

28 November 2013

Thomas Cleary
Clerk to the Rules Committee
Auckland High Court
PO Box 60
Auckland 1010

By email: thomas.cleary@justice.govt.nz

Dear Thomas

Proposed changes to District Court Rules Costs Schedule in relation to Appeals and Interlocutory Matters

Thank you for your letter of 18 November 2013.

The New Zealand Law Society (Law Society) appreciates the opportunity to comment on the Rules Committee's proposed changes to the costs schedule of the District Court Rules.

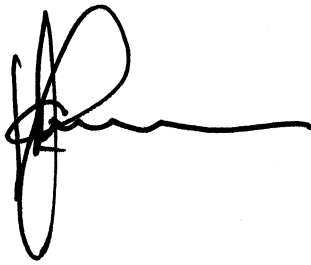
The Law Society agrees with the overall goal of bringing the District Court Schedule in line with the High Court Schedule. Lawyers have struggled to identify a rational basis for distinguishing between the costs classifications since the introduction of the 'newer' style scales. While the District Court jurisdiction has a monetary limitation, the reality is that many of the issues presented in District Court cases are often just as complex as those in the High Court Jurisdiction; the only practical difference is the sums of money involved.

The High Court Rules provide for longer timeframes than the District Court Rules in a number of different places. In our view, if the difference in time allocations is to be reviewed, it should be reviewed globally. If a different allocation cannot be justified for general litigation (including interlocutory matters) as suggested by Judge Gibson at the Rules Committee meeting, in our experience it would not be justified for appeals either. We believe the best approach at this point is simply to consider the proposed District Court Schedule in terms of alignment with the High Court Schedule.

To that end, the only aspect we question is the treatment of summary judgment, which is excluded by the District Court interlocutory matters Schedule even though it is now included in the High Court Schedule. If there is a sound rationale for continuing to treat summary judgment differently from other interlocutory matters in the District Court (we are not convinced by this, especially given that summary judgment is now treated as an interlocutory application in the High Court Schedule), then our opinion is that clause 10 of the District Court Schedule (which deals with summary judgment) should also be rewritten to align with the High Court Schedule.

We hope the above comments are of assistance to the Rules Committee. If you wish to discuss any of the matters raised, please contact the Law Society's Civil Litigation and Tribunals Committee convenor, Andrew Beck, through the committee secretary, Rhyn Visser (phone (04) 463 2962 or email rhyn.visser@lawsociety.org.nz).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Chris Moore', with a long horizontal flourish extending to the right.

Chris Moore
President