

**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.

**Table — Hourly and daily rates**

<b>Fee earner</b>		<b>Maximum allowable hourly rates</b>
Senior Lawyer	hourly rate	\$396
Junior Lawyer	hourly rate	\$297
Clerk/Paralegal	hourly rate	\$143
<b>Counsel fees charged as a disbursement to lawyers or charged by in-house Counsel:</b>		
Counsel (C)	hourly rate	\$319
	daily rate	\$3 190
Senior Counsel (SC)	hourly rate	\$528
	daily rate	\$5 280

*[Clause 2 inserted in Gazette 9 Mar 2007 p. 916-17; amended in Gazette 4 Feb 2011 p. 392-3; 11 Sep 2015 p. 3745.]*

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In the absence of a costs agreement under the *Legal Profession Act 2008* or the repealed *Legal Practice Act 2003*, the costs of or in relation to a party to proceedings (inclusive of GST and counsel fees but exclusive of other disbursements) —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

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**cl. 3**

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	396 55 3 168
2.	Response — (a) Lodging a response (b) Particulars (including preparation and lodgment)	8 hours	SL	198 3 168
3.	Disclosure — Giving additional disclosure where ordered by the warden	3 hours	JL	891
4.	Inspection — Inspection and giving inspection	per hour	JL	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	SL	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	2 hours 2 hours  per hour	SL SL  SL	792 792 143 396

Item	Time	Fee earner	Maximum amount \$
(e) Drawing and serving of interlocutory orders (where ordered or required)	2 hours	JL	594
8. Getting up — Preparation for hearing (includes work reasonably and necessarily undertaken prior to commencement of proceedings)	50 hours	SL	19 800
9. Hearing —			
(a) Fee on brief for Counsel i.e. first day of hearing and preparation	2 days preparation 1st day of trial	C	7 975
(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 1st 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 lawyer attending hearing, where certified for	per hour	JL	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	SL	396
10. Mention hearings	per hour	SL	396

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Item		Time	Fee earner	Maximum amount \$
11.	Determinations — (a) Settling and extracting determination — (i) with appointment (ii) without appointment (b) Issue of certified copy of determination	1 hour 0.5 hours	JL PL	297 198 143
12.	Enforcement — Lodgment of an application to enforce a determination pursuant to <i>Civil Judgments Enforcement Act 2004</i>			198
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)		SL	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		SL	Such amounts as are reasonable in the circumstances

Item		Time	Fee earner	Maximum amount \$
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	per hour	SC SL C JL	528 396 319 297
	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	143
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; 11 Sep 2015 p. 3746-8.]*

