

# **Producer Price Index for the Legal Services Industry**

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## **1 Summary**

The Legal Services industry is experiencing solid growth in most countries, and thus it is important that national statistical organisations develop price indexes to measure changes in the price of outputs of this industry. However, the Legal Services industry is a difficult area in which to apply conventional price index techniques and at present only a small number of countries have established indexes. There are three principal methodologies used for pricing legal services currently employed in statistical organisations: re-pricing of fixed fees; collection of labour charge-out rates by level of lawyer and; establishing detailed models for regular re-pricing. Each of these techniques have their costs and benefits in establishing reliable constant quality price indexes to represent price change for outputs of the Legal Services industry. Establishing links with industry bodies and relevant associations is important to assist in understanding how the various methodologies can be successfully applied in a particular country.

## **2 Introduction**

The purpose of this paper is to draw together different countries' experiences and methodologies in establishing producer price indexes for the Legal Services industry, and to compare their published data. This will finalise the Voorburg Group's involvement with the Legal Services industry, and provide a central source of documentation for other countries intending to develop an index in this area.

Based on information from the OECD, countries currently publishing producer price indexes for Legal Services are Australia, New Zealand, Japan, the United States and Mexico. Attachment 1 contains summary methodologies and data for each of these countries indexes, with the exception of Mexico. Previous papers presented to the Voorburg group on Legal Services were Australia (2000) and New Zealand (2000).

The primary uses of a producer price index for the Legal Services industry are:

- deflation of current price production estimates of Legal Services to determine volume estimates in a countries national accounts;
- as a measure of inflation for the Legal Services industry;
- industry (including international) comparisons and benchmarking; and
- as input to industry bodies' deliberations.

### **3 Nature of the Legal Services industry**

#### **3.1 Types of services classified in the CPC (version 1.0)**

The CPC is fairly general in its description of legal services, and the classifications within the following table tend not to match the way countries stratify their samples and publish various sub indexes of legal services (see each countries' summary methodology in Attachment 1 for more detail on this issue).

<b>CPC code</b>	<b>Description</b>
821	Legal Services
8211	Legal advisory and representation services in the different fields of law
82111	Legal advisory and representation services concerning criminal law
82119	Legal advisory and representation services in judicial procedures concerning other fields of law
8212	Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.
8213	Legal documentation and certification services
82130	Legal documentation and certification services
8219	Other legal services

#### **3.2 Size and structure of businesses**

The way the Legal Services industry is organised to provide the types of legal services covered in the above classification varies between countries. However, a commonality in most countries is for a small number of large firms to be involved in providing a range of services to corporate clients, and a much larger number of small firms (usually in the form of a sole proprietor or partnership) servicing household and small business needs.

#### **3.3 Factors affecting price change**

Factors affecting price change in the Legal Services industry include geographic location, the level of expertise required to provide the particular service, and demand for legal work. Labour costs have the most direct bearing on prices for legal services, and charge-out rates for the range of legal professionals employed by a legal firm are generally reviewed annually and adjusted in line with wage rises. Price increases for legal services tend not to be indexed, for example a countries CPI is not used in determining price changes. The experience in most countries is that the Legal Services industry functions on the basis of supply and demand.

### **3.4 Industry trends**

A common theme in the countries covered is that the Legal Services industry is expanding at a fairly solid pace, driven by the increasing legal requirements of corporations. There is a general tendency for smaller firms to merge in order to achieve better economies of scale, or to enter into strategic alliances with other small firms, particularly across geographical areas. The industry essentially operates in a free market with limited regulation of prices. However, strict licensing arrangements and enforceable codes of conducts do exist in some countries.

## **4 Sample design**

It is important to seek assistance from industry bodies in the sample design process. These associations may be able to provide splits of the main revenue earning activities of the industry (e.g. corporate and personal law, activities relating to patents, real estate etc) to aid in deciding which services to price, and what an appropriate stratification may be. As the structure of the legal services industry differs between countries, stratification of the sample for different types of legal services will differ by country (see Attachment 1 for issues affecting the countries covered in this paper).

Industry associations may also be able to provide lists of organisations within the industry from which to sample, or at least have information to supplement a statistical organisation's business register. Probability proportional to size sampling (should a measure of size variable exist) or judgement sampling to best represent the spread of activities undertaking in the industry and the largest revenue earnings firms are key aims of the sample design. Due to the large number of small firms in the industry, stratification by size of firm may also be required with a small sample of small firms chosen to represent this sector.

## **5 Pricing methodologies**

### **5.1 Common forms of charging within the Legal Services industry**

The most common forms of charging within the Legal Services industry are summarised below. Note that combinations of these charging methods may often be used depending upon negotiations with the client and the range of services they require.

#### ***Hourly rates***

The basis for most forms of charging within the Legal Services industry is derived from an analysis of the time involved for the various mix of staff (e.g. partners, associates, juniors) required to provide the service required. Actual use of the hourly charge-out rate is a common form of billing in most countries. Lawyers, whether on their own or in large firms, tend to keep precise time sheets to determine billable hours.

#### ***Fixed fees***

Fixed fees are common for more routine legal matters, such as drawing up a simple will, closing title on a house, or patent registration. A fixed rate is typically employed when both the time and staffing level needed to complete the project are known in advance with a relative degree of certainty, and thus an analysis of relevant charge-out rates would be the basis for the fixed fee schedule.

#### ***Ad valorem pricing***

Ad valorem pricing is the term used where the price is a proportion of the value of the subject of the legal work, for example the value of a property being conveyed or the amount recovered in court action. For the latter example the actual fee is subject to risk and may have little relation to hourly charge-out rates, as an amount is only payable if the case is won and this may not bear a strong relationship to the time spent working on the case.

### **5.2 Problems in specifying and tracking a constant quality service**

For legal services, determining product specifications for pricing is difficult since inputs for each legal case involves a different mix of professional staff levels and can involve different combinations of component services. This complicates pricing statisticians' ability to track the price for the same service provided over time. For law suits, especially where ad valorem pricing is used, the concept of a constant quality service is difficult to define since every case is different and the price for the service is dependent on the outcome of the case.

Despite these problems, legal service organisations tend to keep detailed records on each client, in terms of the type of work performed and time spent by level of staff member. Obtaining access to such records can greatly assist in arriving at a suitable pricing method for surveyed businesses.

### **5.3 Main pricing methodologies used in pricing legal services**

There are three main methodologies used by countries currently pricing legal services:

#### ***Re-pricing of fixed fees***

There are a number of services within the legal industry for which fixed fees, or fees based on some form of scale, apply. Identifying major revenue earning items for which this form of pricing applies and tracking a sample of fixed fees charged by respondents can be an effective way of representing price change for a portion of the Legal Services industry. Examples of the types of services that can be priced using this approach are:

- Preparation of simple wills;
- Settling simple divorces;
- Patent registration (for a range of patent services such as standard patents, trademarks, designs etc.);
- Registration fees for property; and
- Transfer of real estate;

In the latter examples, the price may be dependent on the value of the item being registered / transferred. In such cases it is important to keep this value constant when re-pricing the fees associated with these activities. For example, fees applying to the transfer of a property worth a certain fixed amount (e.g. \$200,000) depending upon the most representative value(s) for the relevant transaction(s) applicable to the country. These representative values should be subject to some form of indexation (or possibly a moving average) over time to represent changing prices in the value of items subject to the legal services, as this has a major influence on the actual price change for the associated legal services.

