

## Fees for State law matters effective on or after 1 July 2007

### **Civil Matters – Practitioner Fees**

- 1 Local Court and Other Tribunals - Practitioner Fees
- 2 All Courts (except Local and Family Courts) and Nominated Tribunals – Practitioner Fees
- 3 Mental Health - Practitioner Fees
- 4 Travel Entitlements

## Fee Scales

### 1. Local Court and Other Tribunals - Practitioner Fees

Scale of fees for work done on or after 1 July 2007 in State matters.

#### Local Court and other Tribunals

Other tribunals are all tribunals **except** the Commercial Tribunal and the Equal Opportunity Tribunal.

**"Legal Practitioners" includes solicitors and counsel** whether practising in NSW or interstate.

Legal Practitioners (and their authorised agents) will be paid 80% of the amount assessed under the appropriate rates for professional costs and 100% of allowed disbursements. These rates include an allowance for skill, care and responsibility and no additional allowance will be permitted.

Senior counsel will be allowed 150% (payable at 80%) of the appropriate rate unless otherwise agreed with the Commission prior to the work being undertaken.

The fee rates provide for Hourly Rates and for Itemised Rates (which are derived from the hourly rates).

- When advising a client of the estimated cost of the proceedings under the Legal Profession Act, legal practitioners should have regard to the hourly rates.
- At the conclusion of the matter a legal practitioner may choose to submit an account in accordance with either the hourly rate or itemised rate (which is derived from the hourly rate).

#### Advice from Counsel

A lump sum amount of \$733.00 payable at 80% (\$587.00) is paid to counsel for a written advice. Senior counsel is paid at 150% (payable at 80%).

#### Hourly Rates

There are two rates based on the following hourly rates:

1. **\$196.00 per hour** (or \$217.00 per hour where time is spent in a hearing as an advocate). This rate applies:

- (a) where costs are awarded in favour of the legally assisted person; or
- (b) where there is a component for costs included in the successful settlement.

2. **\$150.00 per hour** (or \$186.00 per hour where time is spent in a hearing as an advocate). This rate applies:

- (a) in a jurisdiction where costs are not awarded;
- (b) where proceedings are discontinued (except where costs are agreed to be paid in favour of the legally assisted person);
- (c) where costs are not awarded in favour of the legally assisted person;
- (d) where the matter is concluded unsuccessfully;
- (e) where there is no component for costs included in the successful settlement;
- (f) where the solicitor's retainer is terminated prior to the conclusion of the proceedings and the solicitor requires payment of costs by the Commission prior to releasing the file;
- (g) where costs are awarded in favour of the legally assisted person but are not able to be recovered from the party ordered to pay those costs; or
- (h) where payment of interim accounts is requested by the practitioner.

**Work done by a clerk** may be claimed as one-third of the practitioner's rate.

**Civil law fee rates - Local Court and other Tribunals**  
**Itemised rates - For work done on or after 1 July 2007**

Column A should be used where the hourly rate of \$150.00 per hour is appropriate.  
 Column B should be used where the hourly rate of \$196.00 per hour is appropriate.

ITEM Note: 1 folio= 1 00 words	COLUMN A (based on \$150/hr) \$	COLUMN B (based on \$196/hr) \$
<b>1. DRAWING</b>		
(a) Court document (being any document filed in Court), not including standard or pre-printed material	per folio 18.00	per folio 22.00
(b) Other documents (including party/party bill of costs) not including standard or pre-printed material	per folio 14.40	per folio 20.00
<b>2. TYPING AND CHECKING</b>		
Any document, not including standard or pre-printed material	per folio 4.00	per folio 6.50
<b>3. LETTERS</b>		
(a) Short letter including a formal acknowledgment, making appointments, forwarding documents without comment	18.00	22.00
(b) Ordinary letter - including letters between principal and agent	27.60	35.00
(c) Circular letter - being identical (except for addressee details) with any other letter	6.50	11.00
(d) Special letter or letter containing opinion and including letters of substance between principal and agent	per folio 14.40	per folio 20.00
<b>4. PERUSING AND SCANNING</b>		
(a) Perusing	per folio 4.00	per folio 6.50
(b) Scanning where perusing is not necessary but it is necessary to scan a document <i>Note: Costs allowed for perusing and scanning are discretionary where an amount in excess of 10 pages is claimed and may be considered on a time basis</i>	per page 2.70	per page 4.40
<b>5. ATTENDANCES</b>		
(a) An attendance by telephone which does not involve the exercise of skill or legal knowledge	18.00	22.00
(b) Time reasonably spent by a legal practitioner including travelling and waiting time, telephone attendances requiring skill or legal knowledge, attendances in person on client or witnesses, in Court instructing another legal practitioner or attending at a call-over, directions hearing, mention or adjournment	per hour 150.00	per hour 196.00
(c) Time reasonably spent by a legal practitioner attending Court as an Advocate on the hearing of any application, motion or trial but not including attendance at any call-over, directions hearing, mention or adjournment	per hour 186.00	per hour 217.00
(d) Time reasonably spent by a clerk on work other than work referred to in items 104 and 5(a) above	per hour 49.20	per hour 65.00
<b>6. PHOTOCOPYING</b>		
Photocopies, carbon or other copy of a document and facsimile transmissions will be allowed as a disbursement	per page 0.30	per page 1.00

## Fee Scales

### 2. All Courts (except Local Courts) and Nominated Tribunals - Practitioner Fees

Scale of fees for work done on or after 1 July 2007 in State matters.

