



## **Notice from the Supreme Court Rules Revision Committee**

### **Re: Amendments to Appendix B effective January 1, 2007**

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Over the last 3 years, the Rules Revision Committee has carried out a review of Appendix B, Party and Party Costs Tariff. Effective January 1, 2007, amendments to Appendix B flowing from that review will come into effect.

Under the substantive amendments set out in Section 3 of Appendix B, the existing Scales 1 to 5 are replaced by Scales A, B and C. Scale A is for matters of little or less than ordinary difficulty, Scale B is for matters of ordinary difficulty and Scale C is for matters of more than ordinary difficulty.

Section 2(4) of Appendix B is amended to provide that if after December 31, 2006, a settlement is reached under which payment of assessed costs is agreed to or an order for costs is made, but no scale is fixed or agreed to in that settlement or order, the costs must be assessed under Scale B, unless the court orders that the costs be assessed under another scale.

Section 2(4) of Appendix B is further amended by the addition of subsection (4.1) which provides that if, after fixing the scale of costs applicable to a proceeding, the court finds that, as a result of unusual circumstances, an award of costs on that scale would be grossly inadequate or unjust, the court may order that the value of units be set at 1.5 times the value that would otherwise apply. Pursuant to subsection (4.2), an award of costs is not to be considered grossly inadequate or unjust merely because of the disparity between the actual legal expenses and the costs that would be fixed under Scales A, B or C.

The value of the units allowed on an assessment of costs conducted after December 31, 2006 is increased from the former unit values. Under the amendments, the unit value for Scale A is \$60, for Scale B is \$110 and for Scale C is \$170.

The former Schedules 1, 2 and 3 of Appendix B, which provide for costs on default judgments, execution proceedings and interlocutory applications respectively, are repealed and replaced with new Schedules 1, 2 and 3 in which the item values are increased.

The amendments also add a number of specific items reflecting aspects of the litigation process which formerly were not compensable items under the Tariff.

The transitional provisions are set out in s. 11 as follows:

11. This Appendix, as it read on December 31, 2006, applies to,
  - (a) orders for costs made before January 1, 2007,
  - (b) settlements reached before January 1, 2007 under which payment of assessed costs is agreed to;
  - (c) costs payable on acceptance of an offer to settle made under Rule 37, if that offer to settle was made before January 1, 2007, and
  - (d) all assessments related to those orders, settlements and costs.

December 19, 2006

**“Macaulay, J”**

The Honourable Mr. Justice M.D. Macaulay,  
Chair, Rules Revision Committee