



New South Wales

# Legal Profession Uniform Law Application Regulation 2015

under the

Legal Profession Uniform Law Application Act 2014

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Legal Profession Uniform Law Application Act 2014*.

GABRIELLE UPTON, MP  
Attorney General

## Explanatory note

The objects of this Regulation are as follows:

- (a) to prescribe the standard renewal periods for local practising certificates issued in New South Wales for legal practitioners,
- (b) to specify the costs that the Law Society of New South Wales and the New South Wales Bar Association can recover when charging practising certificate fees and to specify late fees that may be paid,
- (c) to require an application by the Crown Solicitor for a local practising certificate to be accompanied by a report by the Auditor-General as to the Crown Solicitor's Trust Account,
- (d) to provide for the payment and amounts of statutory deposits in relation to solicitors' trust accounts,
- (e) to provide for the establishment and continuity of the Crown Solicitor's Trust Account,
- (f) to provide for the holding of trust money by barristers on account of legal costs,
- (g) to provide for transitional arrangements for government lawyers and corporate lawyers in relation to requirements for admission as lawyers and to hold Australian practising certificates,
- (h) to prescribe fixed costs for certain legal work and to make other provisions for disclosures relating to costs in personal injury claims,
- (i) to provide for the form, fees and procedures for applications for costs assessment and reviews of costs assessments,
- (j) to authorise the Chief Justice of New South Wales to specify persons who are qualified to be appointed as costs assessors and to approve forms for the purposes of costs assessments,
- (k) to make it clear that applications to assess costs arising out of disciplinary proceedings are to be treated as if they were applications made by clients,
- (l) to enable the Costs Assessment Rules Committee to distribute additional information to costs assessors,
- (m) to specify information to be included in the register of local practising certificates, for notification of changes in information and for a procedure for preventing certain information from being

included on the ground that there are special circumstances (such as concerns for safety or well-being),

- (n) to specify information to be included in the Register of Disciplinary Action,
- (o) to prescribe fees for admission to the Australian legal profession in New South Wales and the allocation of those fees between the NSW Admission Board and the Department of Justice,
- (p) to prescribe the maximum aggregate amount that may be paid from the fidelity fund,
- (q) to enable orders for costs in disciplinary proceedings to be made for or against The Law Society of New South Wales instead of for or against the Law Society Council,
- (r) to make minor modifications to savings and transitional provisions under the *Legal Profession Uniform Law (NSW)* for the purpose of the application of the Law in this State.

This Regulation is made under the *Legal Profession Uniform Law Application Act 2014*, including sections 37 (1), 38, 39, 40, 45, 45A, 46, 59 (1), 68 (1), 82, 83 (2), 83 (3) (b), 84 (2), 149 (3), 152 and 166 (the general regulation-making power) and clauses 4 (2) and 5 of Schedule 1, and clause 4 (4) of Schedule 2, to that Act.

## Contents

	Page
<b>Part 1 Preliminary</b>	
1 Name of Regulation	6
2 Commencement	6
3 Definitions	6
<b>Part 2 Local practising certificates</b>	
4 Timing of application for renewal of local practising certificate— section 37 of the application Act	7
5 Fee for practising certificate for barristers—section 38 of the application Act	7
6 Fee for practising certificate for solicitors—section 38 of the application Act	7
7 Late fees and additional fees—sections 39 and 40 of the application Act	8
8 Application for practising certificate by Crown Solicitor requires report by Auditor-General	8
<b>Part 3 Trust accounts</b>	
<b>Division 1 Statutory deposits</b>	
9 Deposit of trust funds with Law Society—section 46 of the application Act	9
10 Amount of deposit	9
11 Time for deposit	10
12 Applicable period	10
13 Accounts to be kept by Law Society	10
<b>Division 2 Miscellaneous</b>	
14 Crown Solicitor's Trust Account	10
15 Receipt of trust money by barrister—section 166 (2) (d) of the application Act	11
16 Transitional provision—existing accounts for barristers' trust moneys	12
<b>Part 4 Government lawyers and corporate lawyers</b>	
17 Definitions	13
18 Powers under which provisions of this Part made	13
19 Government and corporate lawyers—transitional exemption from holding practising certificate	13
20 Exempt government and corporate lawyers may apply for practising certificates	13
21 Notice of exemptions by government and corporate lawyers	14
22 Transitional arrangements with respect to requirements for supervised legal practice	14
23 Government lawyers who are barristers	14
<b>Part 5 Legal costs—particular kinds of costs</b>	
24 Prescribed costs for recovery of certain debts and enforcement of certain judgments—section 59 (1) (c) and (d) of the application Act	16

---

	Page
25 Prescribed costs for services in workers compensation matters— section 59 (1) (a) and (g) of the application Act	16
26 Prescribed costs for probate and administration matters— section 59 (1) (f) of the application Act	16
27 GST may be added to costs	17
28 Disclosure requirements regarding costs agreements in personal injury cases—clause 4 (2) of Schedule 1 to the application Act	17
29 Disclosure requirements regarding offers of compromise— clause 5 of Schedule 1 to of the application Act	17
30 Court documentation—clause 4 (4) of Schedule 2 to the application Act	18
<b>Part 6 Legal costs—costs assessment</b>	
<b>Division 1 Preliminary</b>	
31 Interpretation	19
<b>Division 2 Applications for costs assessment</b>	
32 Applications for costs assessment—section 68 of the application Act	19
33 Fee for costs assessment application	19
34 Procedure before application for assessment of bill referred to assessor—Uniform Law costs	19
35 Procedure before application for assessment of ordered costs	20
36 Applications by third party payers	22
37 Costs assessor may require documents or further particulars	22
38 Effect of Part 5 in relation to costs fixed by other legislation	22
39 Reference of applications to assessors	23
40 Determination of costs of ordered costs assessment	23
41 Reasons for determination	23
42 Certificate as to determination	24
43 Correction of error in determination	24
<b>Division 3 Reviews</b>	
44 Qualifications for membership of review panels	24
45 Application for review of determination—section 83 of the application Act	25
46 Application by Manager, Costs Assessment for review of determination	25
47 Referral of applications to review panels	26
48 Selection of review panels	26
49 Relevant documents to be produced to review panel	26
50 Certificates as to review where determination affirmed	27
51 Reasons for determination	27
52 Copy of certificate of determination to be given to Manager, Costs Assessment	27
53 Determination of costs of review	27
54 Certificate as to determination of review panel	28
55 Correction of error in determination	28
<b>Division 4 Miscellaneous</b>	
56 Costs assessments arising out of disciplinary proceedings— section 284 of Uniform Law	28

---

	Page	
57	Information relating to assessment of costs	29
58	Approved forms	29
59	Ordered costs—transitional provision	29
<b>Part 7</b>	<b>Registers</b>	
60	Register of local practising certificates—section 149 of the application Act	30
61	Notification of change in particulars—section 149 of the application Act	30
62	Register of Disciplinary Action—section 152 of the application Act	31
<b>Part 8</b>	<b>Miscellaneous</b>	
63	Admission fees—section 166 (2) of the application Act	32
64	Cap on payments from fidelity fund—section 230 of Uniform Law	32
65	Payment of costs—section 303 of Uniform Law	32
66	Amendment of Legal Profession Uniform Law (NSW)—cl 1 (4) of Sch 9 to the application Act	32
<b>Schedule 1</b>	<b>Costs for recovery of certain debts and enforcement of certain judgments</b>	34
<b>Schedule 2</b>	<b>Costs for legal services in workers compensation matters</b>	38
<b>Schedule 3</b>	<b>Costs for legal services for probate and administration matters</b>	47

## Legal Profession Uniform Law Application Regulation 2015

under the

Legal Profession Uniform Law Application Act 2014

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Legal Profession Uniform Law Application Regulation 2015*.

#### 2 Commencement

This Regulation commences on 1 July 2015.

#### 3 Definitions

(1) In this Regulation:

*the application Act* means the *Legal Profession Uniform Law Application Act 2014*.

*the Uniform Law* means the *Legal Profession Uniform Law (NSW)*.

(2) The provisions of this Regulation are local regulations for the purposes of the application Act and the Uniform Law.

## Part 2 Local practising certificates

### 4 Timing of application for renewal of local practising certificate—section 37 of the application Act

- (1) For the purposes of section 37 (1) of the application Act:
  - (a) the period prescribed as the standard renewal period for making an application for renewal of a local practising certificate for a barrister is the period commencing on 1 April and ending on 7 June before the current local practising certificate expires, and
  - (b) the later period prescribed as the late fee period for making the application is the period commencing on 8 June and ending on 30 June before the current local practising certificate expires.
- (2) For the purposes of section 37 (1) of the application Act:
  - (a) the period prescribed as the standard renewal period for making an application for renewal of a local practising certificate for a solicitor is the period commencing on 1 April and ending on 15 May before the current local practising certificate expires, and
  - (b) the later period prescribed as the late fee period for making the application is the period commencing on 16 May and ending on 30 June before the current local practising certificate expires.