#### ***Charge-out rates***

Respondents could be asked to report a selection of hourly charge-out rates by level of staff for a specific type of project (e.g. in servicing a major corporate client, criminal representation etc.) depending on the firm's major revenue earning activities. The assumption is that changes in hourly charge-out rates will approximate changes in the final charges paid by clients for the various services the firm provides.

## ***Model pricing***

Specifications are developed (in consultation with legal professionals) for a range of legal services provided by the industry (see Attachment 2 for an example of the detail required in specifying certain types of legal services for model pricing). These specifications are then sent to respondents each sample period for re-pricing.

### **5.4 Costs and benefits of the alternative pricing methodologies**

The fixed fee method is appealing in that it is relatively low cost and should be effective in pricing to constant quality. It is, of course, important to ensure that the respondent is reporting for the identical service in each period. However, the fixed fee method may only cover a small proportion of the revenue earning activities of the Legal Services industry in most countries, and may therefore be of little use if this percentage is very low for the country concerned.

Proper implementation of a model pricing strategy is likely to result in reliable price indexes. However this method is particularly costly to the statistical organisation, as considerable liaison with industry associations and potential respondents is required to set up appropriate models. These must also be maintained over time as the nature of services provided within the industry evolves. Of equal importance is the burden placed on respondents in using this approach. Repricing the precise model each period will be time consuming, and there is the danger that a respondent will refuse to cooperate or not take the exercise seriously (i.e. not provide prices which relate to current market conditions).

Charge-out rates by classification of lawyer tend to be readily available from law firms; they are adjusted to reflect market conditions and form the basis for the prices charged in a large range of legal services. Therefore, the use of a charge-out rates methodology can be a relatively cost effective way (for both the statistical organisation and respondents) of measuring price change in the industry. However the collection of a charge-out rate schedule is unlikely to adequately account for the impact on prices due to changes in labour productivity within the industry (e.g. where the amount of labour inputs required for legal services in general may decline due to more effective use of technology).

### **5.5 Technical concerns**

There are two main technical concerns with pricing the outputs of the Legal Services industry. The first concerns the coverage of revenue earning activities within the industry. None of the methods described above can be used to represent the price change for lawsuits where ad valorem pricing is the basis of charging, and this can represent a significant portion of revenue in some countries. This may limit the usefulness of a legal services price index for deflating aggregate values of legal services performed in a period in compiling a countries' national accounts, particularly where changes in this value between periods have been driven by changes in lawsuit activity.

The second major issue is that faced by countries where a significant portion of their index is based on pricing labour charge-out rates. There is a general concern that this methodology may tend to bias the index upwards if improvements in labour productivity within the industry (e.g. less time to perform common services) are passed on in the form of lower prices (or lower price increases), but this is not reflected in labour charge-out rates which may be tied to movements in wages. Ideally we would like to obtain this information from clients (i.e. the change in inputs required to perform the same service) and make appropriate adjustments to their reported prices, however this process is likely to be difficult in practice and subject to error (although should be goal of an annual review program, preferably by personal interview of respondents).

This issue was examined by Statistics New Zealand (McKenzie, 2000) and presented as a case study on the Legal Services industry at the 2000 Voorburg group meeting. This investigation examined prices collected (in New Zealand) for a range of legal services, using both charge-out rates and model prices in an effort to compare the two methods. There were some clear short-term differences in the index series, caused by hourly charge-out rates tending to move in a step-wise manner. However, over the medium to long-term the differences were small and there was no evidence of an upward bias associated with the charge-out rate methodology. The results of this investigation suggest that where the additional costs involved in developing and maintaining a model pricing methodology for legal services activities are significant, charge-out rates can provide a cost effective alternative for measuring price change in legal services with a low risk of bias.

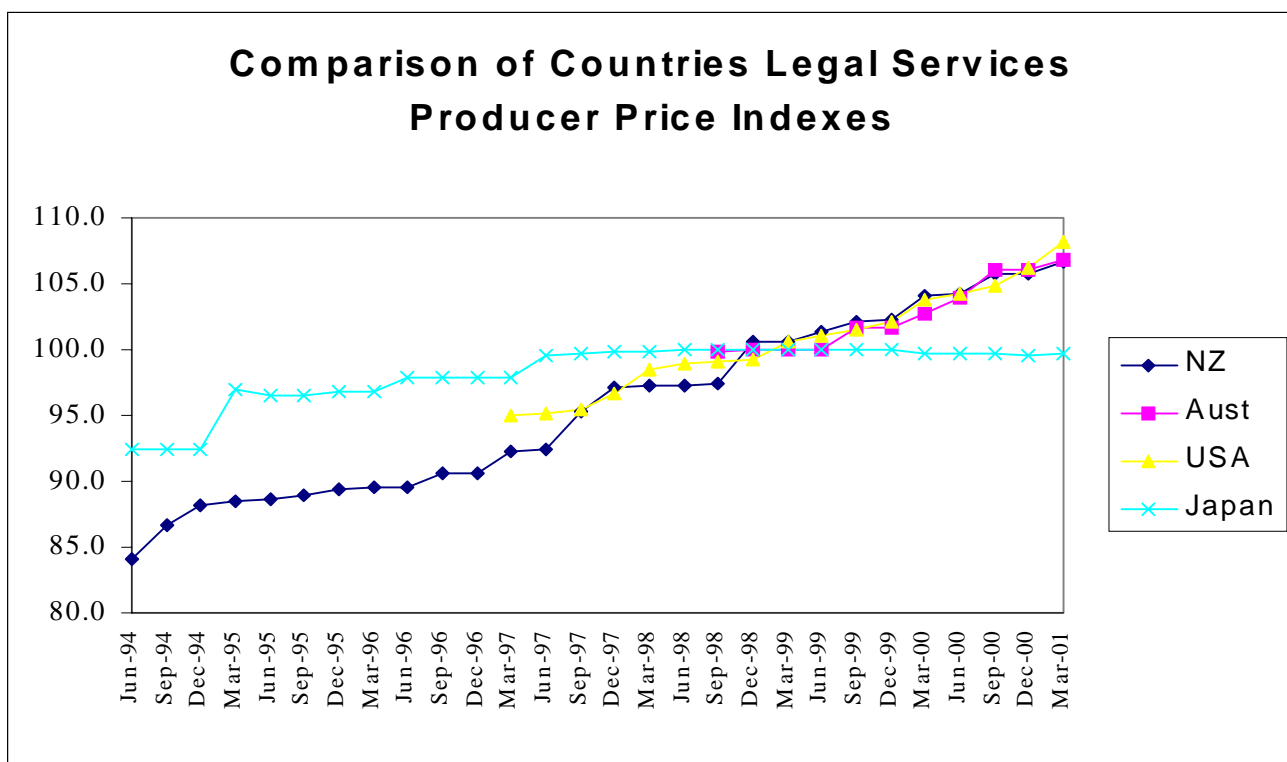
## **6 Survey vehicles**

As discussed earlier, it is very important to establish a relationship with key industry bodies and relevant associations in establishing a legal services price index. This will assist in determining an appropriate sampling approach and deciding the types of services which should be priced. Enrolling respondents is best achieved through personal interview, where an appropriate pricing methodology can be discussed and the requirements of the statistical organisation explained thoroughly. Frequent review of specifications collected from respondents (e.g. annual) by phone or personal interview, separate from regular data collection, is recommended to ensure ongoing understanding of requirements and to review whether recorded price changes for the respondent are a true reflection of the changes in prices of their services. Regular data collection through a tailored form mailed to the respondent is generally regarded as cost effective.



