

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

[r. 165(6)]

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

1. Terms used

In this Schedule —

C stands for counsel;

counsel means a lawyer, other than a senior counsel, acting as a barrister;

JL stands for junior lawyer;

junior lawyer means a lawyer who has been admitted for less than 5 years in any jurisdiction in Australia;

PL stands for paralegal;

SC stands for senior counsel;

senior counsel means a lawyer 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 lawyer means a lawyer who has been admitted for 5 years or more in any jurisdiction in Australia;

SL stands for senior lawyer.

[Clause 1 inserted in Gazette 9 Mar 2007 p. 916.]

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.

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Table — Hourly and daily rates

Fee earner			Maximum allowable hourly rates
Senior Lawyer		hourly rate	\$330
Junior Lawyer		hourly rate	\$231
Clerk/Paralegal		hourly rate	\$110
Counsel fees charged as a disbursement to lawyers or charged by in-house Counsel:			
Counsel	(C)	hourly rate	\$253
		daily rate	\$2 530
Senior Counsel	(SC)	hourly rate	\$429
		daily rate	\$4 290

[Clause 2 inserted in Gazette 9 Mar 2007 p. 916-17; amended in Gazette 4 Feb 2011 p. 392-3.]

3. Scale of costs

In the absence of a costs agreement under the *Legal Profession Act 2008* or the repealed *Legal Practice Act 2003*, the costs of or in relation to a party to proceedings (inclusive of GST and counsel fees but exclusive of other disbursements) —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

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 For each additional respondent (b) Particulars (including preparation and lodgment)	8 hour	SL 2 640
2.	Response — (a) Lodging a response (b) Particulars (including preparation and lodgment)	8 hours	SL 2 640
3.	Disclosure — Giving additional disclosure where ordered by the warden	3 hours	JL 693
4.	Inspection — Inspection and giving inspection	per hour	JL 231
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 3 795
6.	Applications and attendances before the warden	1 hour	SL 330
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	2 hours 2 hours	SL SL 660 660 110

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Item		Time	Fee earner	Maximum amount \$
	(d) Preparation lodging and service of affidavits and statutory declarations not otherwise provided for	per hour	SL	330
	(e) Drawing and serving of interlocutory orders (where ordered or required)	2 hours	JL	462
8.	Getting up — Preparation for hearing (includes work reasonably and necessarily undertaken prior to commencement of proceedings)	50 hours	SL	16 500
9.	Hearing —			
	(a) Fee on brief for Counsel i.e. first day of hearing and preparation	2 days preparation 1st day of trial	C	7 590
	(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 1st day of trial	SC	12 870
	(c) Counsel fee for the second and each successive day of hearing		C	2 530
	(d) Counsel fee for Senior Counsel for second and each successive day of hearing (where 2 or more Counsel are certified for)		SC	4 290
	(e) Instructing lawyer attending hearing, where certified for			
	(f) Clerk attending hearing	per hour	JL	231
	<i>Note: In relation to paragraphs (a) — (f) if —</i>			
	(1) <i>The hearing lasts less than 2 hours; or</i>			
	(2) <i>The hearing does not commence and settles or adjourns on the day of the hearing,</i>			
	<i>then the Assessing Officer shall allow such amount as is reasonable in the circumstances.</i>			

Item		Time	Fee earner	Maximum amount \$
	(g) Attending on reserved determination	per hour	SL	330
10.	Mention hearings	per hour	SL	330
11.	Determinations —			
	(a) Settling and extracting determination			
	(i) with appointment	1 hour	JL	231
	(ii) without appointment			165
	(b) Issue of certified copy of determination	0.5 hours	PL	110
12.	Enforcement — Lodgment of an application to enforce a determination pursuant to <i>Civil Judgments Enforcement Act 2004</i>			165
13.	Registration of determinations — Registration of determinations including those under <i>Service and Execution of Process Act 1992</i> (Commonwealth)			165
14.	Assessment of costs including drawing bill —			
	(a) Lodgment of bill of costs			44
	(b) Drawing bill of costs, copies and service)		SL	Such amounts as are reasonable in the circumstances
	(c) Making an objection to a bill)			
	(d) Assessment of costs (including the time spent in preparing for the assessment))			
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

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Item		Time	Fee earner	Maximum amount \$
17.	Accounts and inquiries Attending on taking accounts, inquiries		SL	Such amounts as are reasonable in the circumstances
18.	Other work — (a) Time reasonably spent by a lawyer on work requiring the skill of a lawyer (of the standing indicated) but not covered by any other item or (b) Time reasonably spent by a lawyer, or by a clerk or paralegal of a lawyer, on work not covered by any other item or by paragraph (a)	per hour	SC SL C JL PL	429 330 253 231 110
19.	Disbursements — In addition to the fees and charges allowed under this Schedule — (a) As between lawyer and client, a lawyer 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 lawyer 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 in Gazette 9 Mar 2007 p. 917-20; amended in Gazette 15 Jan 2010 p. 136; 4 Feb 2011 p. 393-5.]