### 5 Fee for practising certificate for barristers—section 38 of the application Act

- (1) For the purposes of section 38 of the application Act, the following costs of the Bar Association (including any ancillary costs and costs of an administrative nature) may be recovered by the charging of practising certificate fees (in addition to the costs of or associated with the regulatory functions of the Bar Council or Bar Association):
  - (a) the costs associated with the maintenance and operation of the library of the Bar Association, but only if the library service is available to all barristers,
  - (b) the costs associated with providing or assisting in providing any scheme under which legal services (including referral services) are provided to the public pro bono or at reduced rates, or are provided to a court or tribunal, but only if the scheme does not provide any greater benefit to barristers who are members of the Bar Association than it does to other barristers and the costs are not otherwise recoverable by the Bar Association,
  - (c) the costs associated with providing or assisting in providing any information, scheme or program relating to the law, legal practice or conflict resolution that is provided for the information or education of the public, but only if the information, scheme or program does not provide any greater benefit to barristers who are members of the Bar Association than it does to other barristers and the costs are not otherwise recoverable by the Bar Association,
  - (d) the costs associated with assisting the State or Commonwealth Government or a Parliamentary Committee of the State or Commonwealth with law reform initiatives, activities and programs, but only if the Attorney General is satisfied that the assistance is provided for the public benefit.
- (2) In this clause, *barrister* means an Australian legal practitioner who holds a current local practising certificate to practise as a barrister.

### 6 Fee for practising certificate for solicitors—section 38 of the application Act

- (1) For the purposes of section 38 of the application Act, the following costs of the Law Society (including any ancillary costs and costs of an administrative nature) may be

recovered by the charging of practising certificate fees (in addition to the costs of or associated with the regulatory functions of the Law Society Council or Law Society):

- (a) the costs associated with the maintenance and operation of the library of the Law Society, but only if the library service is available to all solicitors,
  - (b) the costs associated with providing or assisting in providing any scheme under which legal services (including referral services) are provided to the public pro bono or at reduced rates, but only if the scheme does not provide any greater benefit to solicitors who are members of the Law Society than it does to other solicitors and the costs are not otherwise recoverable by the Law Society,
  - (c) the costs associated with providing or assisting in providing any information, scheme or program relating to the law, legal practice or conflict resolution that is provided for the information or education of the public, but only if the information, scheme or program does not provide any greater benefit to solicitors who are members of the Law Society than it does to other solicitors and the costs are not otherwise recoverable by the Law Society,
  - (d) the costs associated with assisting the State or Commonwealth Government or a Parliamentary Committee of the State or Commonwealth with law reform initiatives, activities and programs, but only if the Attorney General is satisfied that the assistance is provided for the public benefit.
- (2) In this clause, *solicitor* means an Australian legal practitioner who holds a current local practising certificate to practise as a solicitor.

#### **7 Late fees and additional fees—sections 39 and 40 of the application Act**

- (1) For the purposes of section 39 of the application Act, the late fee is an amount determined by the appropriate Council.
- (2) The appropriate Council may determine a scale of late fees in respect of applications, so that the greater the time that has elapsed since the end of the prescribed period the higher the late fee.
- (3) For the purposes of section 40 of the application Act, the additional fee that may be required as a condition of acceptance of an application for the grant of a local practising certificate, where the applicant was the holder of a local practising certificate in respect of the previous financial year, is an amount determined by the appropriate Council.

#### **8 Application for practising certificate by Crown Solicitor requires report by Auditor-General**

- (1) An application by the Crown Solicitor for a local practising certificate must be accompanied by a report of the Auditor-General stating:
  - (a) that the Auditor-General has inspected the records kept under clause 14 during the year that ended on the last preceding 31 March, and
  - (b) whether the Auditor-General is of the opinion that the records have been kept as directed under clause 14.
- (2) A report under this clause may be provided by the Deputy Auditor-General or an Assistant Auditor-General if the Auditor-General so approves.



## Part 3 Trust accounts

### Division 1 Statutory deposits

#### 9 Deposit of trust funds with Law Society—section 46 of the application Act

- (1) Out of the money that is paid to a general trust account kept by a law practice, the law practice must deposit with the Law Society, and keep deposited with the Society, an amount not less than the minimum amount calculated in accordance with clause 10.
- (2) Money is taken to have been deposited with the Law Society if it is deposited in the name of the Society with an ADI nominated by the Society.
- (3) Subclause (1) does not apply to a separate trust account kept on the instructions of a client for the exclusive use of the client.
- (4) This clause does not affect any enforceable lien or claim that a law practice has over, or to, any money.
- (5) Each principal of a law practice must ensure that reasonable steps are taken to ensure that the law practice complies with this clause.

#### 10 Amount of deposit

- (1) The minimum amount to be deposited and kept deposited with the Law Society in respect of an applicable period is an amount equal to the sum of:
  - (a) the lowest balance recorded in the trust account kept by the law practice during the previous applicable period, and
  - (b) the amount (if any) on deposit by the law practice with the Society on the day on which that lowest balance is recorded.
- (2) Despite subclause (1), if, in the case of a particular law practice, on any day during the period beginning with the end of the previous applicable period and ending with the 15th banking day after the end of that period, the sum of:
  - (a) the lowest balance recorded in the trust account during that 15-day period, and
  - (b) the amount (if any) on deposit with the Law Society on that day,is less than the sum of the amounts referred to in subclause (1) (a) and (b), the minimum amount that the law practice is to deposit and keep deposited with the Society is an amount equal to 80% of the lesser sum.
- (3) Despite subclauses (1) and (2), if during an applicable period money is repaid to the law practice under section 47 of the application Act, the minimum amount to be deposited and kept deposited with the Law Society in respect of that period becomes an amount equal to the sum of:
  - (a) the lower of the following:
    - (i) the lowest balance recorded in the trust account kept by the law practice during the period beginning with the start of that applicable period and ending with the 15th banking day after the repayment,
    - (ii) the lowest balance recorded in that trust account during the previous applicable period, and
  - (b) the amount (if any) on deposit by the law practice with the Society on the day on which the lower of those balances is recorded.
- (4) Despite this clause, if the sum referred to in subclause (1), (2) or (3) is less than \$10,000, the amount to be deposited and kept deposited with the Law Society in respect of an applicable period is nil.

- (5) If, during an applicable period, money is repaid to the law practice under section 47 of the application Act on more than one occasion, subclause (3) operates in relation to each of those repayments.
- (6) Despite this clause, if a particular law practice is unable to comply with the requirements of clause 11 (1) or (2), the law practice must request the Law Society, in a form approved by the Society, to determine the amount that the law practice is to deposit and keep deposited with the Society.
- (7) A reference in this clause to the ***lowest balance recorded in the trust account during a period*** is a reference to the lowest balance recorded during that period in a statement of account issued by an ADI in relation to the trust account.

#### **11 Time for deposit**

- (1) The law practice must have the amount calculated under clause 10 (1) or (2) in respect of an applicable period on deposit with the Law Society not later than 20 banking days after the end of the previous applicable period.
- (2) The law practice must have the amount calculated under clause 10 (2) on deposit with the Law Society not later than 20 banking days after the day on which the money was repaid under section 47 of the application Act.
- (3) The law practice must have the amount determined by the Law Society pursuant to a request under clause 10 (6) on deposit with the Society not later than 5 banking days after the Society notifies the law practice of its determination.

#### **12 Applicable period**

- (1) In clauses 10 and 11, ***applicable period*** means a period of 12 months ending on 31 March.
- (2) However, in relation to a law practice that commences to practise or to provide legal services after 1 April in any year, the first applicable period is the period starting on the commencement of the practice or the provision of legal services and ending on 31 March in the following year.

#### **13 Accounts to be kept by Law Society**

The Law Society:

- (a) must keep accounts of money deposited with it under this Part, and
- (b) must have the accounts audited annually by a firm of accountants appointed by the Society, and
- (c) must, without delay, provide the Attorney General with a copy of the auditor's report.

### **Division 2 Miscellaneous**

#### **14 Crown Solicitor's Trust Account**

- (1) A Crown Solicitor's Trust Account must be established in an ADI in New South Wales.
- (2) The Crown Solicitor must:
  - (a) keep in his or her office the records in relation to the Crown Solicitor's Trust Account that the Attorney General directs, and
  - (b) follow any procedures in relation to operations on the Crown Solicitor's Trust Account that the Attorney General directs.

- (3) An account established, or taken to have been established, under clause 106 of the *Legal Profession Regulation 2005* is taken to have been established under this clause.

**15 Receipt of trust money by barrister—section 166 (2) (d) of the application Act**

- (1) The purpose of this clause is to provide for the receiving or holding of money by or on behalf of a barrister as contemplated by section 133 of the Uniform Law.
- (2) Trust money may be received and held by a barrister on account of legal costs for legal services in advance of the provision by the barrister of the legal services in the following circumstances:
- (a) the barrister is practising as a sole practitioner and the money is received in connection with instructions accepted by the barrister directly from a person who is not a solicitor,
  - (b) the barrister maintains an account with an ADI for the sole purpose of holding trust money received in connection with the barrister's law practice (the ***trust money account***),
  - (c) the barrister notifies the Bar Association of the following within 14 days of opening the trust money account:
    - (i) the name of the ADI with which the trust money account has been opened,
    - (ii) the date on which the trust money account was opened,
    - (iii) the account number of the trust money account,
  - (d) the money is deposited in the trust money account as soon as practicable after the barrister receives the money,
  - (e) the money remains deposited in the trust money account until:
    - (i) a bill is given to the client, or
    - (ii) the money is refunded to the client, or
    - (iii) the money is paid to a solicitor who is later engaged by the client in the matter,
  - (f) the trust money account does not have, or is not linked to, any credit or mortgage facility, including (but not limited to) a line of credit, overdraft facility or mortgage offset facility,
  - (g) the barrister provides to the person from whom the money is received, as soon as practicable after that money is received, a written receipt by the barrister on which is recorded the following:
    - (i) the date the receipt is made out,
    - (ii) the date the money was received,
    - (iii) the amount of money received,
    - (iv) the name of the person from whom the money was received,
    - (v) particulars sufficient to identify the purpose for which the money was received,
    - (vi) the circumstances in which the money may be paid from the trust money account,
  - (h) the barrister appoints a person who is qualified to be appointed as an external examiner under the *Legal Profession Uniform General Rules 2015* to carry out an annual examination, for the period 1 April to 31 March, of the trust money account and provides to the Bar Association a copy of the examination report (in a form approved by the Bar Council) not later than 7 June following the end of that period.