## 7 Comparison of countries published data

The graph below compares aggregate price indexes for the Legal Services industry published in Japan, New Zealand, United States and Australia. Note that for Japan, New Zealand and the United States sub indexes are also compiled, although these do not share a common classification. (See the attached files with each countries summary methodology in Attachment 1 for these sub indexes.)



Reference base of each countries index is 1998-99 = 100.0.

United States index begins in March quarter 1997 and the Australian index begins in September quarter 1998.

As the United States and Australian price indexes for the Legal Services industry are relatively new this limits the degree of comparison which can be undertaken between countries' data. However, from the limited time series available the New Zealand, United States and Australian indexes appear to show similar movements over time. This is in stark contrast to the Japanese price index, which has been virtually flat since June quarter 1997 and bears no relationship to the New Zealand index in the period covered by the above graph.

## References

McKenzie, R. (2000): *Legal Services within Producer Price Indexes: The New Zealand Experience*. 2000 Madrid Voorburg group conference contributed paper.

Collins, D. (2000): *Australian Price Indexes for Legal Services*. 2000 Madrid Voorburg group conference contributed paper.

## **Attachment 1 Summary methodology and data for countries publishing producer price indexes for the Legal Services industry**

### **A1.1 Australian Legal Services industry producer price index**

#### **A. Business model**

##### ***Structure of the Australian legal industry***

The legal services industry is comprised of solicitor firms, barrister firms and other enterprises whose primary activity is the provision of legal services. Based on 1995-96 statistics, solicitor firms account for more than 65% of the industry, barrister firms for more than 34%, and other enterprises the remaining 1%.

Most legal firms specialise in certain areas of the law. There is a general split between government and private in the industry, amongst both firms and clients. Many legal practices are conducted via a single entity (e.g. a sole practitioner or a partnership), while other practices are conducted via more than one entity (e.g. a legal firm or a service entity). Lawyers in private practice act either as principals or are employed by lawyers acting as principals. A principal is a person authorising another agent to represent him or her.

Solicitors' firms are most commonly sole proprietorships or partnerships, more rarely companies or trusts. The usual personnel structure for solicitors within a firm is:

- senior partner
- partner
- associate partner
- solicitor
- paralegal.

Although the majority of practices are small, with 95% of practices employing fewer than 20 people, these practices account for only 54% of the total employment in legal services, and contribute 46% of the total income of the industry (1995-96 statistics).

Many firms are members of a *federation*, which is a group of people who have an independent operation in each city and share profits amongst the respective members of each group.

## ***Industry pricing and record-keeping practices***

There are three pricing bases in the legal industry:

- item based pricing: a price is charged for particular parts of the service provided
- time based pricing: some kinds of legal work are charged at an hourly rate which is multiplied by the time taken to provide the service
- ad valorem pricing: the price is a proportion of the value of the subject of the legal work (e.g. the value of a property being conveyed or the amount recovered in court action).

Time based pricing tends to be the most common method of pricing. Solicitors and barristers are free to set their own hourly rates based upon their experience/expertise, demand, and what the market will bear, provided it is within 15% of the scale fee for court representation.

### **B. Government regulation**

There are scale fees for legal practitioners set by the courts. These scale fees vary from state to state. Scale fees are guides only, and generally do not represent prices transacted. Statutory scales are not used explicitly for price setting, these price scales are only used when a dispute about legal costs occurs. If a dispute occurs, it goes to a Master or Registrar where the expert will determine if the charges are within 15% of the statutory scales. The legal market is a free market, this is, solicitors and barristers set their own hourly rates according to their level of expertise, demand, and what the market will bear.

The big corporations and some of the federal and state government bodies have their own resident legal employees. The Commonwealth Government has its own organisation which deals with most of the legal requirements for all Commonwealth agencies. State government agencies compete in the open market and submit tenders for other state government departments' legal work.

Legal Aid is also funded by the Commonwealth and state governments. Legal aid supports disputes that are covered under family or criminal laws, and private legal practices that represent clients are partly covered. Almost 80% of Legal Aid cases are free with the remainder priced far below market rates. Legal Aid services are not covered in the index.

## **C. Final pricing methodology**

### ***Description of services priced***

Commercial, financial and business services are the main sources of income in the legal industry, with property conveyancing the second largest. At present, commercial, financial and business services are the only services priced. The major clients of these legal services are companies, followed by individuals, and non-profit organisations. There are two common types of services in the corporate legal industry:

- wholesale - which deals with large organisations, e.g. acquisitions, mergers, liquidations, business tax consultancy
- retail - which deals with legal wills, property conveyancing, probates, etc.

Wholesale activities forms the bulk of corporate legal work.

The major contracts are from large corporate accounts and government business.

### ***Pricing methodology and specifications***

Respondents are asked to report a selection of hourly rates by level of staff for a project for a major corporate client. That is, transactions prices are collected. For example, contract prices in hourly rates may be collected for a senior solicitor, graduate solicitor, and partner. This is considered to be close to constant quality pricing and the data is readily available. Where there is reluctance on the part of the solicitor to reveal their cost structure, tendering contracts (if accessible) are a source of hourly rates.

To more comprehensively reflect price changes in the legal industry, this pricing basis should ideally be accompanied by a pricing model for the disbursements. The present method of collecting hourly rates does not include the many other costs which impact upon the final contract price. Initially a detailed model pricing approach was attempted. However it was found that collecting the data for the model was very difficult and that collecting contract prices in terms of hourly rates was more practical for the respondents and adequately reflected price movements. Model pricing is difficult because the mix of staff and factors contributing to each case differ between cases, and throughout the industry there are different bands of legal professionals (i.e., the classification of staff differs amongst firms).

## **D. Limitations/concerns with published data**

### ***Technical concerns (pricing difficulties)***

The primary technical difficulty in this survey is data availability and defining specifications. Determining price specifications is difficult since inputs for each legal case involves a different mix of professional staff levels. It is often difficult to determine the level of involvement of staff in each case. However, respondents have so far been able to provide common bands of staff levels. Although there are many factors that influence pricing, fees are primarily based on the number of hours spent on a case. Even in fixed contract cases or tenders, hourly rates are worked out before the pricing/ tender is submitted.

The legal services industry is very volatile because it is rapidly growing and changing. This causes difficulties in the collection of information and respondents must be contacted quite frequently to review the specifications, size and structure of the firm. Many respondents are also reluctant to release information to the ABS. Often negotiation is required before the respondents are willing to release contract pricing information.

