

Schedule 4 — Scale of costs for proceedings under Part IV of the Act

[r. 165(6)]

[Heading inserted: Gazette 9 Mar 2007 p. 916.]

1. Terms used

In this Schedule —

counsel (C) means a legal practitioner, other than a senior counsel, acting as a barrister;

junior legal practitioner (JLP) means a legal practitioner who has been admitted to the Australian legal profession for less than 5 years in any jurisdiction in Australia;

PL means a paralegal;

senior counsel (SC) means a legal practitioner who has been appointed a Senior Counsel or Queen's Counsel in an Australian jurisdiction and whose appointment is afforded recognition by the Chief Justice of the Supreme Court of Western Australia;

senior legal practitioner (SLP) means a legal practitioner who has been admitted to the Australian legal profession for 5 years or more in any jurisdiction in Australia.

[Clause 1 inserted: SL 2022/118 r. 6(1).]

2. Hourly rates

The hourly and daily rates set out in the Table to this clause are the maximum hourly and daily rates, inclusive of GST, which shall be used to calculate the dollar amounts in the scale of costs set out in the Table to clause 3.

Table — Hourly and daily rates

Fee earner		Maximum allowable hourly rates
Senior Legal Practitioner	hourly rate	\$396
Junior Legal Practitioner	hourly rate	\$297

cl. 3

Fee earner		Maximum allowable hourly rates
Clerk/Paralegal	hourly rate	\$143
Counsel fees charged as a disbursement to legal practitioners or charged by in-house Counsel:		
Counsel (C)	hourly rate	\$319
	daily rate	\$3 190
Senior Counsel (SC)	hourly rate	\$528
	daily rate	\$5 280

[Clause 2 inserted: Gazette 9 Mar 2007 p. 916-17; amended: Gazette 4 Feb 2011 p. 392-3; 11 Sep 2015 p. 3745; SL 2022/118 r. 7.]

3. Scale of costs

In the absence of a costs agreement under the *Legal Profession Uniform Law (WA)* Part 4.3, the repealed *Legal Profession Act 2008* or the repealed *Legal Practice Act 2003*, the costs of or in relation to a party to proceedings (inclusive of GST and counsel fees but exclusive of other disbursements) —

- (a) recoverable from one party by another party; or
- (b) payable by a party to that party's own legal practitioner,

shall not exceed the amounts set out in the Table to this clause.

Table — Scale of costs

Item		Time	Fee earner	Maximum amount \$
1.	Commencing proceedings —			
	(a) Application or objection, including instructions			396
	For each additional respondent			55
	(b) Particulars (including preparation and lodgment)	8 hour	SLP	3 168

Item		Time	Fee earner	Maximum amount \$
2.	Response — (a) Lodging a response (b) Particulars (including preparation and lodging)	8 hours	SLP	198 3 168
3.	Disclosure — Giving additional disclosure where ordered by the warden	3 hours	JLP	891
4.	Inspection — Inspection and giving inspection	per hour	JLP	297
5.	Interlocutory applications — Proceedings and/or responses to applications (including all documentation and preparation for hearing) <i>Note: In relation to the above, if the proceedings do not commence and settle or adjourn on the day of the hearing then the Assessing Officer shall allow such amount as is reasonable in the circumstances.</i>	1 day preparation ½ day hearing	C	4 785
6.	Applications and attendances before the warden	1 hour	SLP	396
7.	Offers of settlement, notices, practice directions, applications, declarations, memoranda, affidavits — (a) Offers of settlement (b) Acceptance of offer of settlement (c) Other notices referred to or required by regulations or practice directions not otherwise specified in this scale (d) Preparation lodging and service of affidavits and statutory declarations not otherwise provided for (e) Drawing and serving of interlocutory orders (where ordered or required)	2 hours 2 hours per hour 2 hours	SLP SLP SLP JLP	792 792 396 594
8.	Getting up — Preparation for hearing (includes work reasonably and necessarily undertaken prior to commencement of proceedings)	50 hours	SLP	19 800