- (3) A copy of a receipt provided by a barrister under subclause (1) (g) must be kept by the barrister at least until the end of the period of 7 years from the date of the receipt or until the completion of the matter in relation to which the receipt was issued, whichever occurs later.
- (4) An examination of a trust money account of a barrister under this clause is not required to be carried out until the end of the year ending on 31 March 2017.
- (5) The examination must also cover any period after the commencement of this Regulation and before 1 April 2017 during which the account existed and is also to apply to any account existing during that period that was kept by the barrister under clause 16.

**16 Transitional provision—existing accounts for barristers' trust moneys**

- (1) Despite clause 15, trust money may be received and held by a barrister on account of legal costs for legal services in advance of the provision by the barrister of the legal services, in the circumstances set out in clause 106A of the *Legal Profession Regulation 2005*, as in force immediately before its repeal, if the barrister held trust money in an account that complied with that clause immediately before the repeal of that clause.
- (2) A barrister who held trust money in an account referred to in subclause (1) must give written notice of the account to the Bar Association as soon as practicable after the commencement of this Regulation.
- (3) This clause is repealed on 1 October 2015.

## Part 4 Government lawyers and corporate lawyers

### 17 Definitions

In this Part:

**corporate lawyer** has the same meaning it has in section 45A of the application Act.  
**Crown** means the Crown in right of New South Wales, of the Commonwealth or of any other jurisdiction.

**Crown prosecutor** means a Crown Prosecutor appointed under the *Crown Prosecutors Act 1986*, and includes any specially appointed in-house counsel in the office of the Director of Public Prosecutions of New South Wales or of the Commonwealth who engages in legal practice as a prosecutor for the Crown in a similar manner as a Crown Prosecutor appointed under that Act.

**government lawyer** means a government lawyer with official functions in New South Wales, in the Commonwealth or in any other jurisdiction.

**jurisdiction** means a State of the Commonwealth, the Australian Capital Territory or the Northern Territory.

**parliamentary counsel** includes the Parliamentary Counsel, a Deputy or Assistant Parliamentary Counsel or other legislative counsel or legislative drafter (however described).

**public defender** means the Senior Public Defender, a Deputy Senior Public Defender or other Public Defender under the *Public Defenders Act 1995*.

### 18 Powers under which provisions of this Part made

The provisions of this Part are made pursuant to the powers conferred by section 56 of the Uniform Law and by sections 45 and 45A of, and clause 1 of Schedule 9 to, the application Act.

### 19 Government and corporate lawyers—transitional exemption from holding practising certificate

- (1) A government or corporate lawyer is exempt from the requirement to hold an Australian practising certificate in respect of functions as such a lawyer if he or she:
  - (a) was not an Australian lawyer on 1 July 2015 and was a government or corporate lawyer at any time within the period of 12 months before 1 July 2015, but in the case of a corporate lawyer is only exempt until 1 July 2018, or
  - (b) was not an Australian lawyer when he or she became a government or corporate lawyer and became a government or corporate lawyer after 1 July 2015, but is only exempt until 1 July 2018, or
  - (c) is not a person to whom paragraph (a) or (b) applies, but is only exempt until 1 July 2017.
- (2) Sections 10 (1) and 11 (1) of the Uniform Law do not apply to any such government or corporate lawyer while he or she is so exempt from the requirement to hold a practising certificate.

### 20 Exempt government and corporate lawyers may apply for practising certificates

This Part does not prevent a government or corporate lawyer who is exempt under this Part from the requirement to hold an Australian practising certificate from being granted or holding an Australian practising certificate.

## **21 Notice of exemptions by government and corporate lawyers**

- (1) This clause applies to a government or corporate lawyer (other than an exempt government lawyer) who, for the purposes of practising as such a lawyer, relies on an exemption under this Part from having to hold an Australian practising certificate.
- (2) A government or corporate lawyer who is not an Australian lawyer when the exemption first commences to apply to the lawyer is to give notice to the Legal Profession Admission Board that he or she is relying on the exemption not later than 12 months after the exemption first applies to the lawyer.
- (3) A government or corporate lawyer who is an Australian lawyer when the exemption first commences to apply to the lawyer is to give notice to the Bar Council or Law Society Council that he or she is relying on the exemption not later 6 months after the exemption first applies to the lawyer.
- (4) The Legal Profession Admission Board, the Bar Council and Law Society Council may exchange information in a notice given to any of them under this clause.
- (5) However, notice is not required to be given under this clause in any case where the period within which notice must be given ends after the expiry of the applicable exemption.
- (6) A failure to give notice is not a ground for refusing or delaying the admission of a person to the Australian legal profession in this jurisdiction or the granting of an Australian practising certificate or for refusing or failing to take any action required before a person is so admitted or a certificate is granted.
- (7) In this clause, *exempt government lawyer* means a lawyer who was not an Australian lawyer on 1 July 2015 and was a government lawyer at any time within the period of 12 months before 1 July 2015.

## **22 Transitional arrangements with respect to requirements for supervised legal practice**

- (1) For the purposes of this clause, an *exempt period of practice* is a period of legal practice in which a government or corporate lawyer has engaged before 1 July 2015 or while exempt under this Part from holding an Australian practising certificate (whether or not the person held an Australian practising certificate during that period).
- (2) An exempt period of practice of a person is to be subtracted from the period of supervised legal practice required by the statutory condition imposed by section 49 of the Uniform Law on an Australian practising certificate granted to the person, and that section is modified accordingly.

## **23 Government lawyers who are barristers**

- (1) This clause applies to the following government lawyers:
  - (a) the Solicitor General, the Crown Advocate or counsel assisting the Solicitor General or Crown Advocate,
  - (b) a parliamentary counsel,
  - (c) a Crown prosecutor,
  - (d) a public defender.
- (2) For the avoidance of doubt, the legal practice in which any such government lawyer engages as a statutory Crown law officer or under a contract of service, or contract for services, with the Crown is legal practice as or in the manner of a barrister. Accordingly, any such government lawyer may be granted an Australian practising

certificate with a condition that the holder is authorised to engage in legal practice as or in the nature of a barrister only.

- (3) This clause does not limit the government lawyers to whom an Australian practising certificate of a kind referred to in this clause may be granted in accordance with section 45 (2) of the application Act (whether the government lawyer is engaged in legal practice as a statutory officer or under a contract of service, or contract for services, with the Crown).
- (4) The operation of Part 3.3 and other applicable provisions of the Uniform Law are modified to the extent necessary for the purposes of giving effect to this clause.

## **Part 5 Legal costs—particular kinds of costs**

### **24 Prescribed costs for recovery of certain debts and enforcement of certain judgments—section 59 (1) (c) and (d) of the application Act**

- (1) The costs payable in respect of the following:
  - (a) the enforcement of a lump sum debt or liquidated sum for damages,
  - (b) the enforcement of a judgment by a judgment creditor,
  - (c) the enforcement of a judgment for the possession of land,being costs of a legal service specified in Schedule 1, are fixed at the amount specified in that Schedule in respect of that service.
- (2) This clause does not fix the costs of any other legal service in respect of a matter referred to in subclause (1) (a), (b) or (c).
- (3) The costs specified in Schedule 1 are inclusive of all attendances, copying, letters, perusals, searches and telephone calls by or on behalf of the law practice (being the law practice retained by the plaintiff) in relation to the action concerned.
- (4) The costs specified in Schedule 1 (other than those referred to in item 2 of Part 1 and item 2 of Part 2) are exclusive of filing fees and service costs that are otherwise recoverable.
- (5) This clause does not fix the costs payable for obtaining a judgment in contested matters and, in that case, only the costs payable for the enforcement of the judgment are fixed.

### **25 Prescribed costs for services in workers compensation matters—section 59 (1) (a) and (g) of the application Act**

- (1) This clause applies to:
  - (a) costs for legal services provided in any workers compensation matter, and
  - (b) costs for a matter that is not a legal service but is related to proceedings in any workers compensation matter.
- (2) The fair and reasonable costs fixed for a legal service specified in Part 1, 2 or 3 of Schedule 2 are the costs specified in relation to that service in that Part, calculated in accordance with that Part.
- (3) However, after calculating the costs for legal services specified in Parts 1 and 2 of Schedule 2, the total of all such costs is to be reduced by 10%.
- (4) The amount of costs fixed for a service specified in Part 4 of Schedule 2 is the amount specified in relation to that service in that Part, calculated in accordance with that Part.
- (5) This clause is subject to the *Workplace Injury Management and Workers Compensation Act 1998*, which includes provisions in relation to costs and the assessment of costs in workers compensation matters.

### **26 Prescribed costs for probate and administration matters—section 59 (1) (f) of the application Act**

- (1) This clause applies to costs for legal services provided in respect of the granting of probate or administration, or the resealing of probate or letters of administration, but not to costs for legal services provided in respect of any other aspect of the administration of estates.