### ***Published data***

Sep-98	99.9
Dec-98	100.0
Mar-99	100.1
Jun-99	100.1
Sep-99	101.6
Dec-99	101.6
Mar-00	102.7
Jun-00	103.9
Sep-00	106.1
Dec-00	106.1
Mar-01	106.9

The legal services price index has recently been developed by the Australian Bureau of Statistics (ABS), with data collected since September quarter 1998. At present a selection of large legal firms is enrolled in the survey, representing both the western and eastern states. Commercial, financial and business services are the only services priced in the current index. These services are more subject to market forces than other legal services, and there is considerable overlap with services provided by accountants in areas including taxation, and merchant banks in merger and acquisition matters. Prices collected are hourly charge-out rates by staff level, for a specified set of conditions (i.e. a form of model pricing). This data is generally easily accessible by respondents, thus minimising reporting burden. The industry is undergoing rapid growth and change at present. The ABS must closely monitor firms for changes in structure or activity.

## **E. Analysis of "goodness" of your published data**

The legal services price index commenced development in late 1999, with back data collected to September quarter 1998. This index has recently had coverage extended to include respondents from both western and eastern states of Australia. To date, rapport has been established with respondents who have been cooperative and the data has been collected without many problems.

The legal services price index has been compiled for around 18 months. A sound sample of large legal firms have been established and a basis for specification pricing derived. The index is limited by restricting the scope to commercial, financial and business services and business-to-business activities. The industry will need to be closely watched since it is undergoing significant change and growth, and is heavily affected by supply and demand forces.

### **A1.2 New Zealand Legal Services industry producer price index**

#### **A. Business Model**

The legal services industry in New Zealand is a mixture of large and small businesses. There are several very large partnerships, which concentrate on servicing the corporate sector. Operating alongside these are numerous small partnerships and sole practitioners who focus more on servicing households and small businesses.

#### **B. Government Regulation**

The legal services industry in New Zealand is still partly regulated in that there are activities that can only be done by a licensed legal practitioner. However, lawyers are able to advertise their services. Scale Fees for legal services were abolished in the mid-1980s so there are no controls on how lawyers charge for their services.

#### **C. Pricing Methodology**

Statistics NZ uses two methods for the pricing legal services within the Producers Price Index.

##### ***Model Pricing Approach***

Specifications were developed (in consultation with legal professionals) for a range of legal services provided by the industry.

Specifications (see Attachment 2) have been developed for the following legal services:

- Obtaining an injunction;
- Registration of a debenture;
- Estate administration;
- Incorporation of a company;
- Traffic offence.

These specifications are sent to respondents each quarter for re-pricing. The specific legal firms are selected purposively from a population stratified by turnover. The respondents selected account for approximately 60 percent of the gross output of the legal services industry in New Zealand.

### ***Charge-out Rates***

Some respondents are also requested to provide details of charge-out rates for practitioners with particular levels of experience. These charge-out rates are used to supplement the model prices developed for the legal services industry.

## **D. Quality Issues**

From a practical perspective, one of the difficulties associated with the model pricing approach is the relative cost of applying this pricing methodology. The specifications have to be developed in conjunction with professionals in the area and require periodic maintenance as the business environment changes. The respondent also faces additional costs in terms of reporting time. This can be compared with the relatively cost-effective approach of collecting charge-out rates, which are usually readily available from the respondent, and do not require such intensive maintenance. Therefore, Statistics NZ uses charge-out rates of service providers to represent the price of the services being provided in many instances.

An investigation was made into the prices collected for a range of legal services, using both charge-out rates and model prices in an effort to assess the two methods. There were some clear short-term differences in the index series, because the hourly charge-out rates tended to move in a step-wise manner. However, over the medium to long-term the differences were much less than expected. Therefore, where the additional costs involved in developing and maintaining a model pricing methodology for service activities are significant, charge-out rates can provide a cost-effective alternative for measuring the price of legal services.

## **E. Published Data**

The legal services index is divided into two main components - corporate and personal.

**Corporate Legal Services** has four main parts:

- Commercial Conveyancing;
- Corporate / Commercial;
- Taxation / finance;
- Sundry Legal Services.

**Personal Legal Services** consists of the following categories:

- Criminal Litigation;
- Civil Litigation;
- Matrimonial & Estate Planning;
- Residential Conveyancing.

<b>Quarter</b>	<b>Service type</b>	
	<b>Corporate</b>	<b>Personal</b>
Jun-94	878	853
Sep-94	907	879
Dec-94	923	893
Mar-95	927	895
Jun-95	930	897
Sep-95	933	899
Dec-95	936	907
Mar-96	937	908
Jun-96	938	908
Sep-96	944	922
Dec-96	942	923
Mar-97	960	942
Jun-97	960	945
Sep-97	982	980
Dec-97	1000	1000
Mar-98	1001	1003
Jun-98	1001	1003
Sep-98	1005	1001
Dec-98	1042	1031
Mar-99	1042	1032
Jun-99	1047	1040
Sep-99	1045	1059
Dec-99	1047	1060
Mar-00	1064	1080
Jun-00	1068	1080
Sep-00	1073	1106
Dec-00	1073	1106
Mar-01	1079	1118



### **A1.3 Japanese Legal Services industry producer price index**

#### **A. Business model**

The legal services industry is divided into three categories. The first concerns services related to cases and disputes. It includes about 9,500 organizations, which comprise 40 percent of the number of organizations in this industry. The numbers cited in this paper are from the latest survey the "1999 survey on service industries" released on November 2000, compiled by the Statistics Bureau, Ministry of Public Management, Home Affairs, Posts and Telecommunications (MPHPT). The second provides services related to intellectual property rights. It has 10 percent share, which is about 2,000 organizations. The third provides services related to legal documentation and certification such as those for registration, deposits, and lawsuits. They hold a 50 percent share, about 13,000 organizations. The third organizations are mainly judicial scrivener firms. Strictly speaking, the total may include a number of other service organizations, such as notary publics. All organizations in this industry are private firms. Most of them are small size. They have three employees on average.

Services related to cases and disputes are provided only by attorneys. They provide a wide range of services. For example, they advise clients on legal matters. They take care of clients being prosecuted on criminal charges and handle civil litigation. Concretely, they prepare and draft documents for a case, and act in court on behalf of clients. They also provide services relating to arbitration, conciliation, and settlement of disputes between businesses or between individuals. They provide services in cases of insolvency, such as receivership services, as well.

Services related to intellectual property rights are mainly provided by patent attorneys. Attorneys are also allowed to provide services related to intellectual property rights by the government. They consult with clients to prepare for the registration of intellectual property. They draft an application for registration, and represent clients applying for registration to government organizations. Further, they make objections to registered intellectual properties, demand for judgments in cases, and make petitions to legal authorities on behalf of clients. They also defend clients from objections to registered clients' intellectual properties. There are various types of intellectual properties, such as patents, trademarks, designs, and utility models.

Services related to legal documentation and certification are provided by judicial scriveners. The documentation and certification are for such thing as registration, deposits, and lawsuits. For registrations, they consult with clients, draft an application, and represent clients applying to government organizations. There are several types of registration, such as for real estate ownership, security rights, credit amounts, and the establishment of a business organization. Registration for intellectual properties is not included; it is covered by patent attorneys. They also work for clients, when clients are required by law to make deposits such as money. They also provide services to draft and present legal documentation or certification to legal authorities, such as a court. For example, they draft petitions for lawsuits, bankruptcy, and judgments.

