

Chapter 14

Scale of Costs

Part 1

General Notes

1. Fees Recoverable

Section 31 of the *Legal Aid Act 1991(NT)* prohibits a private practitioner from accepting any payment from a legally aided person or from any person on their behalf in relation to a legally aided matter other than those payments which may be authorised by the Commission.

2. Examination of Solicitor's Files

The Commission reserves the right to call for a solicitor's file on legally aided matters in relation to any account rendered for payment.

3. Deferred Payment

The Commission may defer payment of fees payable by it to a solicitor in connection with legally assisted proceedings until the Commission is satisfied the practitioner has taken reasonable steps to recover party/party costs to which the assisted person is entitled.

4. Protection of Costs

The Commission requires a solicitor to retain control of any money that comes into the solicitor's control or possession, until the Commission has assessed the assisted person's final contribution. See General Conditions of Referral to Private Legal Practitioners contained in the Guidelines.

5. Transfer of Solicitors

Where the Commission consents to a transfer of solicitors the legally aided person may be required to pay an additional contribution to cover all costs associated with that transfer. The consent of the Commission should be obtained prior to the transfer.

6. Reporting to Commission

No fee is payable for communications and correspondence with the Commission in respect of the administration of the grant of aid. This includes the initial application for legal aid and the letter of merit that should accompany it, any reports as to the progress of the matter, perusal of any letters from the Commission, preparation of any accounts and any telephone or facsimile communications.

7. Preparation of Accounts

The Commission does not pay for the preparation of solicitor's account. To enable the Commission to assess an pay accounts promptly, the accounts must be itemised, i.e. noted in chronological order and containing a description of the work performed together with the amount of time taken to perform the work.

8. Travelling Time

Unless there are exceptional circumstances the Commission will not pay a practitioner's travelling time to Court.

9.

Waiting Time

Unless there are exceptional circumstances the Commission will not pay for waiting time at Court.

10.

Briefing Counsel

Counsel should not be briefed in any jurisdiction without prior authorisation from the Commission. All Briefs to Counsel should be marked as legally aided matter and with the fee.

If the fees for Counsel are not set out in the letter of referral, Counsel should not be briefed without first negotiating a fee with the Commission. The fee negotiated in civil and family law matters is always the gross fee from which, the Commission will deduct 20%.

In these matters the brief should always be marked with the gross fee.

11.

Matters in Which Counsel may not be Briefed

- (i) Criminal matters in the Magistrates Court unless, in the opinion of the Commission, the proceedings are extraordinarily complex and involve a serious charge.
- (ii) Civil matters in the Local Court including Crimes Victims Assistance applications unless in the opinion of the Commission the proceedings are of sufficient complexity and involve quantum or an issue of such substance that Counsel should be briefed.
- (iii) Generally in all jurisdictions in mentions and like appearances unless the briefing of Counsel would procure a saving of costs or prior approval has been obtained from the Commission

1. Generally

Prior approval is necessary for expenditure of any single disbursement in excess of \$400.00. Copies of accounts, receipts, invoices etc., must be submitted with the solicitor's disbursement account.

2. Photocopying and Facsimile Messages

Necessary photocopying and facsimiles will be paid at 60 cents (60¢) per page. Bulk amounts claimed will not be paid, i.e., the number of photocopies and facsimiles should be specified.

3. Office Sundries

Standard postage, petties, local telephone calls and file administration fees are considered normal office overheads and are not payable. Reasonable STD telephone charges will be paid.

4. Witness Expenses

If remunerated in their occupation by wages, salary or fees the amount lost by the witness in attending Court is not to exceed \$150.00 without prior approval of the Commission.

5. Travel and Accommodation Expenses

In the absence of specific arrangements economy airfares will be made available for all approved travel. Such costs should be paid for by the solicitor and then recovered as a disbursement from the Commission.

Travel expenses incurred, as a result of road or bus travel will be met on an individual basis.