- (2) The amount of costs fixed for a service specified in Schedule 3 is the amount specified in relation to that service in that Schedule, calculated in accordance with that Schedule.

**27 GST may be added to costs**

- (1) A cost fixed by this Part may be increased by the amount of any GST payable in respect of the legal or other service to which the cost relates, and the cost as so increased is taken to be the cost fixed by this Part.
- (2) This clause does not permit a law practice to charge or recover, in respect of GST payable in respect of a legal or other service, an amount that is greater than 10% of the maximum amount payable to the law practice in respect of the legal or other service apart from this clause.

**28 Disclosure requirements regarding costs agreements in personal injury cases—clause 4 (2) of Schedule 1 to the application Act**

- (1) This clause has effect for the purposes of clause 4 (2) of Schedule 1 to the application Act and applies to a costs agreement proposed to be entered into between a client or prospective client of a law practice in connection with a claim for personal injury damages referred to in that Schedule by the client or prospective client.
- (2) The law practice must disclose to the client or prospective client information in relation to the effect of the costs agreement in connection with the operation of that Schedule.
- (3) The information must include the following:
  - (a) a statement that Schedule 1 to the application Act would (but for the costs agreement) limit the maximum costs for legal services provided to the client or prospective client in connection with the claim,
  - (b) particulars as to how those maximum costs are calculated,
  - (c) a statement that the costs agreement would have the effect of excluding the operation of that Schedule,
  - (d) particulars as to how the costs would be calculated under the costs agreement,
  - (e) a statement that the costs agreement relates only to the costs payable as between the law practice and the client or prospective client, so that, in the event that costs are recoverable against the other party, the maximum costs so recoverable will be as provided by Schedule 1 to the application Act.
- (4) Disclosure under this clause must be made in writing before, or as soon as practicable after, the law practice is retained in the matter, but before the costs agreement is entered into.
- (5) This clause does not require disclosure if the costs agreement in relation to the matter was entered into before the law practice could reasonably expect that the matter would involve a claim to which this clause applies.
- (6) A failure by a law practice to comply with the requirements of this clause disentitles the law practice to the benefit of clause 4 of Schedule 1 to the application Act.

**29 Disclosure requirements regarding offers of compromise—clause 5 of Schedule 1 to of the application Act**

- (1) This clause has effect for the purposes of clause 5 of Schedule 1 to the application Act, and applies where a client of a law practice receives an offer of compromise on a claim for personal injury damages.

- (2) The law practice must disclose to the client information in relation to the operation of clause 5 of Schedule 1 to the application Act in respect of any refusal by the client to accept the offer of compromise.
- (3) The information must include the following:
  - (a) a statement that the offer of compromise has been made and setting out its details or a summary of them,
  - (b) a statement about the reasonableness of the offer,
  - (c) a statement about the general effect of declining a reasonable offer of compromise, in that the court in which the proceedings are taken on the claim may award costs on an indemnity basis in respect of legal services provided after the offer is made,
  - (d) a statement about the specific effect that declining the offer, if reasonable, will or may have on the interests of the parties.
- (4) Disclosure under this clause must be made in writing:
  - (a) as soon as practicable after the offer of compromise is made, and
  - (b) before the law practice communicates to other parties or the court that the client accepts or declines the offer.

**30 Court documentation—clause 4 (4) of Schedule 2 to the application Act**

The following documents are prescribed for the purposes of paragraph (d) of the definition of *court documentation* in clause 4 (4) of Schedule 2 to the application Act:

- (a) a document initiating an appeal or cross-appeal,
- (b) an application for leave to appeal or cross-appeal,
- (c) a defence to an appeal or cross-appeal,
- (d) a document that amends a document of the kind referred to in paragraph (a), (b) or (c),
- (e) an amended document of the kind referred to in paragraph (a), (b) or (c).

## Part 6 Legal costs—costs assessment

**Note.** The provisions of this Part are made under section 166 (4) of the application Act which enables regulations to be made for or with respect to any matters for or with respect to which costs assessment rules may be made.

### Division 1 Preliminary

#### 31 Interpretation

- (1) In this Part:  
*approved form* means a form approved by the Chief Justice under clause 58.
- (2) Words and expressions used in this Part have the same meaning as they have in Part 7 of the application Act.

### Division 2 Applications for costs assessment

#### 32 Applications for costs assessment—section 68 of the application Act

- (1) For the purposes of section 68 (1) of the application Act, an application for costs assessment:
  - (a) is to be made in the approved form, and
  - (b) is to be accompanied by the fee calculated in accordance with clause 33.
- (2) The application must authorise a costs assessor to have access to, and to inspect, all documents of the applicant that are held by the applicant, or by any law practice, Australian legal practitioner or Australian-registered foreign lawyer concerned, in respect of the matter to which the application relates.
- (3) The application must contain a statement by the applicant that there is no reasonable prospect of settlement of the matter by mediation.

#### 33 Fee for costs assessment application

- (1) The fee that is to accompany an application for a costs assessment is the greatest of the following amounts:
  - (a) \$100,
  - (b) 1% of the amount remaining unpaid on the bill of costs at the time the application is made,
  - (c) 1% of the amount of costs in dispute when the application is made.
- (2) For the purposes of this clause, the *amount of costs in dispute* is the total amount of costs for those legal services in respect of which the costs claimed are disputed by the person liable to pay them.

#### 34 Procedure before application for assessment of bill referred to assessor—Uniform Law costs

- (1) On receipt of an application for assessment of Uniform Law costs (other than an application by the law practice that gave the bill), the Manager, Costs Assessment is to deal with the application as follows:
  - (a) A copy of the application is to be given by the Manager, Costs Assessment to the law practice that gave the bill accompanied by a notice advising the law practice that any response to the application must be lodged with the Manager, Costs Assessment in writing within 21 days after the law practice receives the notice.

- (b) A copy of any response duly lodged with the Manager, Costs Assessment is to be sent by the Manager, Costs Assessment to the applicant.
  - (c) The application is to be referred by the Manager, Costs Assessment to a costs assessor for assessment as soon as practicable after any response is duly lodged with the Manager, Costs Assessment or, if no response is duly lodged, as soon as practicable after the period referred to in paragraph (a).
  - (d) Any relevant response, and any response that is lodged out of time, is to be sent by the Manager, Costs Assessment to the costs assessor to whom the application for assessment is referred.
- (2) On receipt of an application for assessment of a bill of costs for Uniform Law costs by the law practice giving the bill, the Manager, Costs Assessment is to deal with the application as follows:
- (a) A copy of the application is to be given by the Manager, Costs Assessment to the person who was given the bill of costs and is to be accompanied by a notice advising the person that any objection to the application must be lodged with the Manager, Costs Assessment in writing within 21 days after the person receives the notice.
  - (b) A copy of any objection duly lodged with the Manager, Costs Assessment is to be sent by the Manager, Costs Assessment to the applicant with a notice advising the applicant that any response to the objection must be lodged with the Manager, Costs Assessment in writing within 21 days after the applicant receives the notice.
  - (c) A copy of any response duly lodged with the Manager, Costs Assessment is to be sent by the Manager, Costs Assessment to the person who lodged the objection.
  - (d) The application is to be referred by the Manager, Costs Assessment to a costs assessor for assessment:
    - (i) if no objection is duly lodged with the Manager, Costs Assessment—as soon as practicable after the period referred to in paragraph (a), or
    - (ii) if an objection is duly lodged—as soon as practicable after a response is duly lodged with the Manager, Costs Assessment or, if no response is duly lodged, as soon as practicable after the period referred to in paragraph (b).
  - (e) Any relevant objection or response, and any objection or response that is lodged out of time, is to be sent by the Manager, Costs Assessment to the costs assessor to whom the application for assessment is referred.

### **35 Procedure before application for assessment of ordered costs**

- (1) The following procedure applies to an application for assessment of ordered costs made by the person to whom the costs are payable:
- (a) Before the application is made to the Manager, Costs Assessment, the applicant is to complete the application in the approved form and send a copy of the application to the person liable to pay the costs with a notice advising the person that any objection to the application must be lodged with the applicant in writing within 21 days after the person receives the notice.
  - (b) The applicant is to attach to the application any such objection received by the applicant before the application is lodged with the Manager, Costs Assessment. The applicant may attach to the application a response to any such objection.