There are other professional services, such as certified social insurance and labor specialist services, certified real estate evaluation services, certified administrative procedures specialist services, and certified real estate assessor services for registration. They provide combined professional services related to the legal field and other fields, such as management, real estate surveying, providing administrative information, and real estate evaluation. Thus, we do not categorize these services as legal services in the CSPI, but as other professional services.

## **B. Government regulation**

All entrants to the legal services industry are required to obtain a license issued by the government. Only attorneys, patent attorneys, and judicial scriveners are allowed to provide legal services. The pertinent law defines the range of services for each license.

Only private firms are allowed to operate in this industry. Incorporation is prohibited by law to eliminate the possibility that organizations will focus on profits and enlarging their business, rather than their client's benefit.

There are no regulations concerning fees and other compensation for legal services.

## **C. Pricing methodology**

We compile three items regarding legal services in the Corporate Service Price Index (CSPI). *Item* is the lowest index aggregation level, which is published, in the CSPI. They are attorney services, patent attorney services, and judicial scrivener services. They are classified by type of services, not by industry. The CSPI adopts a classification system based on type of services. In the classification system, outputs of each company are categorized by the type of services. This is different from the industry classification system, in which outputs are categorized by the major output of each company. In the industry classification system, all outputs of each company are counted in one industry, although minor output can be quite different from the output of the industry in which the company is categorized.

Therefore, the item patent attorney services in the CSPI, for example, includes services related to intellectual property rights only. Even if the patent attorneys provide services categorized in other fields, they are not included in the item patent attorney services.

For compiling an index for each item (i.e., attorney services, patent attorney services, and judicial scrivener services), actual transaction prices are surveyed.

For attorney services, we only survey monthly or hourly fee for advisory services. For the monthly fee, we survey services with specified clients from the same attorneys to keep the quality of the services unchanged. For the hourly fee, we also keep the quality of services unchanged by surveying the same attorneys, while clients are not specified. It is not necessary to determine the clients because fees do not depend on the client. A few organizations offer hourly fees categorized by the length of experience of attorneys providing advisory services. In this case, we keep the quality of services unchanged by surveying attorneys with the same length of experience, not from the same attorneys.

Both monthly and hourly fees for advisory services pertain to general advice from attorneys. Clients make contracts with attorneys with monthly fees to obtain continuous legal advisory services. They can ask contracted attorneys questions over a wide range of legal matters whenever they want with this fixed fee arrangement. Other clients use hourly advisory services when they have a small problem or question on a legal matter, or when they want introductory advice to cope with a problem and obtain a road map on how to solve it. Both fees do not include detailed or concrete advice, such as for lawsuits, arbitration, conciliation, and other disputes.

For patent attorney services, we survey fees for applications for registration from the same patent attorneys. The fee covers consulting services to prepare for registration of intellectual property, application drafting services for registration, and representation services when applying for registration to government organizations. We track four types of registration fees: they are for patents, trademarks, designs, and utility models.

For judicial scrivener services, we survey three types of registration fees among the same judicial scriveners per 100 million yen of object to be registered. They are 1) application fee for registration concerning real estate ownership, 2) application fee for transfer registration concerning real estate ownership, 3) application fee for registration concerning security rights, or change of credit amount. Each fee covers consulting services to prepare for registration, application drafting services for registration, and representation services when applying for registration to government organizations.

#### **D. Limitations/concerns regarding published data**

There is a limitation regarding coverage of surveyed services in the attorney services. We survey only advisory services, although attorneys provide a wide range of services. We do not survey services for lawsuits, which are the most common service provided by attorneys. It is very difficult for us to survey these services continuously with determined quality, because contracts for these services are different and happen just once. The same case never happens twice. Further, when similar cases occur, we have no idea how to adjust for quality differences between cases.

Another concern is the need to determine the quality of surveyed services, especially in patent attorney services and judicial scrivener services. We mainly determine the quality of services by the type of services, and the provider of the services. However, skill of providers will improve as they gain experience. That means the quality of services will change, although we fix the type of services by surveying the same providers. In other words, at present we are not controlling for quality in the price data in terms of the level of providers' skill.

It is difficult to estimate the quality change caused by improvement of the provider's skill. There are some ideas on ways to estimate this change, but all do not seem to work in practice. Using length of provider's experience to estimate quality change is one idea. But it is difficult to accurately figure out quality changes by length of experience. First, the rate of improvement might be different depending on each provider and length of experience. Second, the provider's skill is improved not only by length of experience but also by other factors, such as the provider's own effort. This means that changes in marginal cost measured by labor input may not be equal to quality changes. Using degree of user satisfaction for estimating quality change is another idea, but to date we do not have tools to estimate each user's satisfaction. User's satisfaction also depends on the preference of clients, even if they obtain the same services from the same providers.

#### **E. Analysis of goodness of published data**

See attached file for published Japanese Legal Services industry price indexes.

We have compiled the index of legal services for over 15 years, starting in January 1985. The index shows an increasing trend until 1995 and stabilizes after that. See appendices for the indexes of legal services. Graphs and a table of the indexes are available. Furthermore, we can see relatively high price hike every two or three years. It is difficult to evaluate its *goodness*, because this index does not sufficiently cover legal services, especially in attorney services, and we do not have sufficient comparable service statistics in Japan. Therefore, we try to evaluate its goodness through qualitative analysis for part of our price survey.

First, from 1985 to 1995, the demand for services continued to increase due partly to a structural increase in the number of concerns or disputes over legal matters as a result of globalization, and partly to a cyclical increase along with the economic expansion during the so-called *bubble period*. This background can explain the increases in the index during the same period.

Second, in this industry there is a tendency for legal service prices to be revised at the time of contract renewal. The contract is usually valid for one or a few years. Looking at many cases, we can figure out that contracts are renewed, often in April and either October or January, which are reflected in a price hike every two or three years.

Third, since 1995, the inflation rate of CPI (excluding excise tax) has been almost zero on average and the growth rate of average wages of all industries was negative during the 1998-1999 period. This general movement of prices and wages would have more impact on the trend in renewal prices of legal services rather than the increasing demand for services during that time.

Finally, we have to explain a characteristic of the index: an increase in the price of patent attorney services from 1996 through 1999, while the movement of the whole index was stabilized. This is because demand for patent attorney services has increased along with the increase in the number of applications for registration related to Information Technology (IT). The influence of IT has a particularly strong effect on the price level of patent attorney services owing to the nature of the services.

Overall, the trend of the index of legal services, which we have surveyed for 15 years, can be explained qualitatively by taking account of changes in Japan's macro economic conditions. But there has been a limitation that the index covers a part of legal service prices due to the lack of survey data regarding services provided by attorneys.

