

*Regulations relative to the Conduct of Legal Business of the Crown.*

BLEDISLOE, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 17th day of June, 1932.

Present :

THE RIGHT HON. G. W. FORBES, PRESIDING IN COUNCIL.

IN pursuance and exercise of the power and authority conferred on him by the Public Revenues Act, 1926, and the Justices of the Peace Act, 1927, and of all other powers and authorities him in this behalf in anywise enabling, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby make the regulations hereinafter set out.

REGULATIONS.

1. (1) THESE regulations may be referred to as "The Crown Legal Business Regulations, 1932."

(2) These regulations apply to all Departments of the Government, and Departments are required and directed to observe the same.

(3) These regulations shall take effect from and after the last day of June, 1932, from which date all former regulations on the subject are hereby revoked.

2. In these regulations, if not inconsistent with the context,—

"Crown Solicitor" means a solicitor appointed by the Crown to prosecute on its behalf in the Supreme Court :

"Registrar" means the Registrar of the Supreme Court, and includes the Deputy Registrar :

"The Crown" means His Majesty the King in right of His Dominion of New Zealand, and includes any Department of the Government of the said Dominion acting by or under the direction of a Minister having control of such Department.

PART I.—EMPLOYMENT OF COUNSEL AND SOLICITORS.

3. Instructions to solicitors are always to be conveyed by the permanent head of the Department for which the solicitor is to act, or by some officer thereof under the direction of such permanent head.

4. Without such instructions no Government officer shall seek legal advice, take counsel's opinion, or initiate proceedings respecting any matter connected with his Department.

5. Crown Solicitors will be employed in the conduct of criminal prosecutions in the Supreme Court in every case in which the Crown is directly concerned, and will appear on behalf of the Crown when prisoners committed under section 181 of the Justices of the Peace Act, 1927, are brought before the Court for sentence.

6. The Crown may, when it thinks fit, retain the Crown Solicitor in any summary proceedings or other legal business, but the Crown shall not be bound so to retain the Crown Solicitor, and may employ any other solicitor in summary proceedings or in any legal business whatever other than a criminal prosecution in the Supreme Court.

7. Crown Solicitors shall not be at liberty to accept employment or appear against the Crown, except in special circumstances and with the express permission of the Solicitor-General.

8. Instructions respecting criminal prosecutions in the Supreme Court will in general be issued by the Department of Justice, and Crown Solicitors will communicate with that Department upon all matters relating to such prosecutions, save that communications relating to a stay of proceedings will be made directly with the Solicitor-General.

9. Where counsel are employed the Crown reserves to itself the right of indicating what counsel shall be employed, and the number of such counsel, and of prescribing the fees to be paid.

10. The Crown reserves to itself the right of taking any matter or business out of the hands of any solicitor employed and requiring that all deeds, instruments, and papers in the hands of such solicitor relating thereto shall be handed over to some other solicitor to be nominated by the Crown.

11. No solicitor employed by the Crown shall have any lien upon any deeds, papers, or instruments in his hands, or upon any fund or moneys which shall be paid to or received by him in any manner or upon any account whatsoever in respect of any legal business in which the Crown is concerned.

12. It shall be the duty of the head of each Department and other officers thereof, in directing business to be undertaken, to see that full instructions are given to the solicitor at the time the business commences, and to render all reasonable assistance to him during its progress.

13. In all criminal prosecutions and summary proceedings the police will serve any process, procure the attendance of witnesses, and have them ready to be examined when required ; but the solicitor employed will be responsible to see that these duties are properly performed.

14. Where a solicitor is required to transact business at a distance from his usual place of residence, an agent must be employed where practicable, unless, from the nature of the case or for special reasons, it is necessary that the solicitor employed should himself transact such business. Except for special reasons and with the approval of the Solicitor-General, or in pursuance of existing departmental arrangements, a Crown Solicitor shall employ as agent in a town in which a Crown Solicitor has been appointed only such last-named solicitor.

15. Solicitors having claims against the Crown for costs under these regulations shall prepare a voucher setting out full particulars. Such vouchers shall be sent by the solicitor to the nearest Registrar, who shall certify thereon whether such costs are in accordance with these regulations. If he is in doubt as to the propriety of any charge, the Registrar may refer it to the Under-Secretary of Justice for further consideration. The Registrar shall return the vouchers, when certified, to the solicitor, to be forwarded by him to the Department directing the proceedings or business. The head of such Department, or other recognized certifying officer, shall certify that the services charged for have been duly performed.

16. Where costs have been received or recovered by the solicitor employed by the Crown from one of the litigant parties, such solicitor shall pay the same into the Public Account and forward forthwith a bank receipt therefor to the Department directing the proceedings.

17. In matters for which an inclusive charge is fixed by these regulations, no further charge, except the amount of disbursements, will be allowed for attendance upon Government officers or others, attendances to register deeds or instruments, writing letters, sending telegrams, or for explanations or instructions relative to the business in hand or reporting upon its conclusion.

18. Where the solicitor instructed has to employ an agent, as provided in Regulation 14, a fee not exceeding £1 ls. will be allowed to such solicitor for instructions, but, with that exception, no more will be allowed to such solicitor and his agent together than would have been allowed to such solicitor alone if he had conducted the whole of the business himself.

19. Travelling-expenses at the following rates will be allowed to solicitors in all cases where they are required to travel more than three miles from their usual place of business :—

(a) The sum actually paid when the travelling can be performed by public conveyance. (For fares exceeding 5s., other than railway fares, receipts must be produced.)

(b) In other cases, 1s. per mile one way.

(c) For each day or part of a day exceeding eight hours on which the claimant was necessarily absent from his usual place of residence by way of board and lodging expenses the sum actually incurred, not exceeding for any day the sum of £1.

20. In all cases in which a fee is fixed by the regulations, it is to be understood that regard is to be had to the nature of the service actually rendered, and the fee to be allowed accordingly shall not necessarily be as much as the fee so fixed.

21. In the case of any business, matter, or proceeding not herein specially mentioned, the charges to be made, whether as solicitor's costs or counsel's fees, will be based upon the scale allowed in matters of a like character mentioned in these regulations. The assessment against the Crown of costs on the ordinary solicitor and client basis is not contemplated.

22. In a case where exceptional circumstances render it desirable that one of the scales herein set forth shall be exceeded in any particular, such other or additional costs or fees as may be reasonable, having regard to the nature of the business transacted, shall be allowed if approved by the Attorney General on the recommendation of the permanent head of the Department issuing the instructions. The circumstances by reason of which the general scale is not applicable shall, in all such cases, be fully specified by the proper officer.

23. Nothing in these regulations shall be deemed to prevent the Crown from taking steps to procure the taxation of any costs by the proper officer in the usual way ; but no payment will be made to the solicitor for attending the taxation.

24. Bills of costs shall be rendered immediately on completion of the matter or business to which they relate, and if not rendered within six months thereafter they will not be recognized, in the absence of special circumstances.

25. Every solicitor employed or retained by the Crown shall, if required so to do, notify in writing his acceptance of such employment or retainer upon the terms contained in these regulations ; but such notification in writing shall not be necessary to show that such employment or retainer is upon such terms.