- (c) If no such objection is received, the applicant is to certify in the application that no objection was received by the applicant before the application was lodged with the Manager, Costs Assessment.
  - (d) The application may not be lodged with the Manager, Costs Assessment until after the applicant duly receives an objection or the period referred to in paragraph (a) expires (whichever first occurs).
  - (e) A copy of the application is to be sent by the Manager, Costs Assessment to the person who is liable to pay the costs.
  - (f) Any objection that is lodged with the applicant after the application is lodged with the Manager, Costs Assessment is to be sent by the applicant to the costs assessor to whom the application for assessment is referred (together with any response that the applicant wishes to make).
- (2) The following procedure applies to an application for assessment of ordered costs made by the person liable to pay the costs:
- (a) Before the application is made to the Manager, Costs Assessment, the applicant is to complete the application in the approved form and send the application to the person to whom the costs are payable (the *recipient*) with a notice advising the recipient that the information required of the recipient in the form is to be provided by the recipient and the completed application form returned to the applicant within 21 days after the recipient receives the notice (or within any longer period that the applicant and the recipient agree).
  - (b) If the applicant wishes to object to the information provided, the applicant is to lodge the objection in writing with the person who provided the information, together with a notice advising the person that any response to the objection must be lodged with the applicant in writing within 21 days after the person receives the notice.
  - (c) The applicant is to attach to the application any such objection made by the applicant and any response received by the applicant before the application is lodged with the Manager, Costs Assessment.
  - (d) If no such response is received, the applicant is to certify in the application that no response to the objection made by the applicant was received by the applicant before the application was lodged with the Manager, Costs Assessment.
  - (e) The application may not be lodged with the Manager, Costs Assessment until after the applicant receives the information referred to in paragraph (a) and, if an objection is duly made by the applicant, until:
    - (i) if no response is duly lodged by the other person—after the period referred to in paragraph (b), or
    - (ii) if a response is duly lodged—after the response is lodged.
  - (f) However, if the information referred to in paragraph (a) is not provided within the period specified in that paragraph, the application may be lodged with the Manager, Costs Assessment at any time after that period has expired.
  - (g) A copy of the application is to be sent by the Manager, Costs Assessment to the person to whom the costs are payable.
  - (h) Any response that is lodged with the applicant after the application is lodged with the Manager, Costs Assessment is to be sent by the applicant to the costs assessor to whom the application for assessment is referred.
- (3) On receipt of a referral by a court or tribunal under section 74 (2) of the application Act for assessment of ordered costs, the Manager, Costs Assessment is to deal with the direction as if it were an application referred to in subclause (2) made by the

person liable to pay the costs and as if the Manager, Costs Assessment were the applicant.

### **36 Applications by third party payers**

- (1) If there is an associated third party payer for a client of a law practice:
  - (a) the client or the associated third party payer may make one or more applications for assessment in relation to costs for which the client or third party payer is solely liable, and
  - (b) those applications may be made by them at the same time or at different times and may be dealt with jointly or separately.
- (2) If there is a non-associated third party payer for a client of a law practice:
  - (a) the client or the non-associated third party payer may make one or more applications for assessment in relation to costs for which the client or third party payer is solely liable, and
  - (b) those applications may be made by them at the same time or at different times and may be dealt with jointly or separately, and
  - (c) despite any other provision of this Division, the assessment of the costs payable by the non-associated third party payer does not affect the amount of legal costs payable by the client to the law practice.

**Note.** A person notified of an application for a costs assessment under section 198 (8) of the Uniform Law is taken to be a party to the costs assessment.

### **37 Costs assessor may require documents or further particulars**

- (1) For the purposes of determining an application for a costs assessment, a costs assessor may, by notice in writing, require a person (including the applicant, the law practice concerned, or any other law practice or client) to do any one or more of the following:
  - (a) to produce, at a specified time and place, any specified document (or a copy of the document),
  - (b) to provide written information on or before a specified date (verified by statutory declaration if the requirement so states) including, for example:
    - (i) information as to the instructions given to, or work done by, any law practice in respect of the matter concerned, and
    - (ii) information as to the basis on which the costs concerned were calculated,
  - (c) to otherwise assist in, or co-operate with, the determination of the assessment in a specified manner.
- (2) A person who is subject to a requirement under subclause (1) must comply with the requirement.  
Maximum penalty: 50 penalty units.
- (3) If a person fails, without reasonable excuse, to comply with a notice under this clause, the costs assessor may decline to deal with the application or may continue to deal with the application on the basis of the information provided.

### **38 Effect of Part 5 in relation to costs fixed by other legislation**

- (1) An assessment of costs fixed by a regulation under section 149 of the *Motor Accidents Compensation Act 1999* is to be made in accordance with that regulation (despite anything to the contrary under Part 5).

- (2) An assessment of costs fixed by a provision of any other Act, or a statutory rule made under any other Act, is to be made:
  - (a) if the costs are fixed by a provision of any other Act—in accordance with that provision (despite anything to the contrary in Part 5), or
  - (b) if the costs are fixed by a provision of a statutory rule made under any other Act—in accordance with that provision (but only to the extent that the provision is not inconsistent with Part 5).

### **39 Reference of applications to assessors**

- (1) The Manager, Costs Assessment may, for the purpose of assisting in the reference of applications for assessment to costs assessors, group costs assessors in panels according to expertise, location and jurisdiction.
- (2) The Manager, Costs Assessment is to refer applications for assessment of costs to the most suitable costs assessor having regard to the following:
  - (a) the availability of costs assessors,
  - (b) the nature of the matter,
  - (c) in the case of an assessment of ordered costs—the jurisdiction of the court or tribunal in which the order for costs was made,
  - (d) the location of the parties and the Australian legal practitioners acting for the parties concerned,
  - (e) the avoidance of conflicts of interests of costs assessors.
- (3) The Manager, Costs Assessment must inform the parties to an application for assessment of the name, address and other contact details of the costs assessor to whom the application has been referred.

### **40 Determination of costs of ordered costs assessment**

In determining under section 71 (1) (c) of the application Act by whom and to what extent the costs of the assessment of ordered costs are to be paid, the costs assessor may have regard to the following:

- (a) the extent to which the determination of the amount of fair and reasonable ordered costs differs from the amount of those costs claimed in the application for assessment,
- (b) whether or not, in the opinion of the costs assessor, either or both of the parties to the application made a genuine attempt to agree on the amount of the fair and reasonable costs concerned,
- (c) whether or not, in the opinion of the costs assessor, a party to the application unnecessarily delayed the determination of the application for assessment.

### **41 Reasons for determination**

- (1) A costs assessor must ensure that a certificate issued under section 70 or 71 of the application Act that sets out his or her determination is accompanied by:
  - (a) a statement of the reasons for the costs assessor's determination, and
  - (b) the information specified in subclause (2).
- (2) The following information is to accompany a certificate:
  - (a) the total amount of costs for providing legal services determined to be fair and reasonable,
  - (b) the total amount of disbursements determined to be fair and reasonable,
  - (c) each disbursement varied by the determination,

- (d) in respect of any disputed costs, an explanation of:
  - (i) the basis on which the costs were assessed, and
  - (ii) how the submissions made by the parties were dealt with,
- (e) if the costs assessor declines to assess a bill of costs—the basis for doing so,
- (f) a statement of any determination that interest is payable at a rate specified by the assessor or that no interest is payable.

**Note.** The rate of interest determined by an assessor must not exceed the rate referred to in section 195 (4) of the *Legal Profession Uniform Law (NSW)*, see section 81 (1) (a) of the application Act.

- (3) The statement of reasons may be accompanied by any other information that the costs assessor considers is necessary to clarify the determination of the application for a costs assessment.

#### **42 Certificate as to determination**

- (1) The costs assessor must forward a certificate issued under section 70 of the application Act or a copy of the certificate to:
  - (a) the Manager, Costs Assessment, and
  - (b) each party to the assessment, unless subclause (2) applies.
- (2) If the costs of the costs assessor are payable by a party to the assessment as referred to in section 71 of the application Act, the costs assessor must:
  - (a) forward a copy of the certificate to the Manager, Costs Assessment only, and
  - (b) advise the parties that the certificate has been so forwarded and will be available to the parties on payment of the costs of the costs assessor.
- (3) Subclause (2) does not apply:
  - (a) to a certificate issued before the completion of the assessment process, or
  - (b) if the fee for the application for the costs assessment has been waived or postponed (either wholly or in part) by the Manager, Costs Assessment.

#### **43 Correction of error in determination**

- (1) At any time after making a determination, a costs assessor may, for the purpose of correcting an inadvertent error in the determination:
  - (a) make a new determination in substitution for the previous determination, and
  - (b) issue a certificate under section 70 or 71 of the application Act that sets out the new determination.
- (2) The certificate replaces any certificate setting out the previous determination of the costs assessor that has already been issued by the costs assessor.
- (3) On the filing of the replacement certificate in the office or registry of a court having jurisdiction to order the payment of the amount of the new determination, any judgment that is taken to have been effected by the filing of that previously issued certificate is varied accordingly.

### **Division 3      Reviews**

#### **44 Qualifications for membership of review panels**

- (1) A costs assessor is qualified to be a member of a review panel only if the assessor's name appears on the list compiled under subclause (2).
- (2) The Chief Justice of New South Wales may compile a list of costs assessors considered by the Chief Justice to be suitably qualified to be members of panels.



- (3) The Chief Justice may amend or revoke any list compiled under this clause for any reason that the Chief Justice considers appropriate.
- (4) The Chief Justice may delegate any of his or her functions under this clause (other than this power of delegation) to:
  - (a) a Judge of the Supreme Court, or
  - (b) a committee comprised of one Judge of the Supreme Court and any other persons that the Chief Justice may appoint.

**45 Application for review of determination—section 83 of the application Act**

- (1) For the purposes of section 83 (2) of the application Act, an application for a review of a determination of a costs assessor by a party to the costs assessment is to be made in the approved form.
- (2) An application for a review under section 83 of the application Act must be made within 30 days after the cost assessor's certificate as to the determination is forwarded to the party seeking the review.
- (3) The Manager, Costs Assessment may extend the period for lodging an application.
- (4) For the purposes of section 83 (3) (b) of the application Act, the prescribed fee that is to accompany an application for a review is \$275.
- (5) An application for a review of a determination of a costs assessor is to be accompanied by the following:
  - (a) an affidavit that a copy of the application has been given to the other parties,
  - (b) a copy of all of the costs assessor's certificates of determination relating to the assessment that is the subject of the application,
  - (c) a copy of the costs assessor's statement of the reasons for the determination.
- (6) Any other document in relation to the application that is required or permitted to be given to the Manager, Costs Assessment or a review panel may be given to the Manager, Costs Assessment or to the panel in any of the following ways:
  - (a) by filing it with the Manager, Costs Assessment,
  - (b) by sending it by post to the Manager, Costs Assessment, or to a place nominated by the review panel,
  - (c) by delivering it to the DX box of the Manager, Costs Assessment,
  - (d) in any other way that a member of the panel on behalf of the panel directs.
- (7) For the purposes of section 83 (3) (c) of the application Act, a copy of the application may be served on another party by sending it to the other party at the contact address provided by the other party for the purposes of the original costs assessment.