#### All Courts (except Local Courts) and Nominated Tribunals

**Nominated Tribunals** are the Commercial Division of the Fair Trading Tribunal and the Equal Opportunity Division of the Administrative Decisions Tribunal.

"**Legal Practitioners**" includes **solicitors and counsel** whether practising in NSW or interstate.

Legal Practitioners (and their authorised agents) will be paid 80% of the amount assessed pursuant to the appropriate rates for professional costs and 100% of allowed disbursements. These rates include an allowance for skill, care and responsibility and no additional allowance will be permitted.

**Senior counsel** will be allowed 150% (payable at 80%) of the appropriate rate unless otherwise agreed with the Commission prior to the work being undertaken.

The fee rates provide for **HOURLY RATES** and for **ITEMISED RATES** (which are derived from the hourly rates).

- When advising a client of the estimated cost of the proceedings under the Legal Profession Act, legal practitioners should have regard to the hourly rates.
- At the conclusion of the matter a solicitor may choose to submit an account in accordance with either the hourly rate or itemised rate.

#### Advice from Counsel

A lump sum amount of \$733.00 payable at 80% (\$587.00) is paid to counsel for a written advice. Senior counsel is paid at 150% (payable at 80%).

#### Hourly Rates

There are two rates based on the following hourly rates:

1. **\$217.00 per hour** (or \$239.00 per hour where time is spent in a hearing as an advocate). This rate applies -

- i. where costs are awarded in favour of the legally assisted person; or
- ii. where there is a component for costs included in the successful settlement.

2. **\$172.00 per hour** (or \$215.00 per hour where time is spent in a hearing as an advocate). This rate applies -

- (a) in a jurisdiction where costs are not awarded;
- (b) where proceedings are discontinued (except where costs are agreed to be paid in favour of the legally assisted person);
- (c) where costs are not awarded in favour of the legally assisted person;
- (d) where the matter is concluded unsuccessfully;
- (e) where there is no component for costs included in the successful settlement;
- (f) where the solicitor's retainer is terminated prior to the conclusion of the proceedings and the solicitor requires payment of costs by the Commission prior to releasing the file;
- (g) where costs are awarded in favour of the legally assisted person but are not able to be recovered from the party ordered to pay those costs; or
- (h) where payment of interim accounts is requested by the practitioner.

**Work done by a clerk** may be claimed at one-third of the practitioner's rate.

## Civil law fee rates - All Courts (except Local Courts) and Nominated Tribunals

### Itemised rates - For work done on or after 1 July 2007

Column A should be used where the hourly rate of \$172.00 per hour is appropriate.

Column B should be used where the hourly rate of \$217.00 per hour is appropriate.

ITEM Note: 1 folio= 1 00 words	COLUMN A (based on \$172/hr) \$	COLUMN B (based on \$217/hr) \$
<b>1. DRAWING</b>		
(a) Court document (being any document filed in Court), not including standard or pre-printed material	per folio 17.90	per folio 27.00
(b) Other documents (including party/party bill of costs) not including standard or pre-printed material	per folio 14.70	per folio 22.00
<b>2. TYPING AND CHECKING</b>		
Any document, not including standard or pre-printed material	per folio 4.60	per folio 7.60
<b>3. LETTERS</b>		
(a) Short letter including a formal acknowledgment, making appointments, forwarding documents without comment	17.80	24.00
(b) Ordinary letter - including letters between principal and agent	27.30	39.00
(c) Circular letter - being identical (except for addressee details) with any other letter	6.80	13.00
(d) Special letter or letter containing opinion and including letters of substance between principal and agent	per folio 14.70	per folio 22.00
<b>4. PERUSING AND SCANNING</b>		
(a) Perusing	per folio 4.60	per folio 7.60
(b) Scanning where perusing is not necessary but it is necessary to scan a document <i>Note: Costs allowed for perusing and scanning are discretionary where an amount in excess of 10 pages is claimed and may be considered on a time basis</i>	per page 3.50	per page 5.40
<b>5. ATTENDANCES</b>		
(a) An attendance by telephone which does not involve the exercise of skill or legal knowledge	17.80	24.00
(b) Time reasonably spent by a legal practitioner including travelling and waiting time, telephone attendances requiring skill or legal knowledge, attendances in person on client or witnesses, in Court instructing another legal practitioner or attending at a call-over, directions hearing, mention or adjournment	per hour 172.00	per hour 217.00
(c) Time reasonably spent by a legal practitioner attending Court as an Advocate on the hearing of any application, motion or trial but not including attendance at any call-over, directions hearing, mention or adjournment	per hour 215.00	per hour 239.00
(d) Time reasonably spent by a clerk on work other than work referred to in items 104 and 5(a) above	per hour 50.00	per hour 76.00
<b>6. PHOTOCOPYING</b>		
Photocopies, carbon or other copy of a document and facsimile transmissions will be allowed as a disbursement	per page 0.30	per page 1.00

**Fee Scales****3. Mental Health - Practitioner Fees**

Scale of fees for approvals made on or after 1 July 2007.

