee shall be payable under the Schedule hereby revoked, and the appropriate fees, if any, set out in the new Third Schedule substituted by this rule shall be payable in respect of any step in the proceedings taken on or after that date.

(4) The Magistrates' Courts Rules 1948, Amendment No. '13, are hereby consequentially revoked.

SCHEDULE

NEW THIRD SCHEDULE TO THE PRINCIPAL RULES

THIRD SCHEDULE

COURT FEES

	Where Claim is Not for Money	Amount Not Exceeding \$500	Amount Exceeding \$500
	\$	\$	\$
1.* Filing:			
(a) Plaintiff note (or statement of claim); or ..	10.00	10.00	15.00
(b) Counterclaim; or			
(c) Interpleader affidavit, pursuant to s. 111 of the Act, of a person other than a defendant; or ..			
(d) Originating application.			
2.* Filing, pursuant to rule 113c (3), an application for a special fixture	10.00	10.00	15.00
3.* Filing (on amount owing under judgment):			
(a) Application for judgment summons; or ..	10.00	10.00	15.00
(b) Application for any warrant of distress, for recovery of specific chattels, or for recovery of land; or			
(c) Application for examination pursuant to rule 236 or rule 237 (irrespective of the number of persons to be examined); or			
(d) Affidavit in support of garnishee summons ..			

*NOTE—Where a claim for a sum of money is combined with a claim that is not for money, whether in the alternative or not, the fee payable under item 1, item 2, or item 3 shall be the highest fee applicable.

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												\$
4.	Issue of certificate of judgment or order	2.00
5.	For search:											
	In any one matter	0.50
	General search	..	..	..	..	..	..	..	..	..	..	1.00
6.	Copy of the Magistrate's notes when notice of appeal has been lodged: For each page								..	..	..	0.20
7.	Copy of Magistrate's notes in any other case or of Registrar's notes or of judgment or any other document: For each page	..	..	..	..	..	..	..	..	..	..	0.50
8.	For expenses of execution of any warrant of committal or writ of arrest: The actual expenses incurred by the bailiff or constable, including the costs of conveyance and lodging in prison of the person arrested.											
9.	For storage, cartage, and removal of goods, or advertising of goods for sale: Actual and reasonable disbursements.											
10.	For each man left in possession of any premises: Fees, allowances, and expenses as allowed to a witness in accordance with the Witnesses and Interpreters Fees Regulations 1974*.											

*S.R. 1974/124

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

These rules, which come into force on 21 August 1978, amend the Magistrates' Courts Rules 1948.

Regulation 2 enables a default action to be brought to recover interest payable pursuant to any instrument, if the rate of interest does not exceed 15 percent per annum. The present limit is 10 percent per annum. The amendment is related to the passing of the Moneylenders Amendment Act 1977.

Regulation 3 substitutes a new and increased scale of Court fees. The hearing fee is replaced by a filing fee that is to be payable on the filing, pursuant to rule 113c (3), of an application for a special fixture.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 3 August 1978.

These rules are administered in the Department of Justice.