**46 Application by Manager, Costs Assessment for review of determination**

- (1) For the purposes of section 84 (2) (a) of the application Act, an application by the Manager, Costs Assessment for a review of a determination of a costs assessor is to be made in the approved form.
- (2) The application is to be accompanied by the following:
  - (a) a copy of all of the costs assessor's certificates of determination relating to the assessment that is the subject of the application,
  - (b) a copy of the costs assessor's statement of the reasons for the determination.
- (3) For the purposes of section 84 (2) (b) of the application Act, a copy of the application may be served on a party by sending it to the contact address provided by the party for the purposes of the original costs assessment.

#### **47 Referral of applications to review panels**

- (1) The Manager, Costs Assessment is to refer a duly made application for a review under section 83 of the application Act to a review panel.
- (2) A costs assessor whose determination is the subject of an application for a review may not be a member of a review panel to which the application has been referred.
- (3) A member of a review panel who has an interest in an application must, as soon as practicable after becoming aware of that fact, inform the Manager, Costs Assessment of that interest.
- (4) If the Manager, Costs Assessment is satisfied that a member of a review panel has an interest in the application, the Manager must refer the application to a differently constituted panel that does not include that member.

#### **48 Selection of review panels**

- (1) The Manager, Costs Assessment may, for the purpose of assisting in the reference of applications for reviews of determinations by review panels, place costs assessors in groups according to factors including expertise, location and jurisdiction.
- (2) The Manager, Costs Assessment is to refer an application for a review by a review panel to a panel of the most suitable costs assessors having regard to the following:
  - (a) the availability of costs assessors,
  - (b) the nature of the matter,
  - (c) the location of the parties and the Australian legal practitioners acting for the parties concerned,
  - (d) the avoidance of conflicts of interests of costs assessors.
- (3) The Manager, Costs Assessment:
  - (a) is to issue a notice advising all parties directly affected by the review of the names of the costs assessors who constitute the review panel, and
  - (b) is to direct that all correspondence to the panel be addressed care of the Manager, Costs Assessment unless a member of the panel on behalf of the panel directs otherwise.

#### **49 Relevant documents to be produced to review panel**

- (1) A review panel may, by notice in writing, require a costs assessor, a law practice or any other person (such as an applicant or an associate of a law practice) to produce to the panel any document in his or her possession relating to an assessment of costs by a costs assessor.
- (2) If a person fails, without reasonable excuse, to comply with a notice under this clause, the review panel may decline to deal with an application for review or may continue to deal with it on the basis of the information provided.
- (3) A costs assessor is to retain in his or her possession any document relating to a costs assessment (other than a document that is returned to a party to the assessment) until:
  - (a) the period of 12 months has elapsed since the issue of a certificate under section 70 of the application Act setting out the determination of the costs assessor, or
  - (b) the costs assessor receives a notice under this clause in relation to the document,whichever happens first.

- (4) A law practice or an associate of a law practice is to retain possession of any document relating to a costs assessment that is returned to the practice or associate by the costs assessor until:
- (a) the period of 12 months has elapsed since the issue of a certificate under section 70 of the application Act setting out the determination of the costs assessor, or
  - (b) the practice or associate receives a notice under this clause in relation to the document,
- whichever happens first.

#### **50 Certificates as to review where determination affirmed**

If, on review of a costs assessor's determination, a review panel affirms the determination, the panel is to issue a certificate that sets out its determination.

#### **51 Reasons for determination**

- (1) The review panel must ensure that a certificate under section 87 of the application Act or clause 50 that sets out the determination of a review panel is accompanied by:
- (a) a statement of the reasons for the panel's determination, and
  - (b) the information required by subclause (2).
- (2) The following information is required to accompany the certificate:
- (a) the total amount of costs for providing legal services determined to be fair and reasonable,
  - (b) the total amount of disbursements determined to be fair and reasonable,
  - (c) each disbursement varied by the determination,
  - (d) in respect of any disputed costs, an explanation of:
    - (i) the basis on which the costs were assessed, and
    - (ii) how the submissions made by the parties were dealt with,
  - (e) a statement of any determination as to the person by whom and the extent to which either the fee paid or payable for the application for review or the costs of the costs assessor, or both, are to be paid,
  - (f) if the determination relates to costs other than ordered costs and the review panel declines to deal with an application for review of a bill of costs—the basis for doing so,
  - (g) any other information that the panel considers necessary to clarify the review of a costs assessor's determination.

#### **52 Copy of certificate of determination to be given to Manager, Costs Assessment**

The review panel is to give to the Manager, Costs Assessment a copy of a certificate setting out the determination by the panel of an application for the review of a determination of a costs assessor.

#### **53 Determination of costs of review**

- (1) If a review panel affirms the determination of a costs assessor, the panel is to require the party who applied for the review to pay the costs of the review.
- (2) If a review panel sets aside the determination of a costs assessor, and makes a determination in favour of the party who applied for review, the panel is to require the party who applied for the review to pay the costs of the review if the determination of the panel increases or decreases the total costs payable (as assessed

by the costs assessor) by an amount that is less than 15% of the total costs payable as assessed by the costs assessor.

- (3) Except as provided by subclauses (2) and (3), a review panel may require any party to an assessment that is reviewed to pay the costs of the review or may determine that the costs of the review are to be shared between the parties in any manner that the panel considers appropriate.
- (4) In determining by whom and to what extent the costs of a review are to be paid, a review panel may have regard to the following:
  - (a) the extent to which the determination of the amount of fair and reasonable costs differs from the amount of those costs claimed in the application for review,
  - (b) whether or not, in the opinion of the panel, either or both of the parties to the application made a genuine attempt to agree on the amount of the fair and reasonable costs concerned,
  - (c) whether or not, in the opinion of the panel, a party to the application unnecessarily delayed the determination of the review.

#### **54 Certificate as to determination of review panel**

- (1) If the costs of a review panel are payable by a person referred to in section 88 (1) (c) of the application Act, the panel must:
  - (a) forward the certificate issued under section 87 of the application Act or clause 50 to the Manager, Costs Assessment instead of forwarding it or copies of it to the parties, and
  - (b) advise the parties that the certificate has been so forwarded and will be available to the parties on payment of the costs of the panel.
- (2) This clause does not apply in respect of the issue of a certificate by a review panel if the fee for the application for the review by the panel has been waived or postponed (either wholly or in part) by the Manager, Costs Assessment.

#### **55 Correction of error in determination**

- (1) At any time after making a determination, a review panel that conducts a review may, for the purpose of correcting an inadvertent error in the determination:
  - (a) make a new determination in substitution for the previous determination, and
  - (b) issue a certificate under this Division that sets out the new determination of the panel.
- (2) The certificate replaces any certificate setting out the previous determination of the review panel that has already been issued by the panel.
- (3) On the filing of the replacement certificate in the office or registry of a court having jurisdiction to order the payment of the amount of the new determination, any judgment that is taken to have been effected by the filing of that previously issued certificate is varied accordingly.

### **Division 4 Miscellaneous**

#### **56 Costs assessments arising out of disciplinary proceedings—section 284 of Uniform Law**

An application for an assessment of costs made under section 284 of the Uniform Law is to be treated, for the purposes of this Part, as if it were an application made by a client.

**57 Information relating to assessment of costs**

The Costs Assessment Rules Committee may, for the purpose of assisting costs assessors in assessing costs, distribute to costs assessors any of the following:

- (a) information that has been published about market rates for legal costs,
- (b) information about comparative assessments of costs previously made by costs assessors,
- (c) relevant judgments of the Supreme Court on appeal from costs assessors' determinations,
- (d) information about relevant provisions of the application Act and this Regulation relating to costs assessment,
- (e) any other relevant information.

**58 Approved forms**

The Chief Justice of the Supreme Court may, on the recommendation of the Costs Assessment Rules Committee, approve forms (and amendments to approved forms) for the purposes of this Part.

**59 Ordered costs—transitional provision**

The provisions of the *Legal Profession Act 2004* and the *Legal Profession Regulation 2005* relating to ordered costs continue to apply to a matter if the proceedings to which the costs relate commenced before 1 July 2015.