The Commission will meet reasonable, standard accommodation expenses including a component for meals. These will be determined on an individual basis. The Commission will not pay for luxury accommodation or ancillary expenses, eg. phone calls, bar tab, mini-bar, dry-cleaning etc.

6. Agents Fees

These charges are subject to the same terms and conditions of the grant of aid imposed on the principal solicitor and should be in accordance with Commission's Guidelines for payment. When engaging agents the principal solicitor should provide the agents with a copy of the appropriate scale.

The agent's account should be forwarded for payment to the Commission before or with the principal solicitor's final account. Where the agents account is received after the principal solicitor's final account, the commission reserves the right to refuse payment and to direct such payment to the principal solicitor.

7. Experts Reports

The cost of expert reports, e.g. doctors, engineers, property valuations, etc. are subject to the prior authorisation of the Commission.

For the purposes of negotiation in property disputes, generally, only a market appraisal will be authorised (usually \$50.00 or no cost). The cost of property valuation, (between \$500.00 to \$700.00) may be authorised just before trial.

1. Criminal Law Matters

1.1 Magistrates Court**Grants of aid to private practitioners:**

Investigation and advising Commission	\$300.00
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Plea:

Straight forward:	\$400.00
Moderately Complex:	\$500.00
Complex:	\$700.00

Grant includes all preparation and court appearances.

Taking sentence on different day	\$200.00
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Contest Mention, if set for hearing	\$200.00
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Bail Application:

Straight forward/consent:	\$300.00
Complex:	\$500.00

Grant includes preparation and court appearances.

Summary Hearing:

1 day	\$800.00
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Grant includes 4 hours preparation and appearance at court for 1 day.

Committal:

Investigation and advising Commission	\$350.00
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Hand up:

Simple:	\$350.00
Complex:	\$600.00

Grant includes reading the brief, advising the client and appearance in court.

Oral Committal:

Solicitor/Junior Counsel: \$800.00/day
QC / SC: \$1200.00 - \$1500.00 /day

Grant includes 4 hours preparation, reading the brief, advising the client and appearance in court.

Extensions: \$100.00 per hour
Or full day whichever is less.

1.2 Supreme Court

Supreme Court Bail Application:

Straight forward: \$500.00
Complex: \$1000.00 - \$1200.00

Grant includes preparation, preparation of documents and court appearances.

Supreme Court Plea:

Solicitor \$1000.00 - \$1200.00

Grant includes 4 hours preparation, perusal of depositions, conferences with client and witnesses, negotiations with DPP, court appearances for arraignment and callover, submissions in mitigation of penalty and receiving sentence.

Supreme Court Trial and CCA:

Solicitor/Junior Counsel \$1000.00 - 1200.00/day
QC /SC \$2000.00/day

Grant of aid is provided at a daily rate and will include a grant of aid for preparation at the same daily rate.

Justice Appeal: \$1000.00 - \$1200.00/day

Extensions:

\$150.00 per hour
Or full day whichever is less.

2.

Family Law Matters

Family law fees are paid at an hourly rate of \$149.00/hour. Grants of aid are made in accordance with the Family Law Stage of Matter Funding Model (see Chapter 4, part 2, Guideline 20)

3.

Civil Law Matters

3.1 High Court and Federal Court

As negotiated with the Commission.

3.2 Supreme Court/Motor Accidents Compensation Tribunal

Paid at 80% of the Supreme Court Scale.

3.3 Local Court

Paid at 80% of the Local Court Scale.

3.4 Work Health Court

Paid at 80% of the Supreme Court Scale

3.5 Administrative Appeals Tribunal

The Administrative Appeals Tribunal costs scale is 75% of the Federal Court Scale. The Commission pays 80% of the Administrative Appeals Tribunal Scale.

3.6 Veterans Matters

The Commission pays \$149.00 per hour.

3.7 Immigration Matters

To approved migration agents, in accordance with fees including any contract entered between DIMIA and the Commission for matters under the IAAAS Scheme.