### **A1.3 United States Legal Services industry producer price index**

#### **A. Business model**

Establishments classified within SIC 8111 include:

Attorneys	Legal aid services
Counselors at law	Legal services
Law offices	Patent solicitors' offices
Lawyers	Referees in bankruptcy

A lawyer is classified as a private practitioner (i.e., engaged in private practice), unless the individual is employed in the judiciary, government (e.g. district attorneys, public defenders and prosecutors), private industry (corporate in-house lawyers), or private association (industry trade associations).

It is important to note that lawyers not engaged in private practice may provide closely comparable services to those found in SIC 8111; however, their output belongs to the SIC of their employer. The key distinction between private practice lawyers and non-private practice lawyers is that non-private practice lawyers serve the internal needs of their employer and not outside clients.

Non-profit establishments providing legal services to the indigent in civil matters (e.g., legal aid societies) are included in SIC 8111. For these establishments, there is no measurable economic transaction between the client and establishment.

## ***Structure of the legal services industry***

Firms may be classified in four different categories: (1) firms with a national practice, (2) firms with a regional practice, (3) specialty or "boutique" firms, and (4) local practices. National firms tend to serve the country's largest corporations such as those on the Fortune 500 list. These businesses operate not only across the country but around the world, and they need legal counsel of matching scope. The legal work in these law firms is complex and demanding. Regional firms resemble national firms, but on a smaller scale. These practices "serve regional corporations and some of the needs of larger corporations, plus private families and individuals accustomed to a high level of professional service," according to one private source. Although smaller in size than the national firms, they often have offices in several cities. Specialty firms focus on particular areas of law such as real estate or civil negligence. Local firms are usually small firms or sole practitioners. The services they provide vary greatly. Individuals will usually use a local firm for their legal needs.

Today's legal profession, the "new legal profession," is characterized by larger firms, more specialization, and heightened competitive behavior. Rapid growth in the number of lawyers is largely responsible for this situation. While the population of the U.S. has grown by eight percent in the last eight years, the number of lawyers has grown by 32 percent. There is simply more commercial and government activity. The recent growth in the size of law firms has often come from mergers. Dozens of small and medium size firms have merged in order to gain economies of scale and to broaden their services. Another approach popular with large firms is simply to establish branch offices in major cities. For instance, one of the top law firms in the U.S., which specializes in international law, leads the list with 41 offices worldwide. In contrast to the top accounting firms, each of which controls more than five percent of its market, the highest-earning law firms generate less than one percent of total legal revenues.

### **B. Government regulation**

Regulation of the Legal services industry is primarily part of the lawyers' code of conduct. A code of conduct is adopted by each state judicial system. This code of conduct is developed in large part by American Bar Association and the Bureau of National Affairs recommendations published in the ABA/BNA Lawyers' Manual on Professional Conduct. In each state, a 'bar council' or 'lawyer disciplinary agency' will provide recommendations in cases of misconduct to the State Supreme Court.

However, in all cases of state law, the State Supreme Court is the disciplinary body in the jurisdiction where the alleged misconduct occurred. In relation to governmental regulation, this code of conduct provides for some limitations on where a lawyer might practice and what service that lawyer might offer. There are some instances where the price, or price range, for a service is set by the local bar association or by some local or state professional pricing authority.

## **C. Pricing methodology**

The primary output can be defined as legal advice or services agreed upon between a firm and client. These services are most often performed in accordance with a written agreement between the two parties. It is this "representation agreement" (sometimes called an "engagement") that details the activities that comprise the repriceable service. These details include: purpose of the legal representation, fees, reporting structure, billing frequency, billing detail, staffing, travel time, and expenses. Furthermore, the agreement specifies which partners and associates will work on the matter.

Firms set their prices based not only on the complexity of a case and the hourly rate of the person performing the service, but on local market conditions and the cost of living in that particular area. Respondents agreed that hourly rates might change yearly. Flat fees do not change quite as often. This implies that legal service transaction prices may be relatively stable.

The standard ways to pay for basic legal services include hourly fees (the most common arrangement), flat or project fees, retainers, contingency fees, percentage fees, and a combination of two or more of those methods. The most common fee arrangements are hourly rates and fixed rates. The text below provides a short description of several price-setting methods used in the industry.

### ***Hourly rates***

When it comes to complex litigation, the hourly fee is hard to avoid. Hourly fees are calculated by multiplying the hourly rate of the individuals performing the work times the actual amount of time needed to complete the project. Paying by the hour makes sense in product liability and personal injury work where it's often impossible to foresee all a case's twists and turns which make it difficult to predict its length and mix of expertise (partners, associates, or paralegals). A variation, the per day fee, often appears in civil-case defense work.

For matters billed on an hourly basis, the client should at the outset, establish written billing guidelines for their attorney to follow. The level of detail and scope of the guidelines should vary with the type of work required and the level of comfort the client has in its relationship with its attorneys. The guidelines should address substantive legal work as well as expenses that are incurred by the firm and billed to the company.

The hourly rate is one of the most common ways of billing today. Lawyers, whether on their own or in large firms, keep precise time sheets to determine billable hours. Each client is assigned a number. Since more than one matter per client may be involved, each case is also numbered. After recording client and case numbers, the lawyer enters the amount of time worked and briefly describes the nature. At the end of the case, or whatever billing period is agreed on, billable hours are multiplied by hourly rates.

### ***Fixed fees***

Fixed fees are primarily for rather routine personal matters- like preparing an uncontested divorce, drawing up a simple will, or sometimes even for closing title on a house (although here a percentage-of-purchase price arrangement is common). A fixed rate is typically employed when both the time and staffing needed to complete the project are known in advance. For example, legal fees for foreclosures, or certain types of legal opinions are typically quoted a fixed rate.

### ***Retainers***

There are two classes of retainers. First, a retainer may act as an advance payment (usually to cover costs) for a specific case. This amount may be paid monthly or quarterly, based on anticipated work computed on an agreed hourly rate to cover routine and clearly specified matters. Since lawyers tend to estimate conservatively, the retainer probably is not the final dollar figure billed. Rather, the client "eats up" the retainer, and when it is spent, the client goes back to the hourly rate. Also, a retainer rarely covers expenses like filing fees and telephone calls unless the client specifically negotiates it. However, since a retainer puts a lawyer on a positive cash flow (getting money before he does work), the client may receive a discount on the charged hourly rate. For many lawyers, the biggest fear is that clients will not pay their bills. Lawyers say a good indicator is a client's willingness to pay an up-front retainer.

The second class of retainer is called a "pure" retainer. This payment binds a law firm to make its legal services available on call. This will normally be a fixed fee.

### ***Contingency fees***

These fees give the lawyer a percentage of any damages the client receives. The lawyer does not receive such fees if there is no award. In many instances, the contingency fee is higher than an hourly rate bill because the lawyer risks a loss. The fee should be based on the amount actually collected. The fee is a fixed percentage of the settlement and is agreed on in advance. It remains the same whether the case takes years or is settled quickly. This fee arrangement is primarily used for plaintiff negligence and similar high-risk litigation situations; occasionally, but rarely, for contract or tax litigation, and never for non-litigation. Each contingency case differs because the amount of settlement is different each time. Contingency fee schedules are usually published by big city or state bar associations. Contingency fees are not common in corporate practice.