## Part 7 Registers

### 60 Register of local practising certificates—section 149 of the application Act

- (1) For the purposes of section 149 (3) (a) of the application Act, the particulars referred to in subclauses (2) and (3) are prescribed as information that must be included in the register kept in relation to a local legal practitioner.
- (2) The particulars that must be included in the register are as follows:
  - (a) the name of the local legal practitioner,
  - (b) the type of local practising certificate held by the practitioner,
  - (c) the contact details of the office of the practitioner in this jurisdiction,
  - (d) any other particulars about the practitioner that the appropriate Council considers should be included.
- (3) In the case of a local legal practitioner who is a solicitor, the register must also contain the following particulars:
  - (a) the name of the law practice of which the solicitor is an associate or, if the solicitor is not an associate of a law practice, the name of the entity of which the solicitor is a director, officer or employee or with which the solicitor is otherwise engaged in legal practice,
  - (b) in a separate additional entry, the name of the law practice or other entity and the contact details of the office of the law practice or other entity:
    - (i) in this jurisdiction, and
    - (ii) in any other jurisdictions in which it has an office, except where the appropriate Council considers those particulars need not be included in respect of an entity that is not a law practice,
  - (c) any other particulars about the law practice or other entity that the appropriate Council considers should be included.
- (4) Contact details of an office are the following:
  - (a) its street address (the address where the office is physically located),
  - (b) its postal address (a post office box number and the location and postcode of the post office), if any,
  - (c) its DX address (including the number of its DX box), if any.
- (5) A local legal practitioner may, by notice in writing to the appropriate Council, request the Council not to include any or any specified particulars about the practitioner, law practice or other entity in the register, on the ground that special circumstances warrant the particulars not being publicly available (for example, if the safety or well-being of a person would be substantially affected by making the particulars publicly available).
- (6) Despite any other provision of this clause, if the appropriate Council is satisfied that those special circumstances exist, the Council is required not to include the particulars concerned in the register unless the Council considers that the public interest in maintaining public access to the particulars outweighs any individual interest in the particulars not being publicly available.

### 61 Notification of change in particulars—section 149 of the application Act

- (1) For the purposes of section 149 (3) (b) of the application Act, a local legal practitioner must notify the appropriate Council, in writing, of any change in the particulars relating to the practitioner (as disclosed in the practitioner's last

application for or for renewal of a local practising certificate) within 7 days after the change occurs.

- (2) A local legal practitioner must also notify the appropriate Council, in accordance with any request from that Council, of the following particulars:
  - (a) particulars relating to any change to or dissolution of a partnership, formation of a new partnership, or acquisition of the practice of an Australian legal practitioner, by the practitioner,
  - (b) particulars relating to the formation of an incorporated legal practice, or the commencement of the provision of legal services by an incorporated legal practice, or any change to or winding up of an incorporated legal practice, including any change in the directors of the incorporated legal practice.
- (3) The request must be in the form of a notice served on the local legal practitioner and must specify which particulars are requested.

**62 Register of Disciplinary Action—section 152 of the application Act**

For the purposes of section 152 (3) of the application Act, the following particulars must be included in the Register of Disciplinary Action in relation to a person against whom disciplinary action is taken:

- (a) the person's professional capacity (for example, barrister or solicitor) in which the conduct complained of occurred and, if different, the person's professional capacity in which the complaint was made against the person,
- (b) the local regulatory authority that took the disciplinary action,
- (c) the date of the decision or determination of the local regulatory authority to take the disciplinary action and, if different, the date the disciplinary action was taken,
- (d) a description or summary of the conduct that is the subject of the disciplinary action,
- (e) the date and jurisdiction of the person's first and each later admission to the legal profession.

## Part 8 Miscellaneous

### 63 Admission fees—section 166 (2) of the application Act

- (1) For the purposes of section 166 (2) (a) of the application Act, the fee for admission to the Australian legal profession in New South Wales is \$900.
- (2) For the purposes of section 166 (2) (a) (ii) of the application Act, each admission fee of \$900 is to be allocated as follows:
  - (a) \$500 is allocated to the NSW Admission Board,
  - (b) \$400 is allocated to the Department of Justice.
- (3) For the purposes of section 166 (2) (a) (iii) of the application Act, a fee for admission to the Australian legal profession in New South Wales may be waived, postponed or refunded by the NSW Admission Board.

### 64 Cap on payments from fidelity fund—section 230 of Uniform Law

- (1) The purpose of this clause is to provide for a cap on claims from the fidelity fund as contemplated by section 230 (1) (b) of the Uniform Law.
- (2) The maximum aggregate amount that may be paid from the fidelity fund in respect of all claims made in relation to any law practice is \$1,000,000.

### 65 Payment of costs—section 303 of Uniform Law

- (1) The purpose of this clause is to provide for persons in respect of whom costs orders may be made as contemplated by section 303 of the Uniform Law.
- (2) An order for costs may be made for or against The Law Society of New South Wales, instead of the Law Society Council, in any case in which an order for costs may be made for or against that Council.

### 66 Amendment of Legal Profession Uniform Law (NSW)—cl 1 (4) of Sch 9 to the application Act

#### (1) Schedule 4 Savings and transitional provisions

Omit clause 12 (2) (a). Insert instead:

- (a) the application is to be determined under the old legislation and a practising certificate granted as a result of the application is taken to be an Australian practising certificate granted in this jurisdiction under this Law as applied in this jurisdiction; and

#### (2) Schedule 4, clause 12A

Insert after clause 12:

#### 12A Existing actions that may affect practising certificates

- (1) The old legislation continues to apply for the purposes of the following matters, if those matters were not completed before 1 July 2015:
  - (a) the determination of whether to take action against the holder of a local practising certificate if a notice was given by the appropriate Council under the *Legal Profession Act 2004* to the holder proposing the amendment, suspension or cancellation of the practising certificate and the taking of any such action,
  - (b) an investigation and the taking of any other action in relation to a show cause event under Division 7 of Part 2.4 of Chapter 2 of the *Legal Profession Act 2004*.



- (2) Any action taken under this clause in relation to a practising certificate is taken to have been done under this Law.
- (3) **Schedule 4, clause 13 (2) (a)**  
Omit the paragraph. Insert instead:
- (a) the application is to be determined under the old legislation and a registration certificate granted as a result of the application is taken to be an Australian registration certificate granted in this jurisdiction under this Law as applied in this jurisdiction; and
- (4) **Schedule 4, clause 23 (6)**  
Insert after clause 23 (5):
- (6) In this clause, a reference to a claim under the fidelity cover provisions of the old legislation includes a reference to a claim under clause 146 of the *Legal Profession Regulation 2005*.

## Schedule 1 Costs for recovery of certain debts and enforcement of certain judgments

(Clause 24)

### Part 1 Supreme Court

No	Item	Amount
<b>1</b>	<b>Preparation of process</b>	
	Costs of taking instructions, preparing documents and filing statement of claim including drawing/typing/checking of originating process and cheque to pay account of process server:	
	(a) for recovery of lump sum debt	\$1,099
	(b) for recovery of possession of land	\$1,382
<b>2</b>	<b>Service of additional defendants etc</b>	
	Costs of service:	
	(a) for each additional defendant	\$64
	(b) in proceedings for the recovery of land where one or more occupiers must be served with notice of proceedings, for each different address at which a notice is served	\$108
<b>3</b>	<b>Substituted service</b>	
	Costs of substituted service including drawing/typing/checking of affidavit, notice of motion and cheque to pay account of process server	\$624
<b>4</b>	<b>Service interstate or overseas</b>	
	Costs of service in another jurisdiction:	
	(a) within Australia—including obtaining leave to proceed and drawing/typing/checking notice of motion	\$240
	(b) outside Australia in a country where English is the official language—including drawing/typing/checking of request for service and notice to defendant to be served	\$164
	(c) outside Australia in a country where English is not the official language—including drawing/typing/checking of request for special service and notice to defendant to be served	\$741
<b>5</b>	<b>Default judgment</b>	
	Costs on applying for default judgment including all matters listed in item 1 of this Part plus drawing/typing/checking of affidavit of service, notice of motion and affidavit in support:	
	(a) for recovery of lump sum debt	\$1,596
	(b) for recovery of possession of land	\$2,105
<b>6</b>	<b>Foreign judgments</b>	
	Costs on obtaining certificate of judgment under section 15 of the <i>Foreign Judgments Act 1991</i> of the Commonwealth, including drawing/typing/checking of summons, minute of judgment, certificate under that section and affidavit of facts:	
	(a) if a solicitor is required to attend the court to settle judgment	\$881

No	Item	Amount
	(b) if a solicitor is not so required	\$616
<b>7</b>	<b>Writ of execution</b>	
	Costs of taking instructions, preparing documents and filing notice of motion for writ of execution (whether or not the matter was contested) including drawing/typing/checking of notice of motion, affidavit and cheque for payment of proceeds to plaintiff	\$679

## Part 2 District Court

No	Item	Amount
<b>1</b>	<b>Preparation of process</b>	
	Costs of taking instructions, preparing documents and filing statement of claim for recovery of lump sum debt including drawing/typing/checking of originating process and cheque to pay account of process server	\$822
<b>2</b>	<b>Service of additional defendants</b>	
	Costs of service—for each additional defendant	\$64
<b>3</b>	<b>Substituted service</b>	
	Costs of substituted service including drawing/typing/checking of affidavit, notice of motion and cheque to pay account of process server	\$591
<b>4</b>	<b>Default judgment—liquidated claim, claim for possession of land or claim for detention of goods</b>	
	Costs on applying for default judgment for recovery of lump sum debt, claim for possession of land or claim for detention of goods, including all matters listed in item 1 of this Part plus drawing/typing/checking affidavit of service, notice of motion and affidavit in support	\$1,225
<b>5</b>	<b>Default judgment—unliquidated claim</b>	
	Costs on obtaining judgment in undefended proceedings including all matters listed in items 1 and 4 of this Part	\$1,711
<b>6</b>	<b>Order for examination</b>	
	Costs of issuing an examination notice and obtaining an order for examination, including drawing/typing/checking of notice of motion and cheque to pay account of process server	\$647
<b>7</b>	<b>Failed examination of judgment debtor</b>	
	Costs on attending examination of judgment debtor where the judgment debtor fails, without reasonable excuse:	\$278
	(a) to attend the examination, or	
	(b) to produce documents at the examination as required under the order for examination	
<b>8</b>	<b>Arrest of judgment debtor</b>	
	Costs on issue of warrant for arrest of judgment debtor including drawing/typing/checking of notice of motion for issue of warrant	\$278