Mining Regulations 1981

Schedule 4 Scale of costs for proceedings under Part IV of the Act

cl. 3

Item		Time	Fee earner	Maximum amount \$
9.	Hearing —			
	(a) Fee on brief for Counsel i.e. first day of hearing and preparation	2 days preparation 1 st day of trial	C	7 975
	(b) Fee on brief for Senior Counsel i.e. first day of hearing and preparation (where 2 or more Counsel are certified for)	2 days preparation 1 st day of trial	SC	13 200
	(c) Counsel fee for the second and each successive day of hearing		C	3 190
	(d) Counsel fee for Senior Counsel for second and each successive day of hearing (where 2 or more Counsel are certified for)		SC	5 280
	(e) Instructing legal practitioner attending hearing, where certified for	per hour	JLP	297
	(f) Clerk attending hearing			
	<i>Note: In relation to paragraphs (a)-(f) if —</i>			
	(1) The hearing lasts less than 2 hours; or			
	(2) The hearing does not commence and settles or adjourns on the day of the hearing,			
	then the Assessing Officer shall allow such amount as is reasonable in the circumstances.			
	(g) Attending on reserved determination	per hour	SLP	396
10.	Mention hearings	per hour	SLP	396
11.	Determinations —			
	(a) Settling and extracting determination —			
	(i) with appointment	1 hour	JLP	297
	(ii) without appointment	0.5 hours	PL	198
	(b) Issue of certified copy of determination			143
12.	Enforcement —			
	Lodgment of an application to enforce a determination pursuant to <i>Civil Judgments Enforcement Act 2004</i>			198

Item		Time	Fee earner	Maximum amount \$
13.	Registration of determinations — Registration of determinations including those under <i>Service and Execution of Process Act 1992</i> (Commonwealth)			198
14.	Assessment of costs including drawing bill — (a) Lodgment of bill of costs (b) Drawing bill of costs, copies and service (c) Making an objection to a bill (d) Assessment of costs (including the time spent in preparing for the assessment)		SLP	55 Such amounts as are reasonable in the circumstances
15.	Copying — Photocopies where necessary, including of documents for which allowance is otherwise made in this scale	per page		1.00
16.	Review by warden of a decision of a mining registrar			Amount calculated in accordance with item 5
17.	Accounts and inquiries — Attending on taking accounts, inquiries		SLP	Such amounts as are reasonable in the circumstances
18.	Other work — (a) Time reasonably spent by a legal practitioner on work requiring the skill of a legal practitioner (of the standing indicated) but not covered by any other item or (b) Time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, on work not covered by any other item or by paragraph (a)	per hour per hour	SC SLP C JLP SC SLP C JLP PL	528 396 319 297 143

Mining Regulations 1981

Schedule 4 Scale of costs for proceedings under Part IV of the Act

cl. 3

Item		Time	Fee earner	Maximum amount \$
19.	Disbursements — In addition to the fees and charges allowed under this Schedule — (a) As between legal practitioner and client, a legal practitioner may charge and be allowed disbursements necessarily or reasonably incurred; and (b) As between party and party, a party may be allowed disbursements necessarily or reasonably incurred.			
20.	Allowances for witnesses — The amount of any costs to be paid in respect of work done by a legal practitioner in conducting any proceedings in a case may include a reasonable allowance for — (a) witnesses called because of their professional, scientific or other special skill or knowledge; and (b) witnesses called other than those covered in paragraph (a). In fixing an allowance for witnesses under paragraph (b) including the applicant and respondent, the Assessing Officer may have regard to the amount of salary, wages or income (if any) actually lost by the witness.			

[Clause 3 inserted: Gazette 9 Mar 2007 p. 917-20; amended: Gazette 15 Jan 2010 p. 136; 4 Feb 2011 p. 393-5; 11 Sep 2015 p. 3746-8; SL 2022/118 r. 6(2) and 7.]