### ***Percentage fees***

Percentage fees are computed on the basis of the total amount of money or value of property involved in a case and are paid regardless of the outcome. They are common in real estate and probate. A percentage fee arrangement should define the percentage and the amount to which it will be applied. Any costs advanced by the lawyer should be subtracted from the base amount.



### ***Combination fees***

A client can negotiate a combination of a flat fee and a contingency agreement. The law firm and the client might agree that legal services will be billed at the normal hourly rate up to a certain total with any work beyond that total coming at the law firm's expense. If there is a recovery in the matter, the law firm will receive a contingency fee (though less than the normal one-third) based on the amount recovered.

Another combination fee setting possibility allows the firm and client to negotiate a win-or-lose fee, which is per-day, hourly, or flat just for handling the case. Then a percentage of the recovery is added if it is more (when the client is the plaintiff) or less (when the client is the defendant) than expected. This figure is reached through negotiation based on a realistic appraisal of what the case is worth.

### ***Relative value method***

This method involves creating schedules that break down services by subject matter and by task; and assign a "relative value" or multiplier to each. Each fee charger can be assigned a different basic rate or charge, which is then factored into the equation. There are variations in this method as used by individual practitioners who have developed their own schedules. This approach assumes that tasks performed by a lawyer differ in value, whereas straight hourly billing assumes that all time spent in performing various tasks has equal value.

### ***Retrospective fee based on value***

This approach differs from most of the alternative billing methods in that the exact amount of the fee is not known to either the lawyer or client until the matter is concluded. The amount may be combined with an hourly fee in setting a minimum. The lawyer, not the client, should determine the amount of the fee.

### ***Statutory or other scheduled fee system***

The amount to be paid for services is listed in some statutory enactment, in schedules for prepaid legal service plans, or by purchasers of legal services on a volume basis. Some fees are imposed, negotiated, or flat. Some schedules are in fee shifting situations, and others reflect government imposed social policies.

### ***Pricing methods used by the BLS***

Regardless of the type of price used, attorneys typically keep detailed records of their work. A firm's billing attorney controls the level of detail included on an invoice. However, attorneys should be able to provide the following information: date of work; increment of time devoted to work; name of attorney, legal assistant, or other staff member performing work; hourly rate of person performing work; description of work performed and resulting charge (time x rate). Large firms are likely to use billing software programs to generate billing invoices. The level of detail on invoices may vary from program to program.

Presurvey contacts believe that attorneys should be able to estimate a price. They should know at the outset what a project will cost the client. Fixed fees are becoming the trend in the industry because clients want to know at the outset how much the legal services will cost. If the total cost of services is difficult to estimate because of the complexity or type of case, a firm will charge by the hour (e.g., a complex divorce case).

The Bureau of Labour Statistics collects both fixed fees (for real estate transactions, simple divorces, simple wills) and hourly rates. The hourly rates rely on a worksheet approach for monthly repricing. The respondent is provided by mail with a copy of all the inputs (numbers and types of labor, number of hours, and the billing rate for each input, plus any additional charges for other services) and asked for an update. Theoretically, if the service is provided differently (less labor due to use of some breakthrough such as clearer precedent requiring less documentation) the respondent should change the listed inputs. This may not happen often in practice.

#### **D. Limitations/concerns with published data**

Quality adjustment while not done explicitly does occur when a respondent indicates that the complexity of a job has changed. Examples of this would be a change requiring a lawyer with special skills or training or a change requiring a more experienced lawyer. While neither of these cases would be considered in the same way as a change in the circumstances of the case, the changes mentioned would be initiated by the respondent based on that establishment's experience and information.

#### **E. Analysis of 'goodness' of published data**

See attached file for published United States Legal Services industry price indexes.

The index for Legal services has been in publication since July 1995. It appears as if the respondents remaining in the index have been providing good data since publication. At this point, problems with reporting would be a respondent not understanding how they should address the item description over time. This could be explained by an individual respondent being replaced by a new individual within that same establishment or by a reporter that follows the 'exact' item description under the assumption that the case has been completed, thus the billing would not change.

This is the first cycle of this industry; thus, we are near the end of the cycle period. That raises the concern that possible changes in the industry would mean that the information received is not as precise as would be desirable. One example of this could be a move in the industry towards more fixed price service. In defense of our present information, there is little movement in the hourly repricing, except during an annual adjustment to hourly rates or if market conditions necessitate a change.

## **Attachment 2**

## **Example specifications for model pricing of legal services**

### **A2.1 STANDARD SPECIFICATION FOR OBTAINING AN INJUNCTION**

1. You are contacted by the managing director of a client company. He advises that the company has been served with a Section 218 notice and requests an urgent appointment to see you.
2. Preliminary interview with managing director in which he:
  - a) Gives you a brief outline of the circumstances giving rise to the issue of the notice;
  - b) Hands you relevant documents; and
  - c) Inquires what steps should be taken.
3. You first check the section 218 notice to see when the time expires after which the creditor can issue a statement of claim.
4. Having ascertained what date, you then advise the managing director that, having regard to the short time available, you will study the documents and let him have your advice very shortly.
5. Over the ensuing 48 hours you spend time studying the documents and then write to the solicitors who issued the section 218 notice. The purpose of this letter is:
  - a) To point out that the debt is disputed and that therefore a section 218 notice is inappropriate;
  - b) To advise them that, in any event, your client has a claim which exceeds the amount of the disputed debt;
  - c) To ask them whether, in view of the above, they still intend proceeding; and
  - d) To advise them that unless you hear from them within seven days that they do not intend proceeding, you will apply to the Court for an injunction.
6. Within seven days a reply is received advising that they do not consider your client's position to be financially strong; that they do not consider that the debt is genuinely disputed and that they do intend proceeding if the money is not paid or security given.
7. Following this there is a lengthy consultation with the managing director for the purpose of preparing the documentation necessary to obtain an injunction. As it is necessary to persuade the Court that the dispute over the debt is a matter of substance and not simply a smoke-screen designed to put off the evil day; full details of the dispute must be given.
8. The following documents are then prepared for filing in the Court:
  - a) Statement of claim and notice to defendant asking for:
    - i) A declaration that the alleged debt is not owing;
    - ii) Damages for breach of contract; and
    - iii) Costs.
  - b) An ex parte application for injunction restraining the defendant company from issuing and/or advertising a winding up petition on the grounds that:
    - i) The debt is disputed;
    - ii) There is a claim which exceeds the amount of the disputed debt.
    - iii) The presentation and advertising of the petition will do irreparable harm to the plaintiff company.
  - c) An affidavit from the managing director of the plaintiff company setting out full details of the disputed debt and the background to it.
9. These documents are then filed in the Court. The motion is ex parte because of the urgency of the situation and the fact that when the proceedings are filed the time for the expiry of the notice has almost arrived. If there were ample time then the motion would inevitably have to be served on the other party.

10. In the first instance the papers are placed before the Judge and he makes an order after perusal of the papers. He does not call counsel to see him for further clarification of the issues.
11. You arrange to have the order sealed in the Court and served on the defendant company forthwith to prevent the statement of claim for winding up proceeding.