<b>Magistrates Inquiry and Mental Health Review Tribunal</b>	
<b>Attendance</b> at Hospital: per hour (to the nearest quarter hour) Including time spent taking instructions and conducting hearings.	\$150.00
<b>Waiting time</b> is payable (to the nearest quarter hour) except if a practitioner has other private work to attend to whilst waiting for legal aid matters to be reached.	\$150.00
No other fees or allowances will be paid unless prior approval is obtained.	

Scale of fees for approvals made on or after 1 July 2007.

<b>Guardianship Tribunal</b>	
<b>Attendance</b> at Tribunal: per hour (to the nearest quarter hour)	\$150.00
<b>Conference</b> with client only	\$95.00
<b>Visit</b> to hospital (nursing home, etc)	\$87.00
<b>Preparation time:</b> per hour (2 hours preparation is normally allowed)	\$150.00
<b>Waiting time</b> is payable (to the nearest quarter hour) except if a practitioner has other private work to attend to whilst waiting for legal aid matters to be reached.	\$150.00
No other fees or allowances will be paid unless prior approval is obtained.	

#### 4. Travel Entitlements in State Civil Law Matters for work done on or after 1 July 2007

- A **travel allowance and lump sum payment** is paid if the total return distance travelled from the legal practitioner's office to court exceeds 70 kilometres, and the practitioner is travelling to a court located outside the Sydney metropolitan area.
- The Sydney metropolitan area includes all courts within the area bounded by:
  - Hornsby;
  - Penrith;
  - Campbelltown; and
  - Sutherland.
- Unless there are exceptional circumstances, the travel allowance will not be approved where the matter could be assigned to:
  - a practitioner located within 35kms of the court;
  - a practitioner who is significantly closer to the court;
  - a practitioner who has other matters at the court on the same day.
- Prior approval to claim the travel allowance must be obtained from the Commission.
  - Unless there are exceptional circumstances, the travel allowance will not be approved in circumstances where a practitioner appointed to a panel has nominated their availability for a panel court out outside the geographical area surrounding their office.
  - Pursuant to the Duty Solicitor Scheme Guidelines travel is not generally paid to practitioners rostered to attend court as the Duty Solicitor except where there has been prior approval by the Commission or the duty work is undertaken in one of the regions nominated in the Duty Solicitor Scheme Guidelines.
- If travel allowance is being claimed, approval should be sought in the original application.
- Travel allowance cannot be claimed more than once per day to the same court, regardless of the number of legal aid applicants being represented at that court.
- A local agent or the duty solicitor – where there is no conflict precluding them from appearing – should be asked to appear for appropriate court attendances e.g. mentions.

#### **Travel Allowance**

Where approved, travel expenses will be paid at a rate of **\$0.60 per kilometre**, or where appropriate, a return economy airfare (which ever is the cheaper).

#### **Lump sum payment for travel time**

A lump sum of **\$100 for travel time** is paid in addition to the travel allowance of \$0.60 per kilometre. The lump sum payment for travel time may only be claimed once per day on which travel allowance is payable.

#### **Accommodation**

Where approved, accommodation expenses (including sustenance) will be paid as incurred to the maximum rates determined by the Public Employment Office of the NSW government.

## ***Frequently Asked Questions***

### **Is travel allowance available for appeals?**

Yes, provided the criteria for the travel allowance is met and prior approval is obtained.

### **If travel allowance is approved for a trial, is an allowance paid for accommodation and meals?**

Yes. Actual expenses for meals and accommodation may be payable for each 24 hour period up to the maximum rates determined by the Public Employment Office of the NSW government. If an accommodation and sustenance allowance is approved, the applicable rate will be provided to you at the time of the grant or extension. All receipts must be provided and actual expenses only may be recovered.

### **My client has asked me to appear for him at a court that is more than 35kms from my office. My client insists that I appear and is unwilling to accept another solicitor. Is the travel allowance available?**

Generally a travel allowance will not be approved where a practitioner located within 35 kms of the Court is available to appear for the client. In exceptional circumstances travel may be approved e.g. where the client is a child, or has a disability, and the Commission agrees that continuity of representation is in the interests of the client.

### **Is travel allowance payable for views (in criminal matters)?**

Yes, however, prior approval for the view must be obtained from the Commission and will be limited to views conducted outside the Sydney metropolitan area.

### **Should I engage an agent for mentions?**

Yes, in appropriate cases, e.g. mentions, a practitioner located close to the Court can be engaged as an agent. This could include the duty solicitor where there is no conflict.

### **How do I calculate the driving/road distance between destinations?**

The website <http://www.travelmate.com.au> may assist in calculating distance between destinations.