## **A2.2 STANDARD SPECIFICATION FOR REGISTRATION OF DEBENTURE**

**Assume:** Your client company is asked to give a debenture to its trading bank to see fluctuating overdraft and other banking accommodation up to \$25,000. The bank's debenture is to take priority over an existing debenture to a finance company securing \$10,000 fixed item of plant.

1. Receive letter of instruction from lending institution. Check:
  - (a) level of accommodation;
  - (b) interest and finance rate (servicing ability).
2. Search company including Memorandum and Articles. Check that company has power to give such a security. Obtain full details of prior charge.
3. Confirm lending institution's instructions and conditions with client.
4. Peruse trading bank's debenture (standard form).
5. Complete details in debenture.
6. Prepare Declaration of Due Execution and company resolutions including Disclosures of Interest. Ensure that the same conform with the company's Articles of Association.
7. Prepare Deed of Modification of Priority and obtain confirmation from on debenture holders to the terms thereof.
8. Attendances on execution of the following documents:
  - (a) Resolutions incorporating appropriate Disclosures of Interest;
  - (b) Debenture;
  - (c) Declaration of Due Execution;
  - (d) Deed of Modification of Priority.
9. Attendance's on Disclosure.
10. Arrange noting of appropriate insurance policy.
11. Forward priority document to other debenture holder for execution and return.
12. Register Companies Office copy of debenture.
13. Forward certificates to lending institutions to confirm compliance with requirement and request drawdown of funds.
14. Report to client.
15. Uplift funds and disburse.
16. Attend to stamping of Deed of Priority
17. Forward final solicitor's certificate to lending institutions together with debentures security documents including Section 105 certificate, Deed of Priority and insurance policy.
18. Final report to client.

## **A2.3 STANDARD SPECIFICATION FOR ESTATE ADMINISTRATION**

### **Work involved in approximate chronological order**

1. Preliminary interview with executor, discussion of terms of the will, the nature and approximate length of time of the administration of the estate and likely cost.
2. Written report to executor, supplying copy of will and summary of administration.
3. Drafting Affidavit to Lead Grant of Probate, Affidavit of Death where necessary. Notice of Application to the Court for Grant of Probate. .
4. Attendance on executor and having Affidavits sworn.
5. Filing Application and Affidavit(s) at High Court Registry.
6. Preparing and sending letters to Postbank, Life Insurance Company and Trading Bank seeking particulars of derived and accrued interest for tax purposes and amount payable to estate.
7. Receiving responses from them.
8. Searching certificate of title to house property.
9. Obtaining death certificates (2) (and birth certificate if age not admitted by the insurance company).
10. Receiving minute of Court's Order on application for Probate, preparing formal Grant of Probate and Declaration in value of estate.
11. Sealing Grant of Probate and filing Declaration at High Court Register
12. Preparing Transmissions by Survivorship of jointly owned house property.
13. Preparing taxation returns to date of death.
14. Reporting to executor, supplying Schedule of Assets and Liabilities.
15. Attending on widow/er for execution of Transmission.
16. Advising rates authority, Valuation Department, insurance company, electrical supply authority and Telecom re telephone, of transfer of joint house property to widow/er.
17. Attending at Land Transfer Office with Transmission (death certificate annexed) and certificate of title for registration.
18. Receiving release of Probate from High Court.
19. Completing life insurance discharge, specimen signature and withdrawal forms for Postbank and trading bank accounts.
20. Arranging execution of discharge and withdrawal forms by the executor.
21. Forwarding life insurance policy, death certificate (and birth certificate) discharge and probate to life insurance company requesting payment.
22. Receiving return of Probate from life insurance company together with cheque in settlement. Arranging for payment into trust account.
23. Forwarding specimen signature and withdrawal forms and Probate to trading bank and arranging for closing of account, final bank statements and payment.
24. Receiving return of probate from trading bank and cheque in settlement. Arranging for payment of cheque into trust account.
25. Forwarding specimen signature and withdrawal forms and Probate to Postbank and requesting payment to the estate.
26. Receiving return of Probate from Postbank together with cheque in settlement. Arranging for payment into trust account.
27. Payment of debts including funeral expenses.
28. Reporting to executor and beneficiary and arranging payment of interim distribution to beneficiary if required.

29. Receiving, checking and paying assessment from Inland Revenue Department in respect of taxation return to the date of death.
30. Preparing final estate accounts.
31. Preparing a trustee's tax returns from date of death to date of distribution.
32. Final report to executor and beneficiary supplying final statements.
33. Attendance on executor to discuss final accounts and make payment of the balance held in trust.
34. Sundry telephone attendances (say 5) during administration.

#### **A2.4 STANDARD SPECIFICATION FOR INCORPORATION**

**Assume:** You are consulted by a husband and wife who have purchased a suburban bookstore. They wish to operate the business as a limited liability company with a nominal capital of \$10,000. The husband and wife wish to be the shareholders and directors and they wish their accountant to be the secretary.

1. Preliminary discussion canvassing:
  - 1.1 Reason for incorporation
  - 1.2. Concept of limited liability
  - 1.3. Level of paid up capital and reasons why.
  - 1.4. Selection of proposed name.
  - 1.5. Shareholders, Directors and Secretary
  - 1.6. Type of business.
  - 1.7. Registered office.
  - 1.8. Bankers.
2. Name approval. Forward application for name approval to Registrar of Companies, Wellington, including disbursement.
3. Receive name approval.
4. Draft company documents including:
  - 4.1 Articles of Association.
  - 4.2 Memorandum of Association.
  - 4.3 Notice of Situation of Registered office.
  - 4.4 Particulars of Directors and Secretary.
  - 4.5 Consent to Act as Director.
  - 4.6 Consents to Act as Secretary.
  - 4.7 Minutes of first meeting of Directors.
5. Order Common Seal.
6. Collect funds from clients to cover disbursements including approval fee, registration costs and Common Seal.
7. Attendances pertaining to explanation of Articles, Memorandum, powers and rights pursuant thereto, obligations of officers, accounting method, opening of banking accounts and payment of capital.
8. Attendances on execution of documents
9. Submit documents to Companies Office for registration.
10. Receive advice as to incorporation.

11. Report and account to clients and advise of incorporation, forward incorporation documents including
  - 11.1 Certificate of Incorporation.
  - 11.2 Articles of Association.
  - 11.3 Memorandum of Association.
  - 11.4 Minutes of first meeting of Directors
12. Forward minutes of first meeting to Directors.
12. Forward copies of Articles of and Memorandum of Association to nominated

## **A2.5 STANDARD SPECIFICATION FOR A TRAFFIC OFFENCE**

1. Preliminary interview - charge of dangerous driving against stock agent involving a non-injury collection. Instructed to defend the charge.
2. Attending at Court when information adjourned for a defended hearing.
3. Interviewing defence witness (passer-by) and defendant to prepare a hearing.
4. Speaking to Ministry of Transport to obtain details of prosecution evidence. If necessary, making a request under the Official Information Act 1983.
5. Attending at Court to conduct defended hearing in which traffic officer in charge of prosecution and other driver give evidence for prosecution as well as defendant and passer-by for defendant. Total time involved at Court 1½ hours.
6. Preparing application for limited licence involving affidavits from defendant and employer representative.
7. Attending at Court to obtain limited licence against opposition from Ministry of Transport.