No	Item	Amount
<b>9</b>	<b>Writ of execution</b>	
	Costs of taking instructions, preparing documents and filing notice of motion for writ of execution (whether or not the matter was contested) including drawing/typing/checking of notice of motion, affidavit and cheque for payment of proceeds to plaintiff	\$498

### Part 3 Local Court

No	Item	Amount
<b>1</b>	<b>Preparation of process</b>	
	Costs of taking instructions, preparing documents and filing statement of claim for recovery of lump sum debt including drawing/typing/checking of originating process and cheque to pay account of process server	\$630
<b>2</b>	<b>Default judgment—liquidated claim or claim for detention of goods</b>	
	Costs on applying for default judgment for recovery of lump sum debt or claim for detention of goods, including all matters listed in item 1 of this Part plus drawing/typing/checking affidavit of service, notice of motion and affidavit in support	\$912
<b>3</b>	<b>Default judgment—unliquidated claim</b>	
	Costs on obtaining judgment in undefended proceedings including all matters listed in items 1 and 2 of this Part	\$1,574
<b>4</b>	<b>Conditions applicable to items 1–3</b>	
	Items 1, 2 and 3 are alternatives, and only one of them is applicable in respect of any matter. If, in respect of any of those items, the amount at issue in the proceedings:	
	(a) does not exceed \$1,000—the costs are 40% of the amount specified for that item, or	
	(b) exceeds \$1,000 but does not exceed \$5,000—the costs are 60% of the amount specified for that item, or	
	(c) exceeds \$5,000 but does not exceed \$20,000—the costs are 80% of the amount specified for that item, or	
	(d) exceeds \$20,000—the costs are the full amount specified for that item	
<b>5</b>	<b>Order for examination</b>	
	Costs of issuing an examination notice and obtaining an order for examination, including drawing/typing/checking of notice of motion and cheque to pay account of process server	\$374
<b>6</b>	<b>Examination of judgment debtor</b>	
	Costs on examination of judgment debtor by solicitor	\$273
<b>7</b>	<b>Failed examination of judgment debtor</b>	
	Costs on attending examination of judgment debtor where the judgment debtor fails, without reasonable excuse:	\$199
	(a) to attend the examination, or	
	(b) to produce documents at the examination as required under the order for examination.	

<b>No</b>	<b>Item</b>	<b>Amount</b>
<b>8</b>	<b>Arrest of judgment debtor</b>	
	Costs on issue of warrant for arrest of judgment debtor including drawing/typing/checking of notice of motion for issue of warrant	\$199
<b>9</b>	<b>Writ of execution</b>	
	Costs of taking instructions, preparing documents and filing notice of motion for writ of execution (whether or not the matter was contested) including drawing/typing/checking of notice of motion, affidavit and cheque for payment of proceeds to plaintiff	\$253

---

## Schedule 2 Costs for legal services in workers compensation matters

(Clause 25)

### Part 1 Schedule of costs

No	Item	Amount
<b>1</b>	<b>Preparing process</b>	
	Drawing/typing/checking originating process, notice of appeal to the court, notice of application for leave to make an appeal to the court, or third or subsequent party notice	\$56
<b>2</b>	<b>Preparing other documents</b>	
	Drawing/typing/checking any document, including any notice of subpoena or document necessarily or properly filed or delivered to another party or to counsel or the court, but excluding a certificate of readiness, per page	\$17
	Drawing/typing/checking certificate of readiness where required	\$39
	If the certificate of readiness is special or necessarily long, such allowance as the registrar thinks proper, not exceeding per page	\$17
<b>3</b>	<b>Letters (including drafting, typing and checking)</b>	
	Short letter (up to one folio in length)	\$17
	Circular, being identical (save for address details) with any other letter	\$8
	Any other letter, per folio	\$17
<b>4</b>	<b>Telephone calls</b>	
	Not requiring skill	\$14
	Requiring skill or legal knowledge:	
	(a) not more than six minutes	\$20
	(b) more than six minutes—per six minute unit after the first	\$14
<b>5</b>	<b>Perusal of documents</b>	
	Perusal of court documents (being any document filed in court), per page or part of a page	\$15
	Perusal of other documents, including correspondence, per folio	\$5
	Where it is not necessary to peruse but it is necessary to scan a document, per page	\$36
<b>6</b>	<b>Copying</b>	
	Being a photographic reproduction, carbon or other copy of a document including copies for use in court, copies of doctors' reports for use on hearing, sending or receiving facsimile transmission, including the time reasonably spent by an Australian legal practitioner or clerk in preparing, sorting and collating such documents for copying, per page	\$1
	<b>Note.</b> In respect of facsimile transmissions, STD and IDD transmission fees may be claimed as disbursements.	

No	Item	Amount
<b>7</b>	<b>Attendance</b>	
	Time reasonably spent by a legal practitioner (not being time spent at a conciliation conference) including travelling, waiting time, other than work referred to in items 1–6 inclusive, per quarter hour or part of a quarter hour	\$35
	Time spent by an Australian legal practitioner at a conciliation conference, per hour or part of an hour	\$250
	Time reasonably spent by a clerk including travelling, waiting time on work other than work referred to in items 1–6 inclusive, per six minute unit	\$4
	<b>Notes.</b>	
	1 Where the hearing of any proceedings is not reached, or is adjourned on payment of the costs of the day, there may be allowed in respect of any time lost in awaiting the commencement of the hearing an amount not exceeding the amount that would have been allowed under item 7 if that time had been spent in the hearing of the proceedings.	
	2 Where the Australian legal practitioner concerned is engaged in any other proceedings on the same day, the amount under item 7 will be such proportion only as the registrar thinks reasonable, having regard to all of the circumstances.	
	3 Where a party is not notified of any payment, withdrawal or discontinuance in time to prevent attendance at court, there may be allowed for that attendance an amount in the discretion of the registrar not exceeding the amount claimable under item 7 for one hour's attendance appropriate to the proceedings.	
<b>8</b>	<b>Specific skill, care and responsibility</b>	
	Where any individual item merits any particular skill or attention an additional allowance is to be made in addition to any general allowance under item 9	
<b>9</b>	<b>Skill, care and responsibility</b>	
	Such sum as may be reasonable, having regard to all of the circumstances of the case and in particular to the following:	
	(a) the complexity of the matter	
	(b) the difficulty or novelty of the questions involved in the matter	
	(c) the skill, specialised knowledge and responsibility involved and the time and labour extended by the Australian legal practitioner concerned	
	(d) the number and importance of the documents prepared and perused, however brief	
	(e) the general care and conduct of the Australian legal practitioner concerned having regard to his/her instructions and all relevant circumstances, including the preparation for hearings generally and for hearing of taxation/assessment of a bill of costs specifically	
<b>10</b>	<b>Disbursements</b>	
	Any disbursement necessarily incurred is to be allowed except in so far as any such disbursement is of an unreasonable amount or has been unreasonably incurred and any doubts which the taxing officer/costs assessor may have as to whether any disbursement was reasonably incurred or was reasonable in amount are to be resolved in favour of the receiving party	
<b>11</b>	<b>Definitions</b>	
	An allowance under items 1, 2 and 3 includes any file copy.	

No	Item	Amount
	In this Part: <i>folio</i> means 100 words. <i>page</i> means a page typewritten or printed and which is a page of a nature or kind usual for the particular document and includes part of a page.	

## Part 2 Advocates' fees

No	Item	Amount
<b>1</b>	<b>Briefs on hearing</b>	
	Brief fees are to be calculated on the nature of the relief obtained, in accordance with the following scale:	
	Scale A	\$620
	Scale B	\$850
	Scale C	\$980
	The scale appropriate for the relief obtained is to be as follows:	
	(a) Property damage	A
	(b) Medical, hospital etc	A
	(c) Commutations and redemptions	A
	(d) Lump sum loss of faculties under <i>Workers' Compensation Act 1926</i>	A
	(e) Lump sum for compensation under section 66 of <i>Workers Compensation Act 1987</i> , including any claim for pain and suffering	C
	(f) Lump sum for pain and suffering	C
	(g) Weekly payments (closed period)	B
	(h) Weekly payments (continuing period)	C
	(i) Death claims	C
	(j) Death claims where respondent admits liability subject only to formal proof of marriage, dependency or other similar issue, only if certified by the court	A
	(k) Review of decisions of Commissioners (substantive matters)	C
	(l) Review of decisions of Registrars or of Commissioners (procedural matters)	A
	(m) Appeals to the court	C
<b>2</b>	<b>Appearance</b>	
	To appear in respect of any motion, or at any conciliation conference, where the court certifies that the matter is appropriate for an advocate	\$370
<b>3</b>	<b>Conference</b>	
	To attend any second or subsequent conference in respect of the applicant, if certified	\$125–\$310
<b>4</b>	<b>Advice on evidence</b>	
	To advise on evidence	\$125–\$310



No	Item	Amount
<b>5</b>	<b>Preparation of documents</b>	
	For drawing, settling any necessary document, conferences, advice (not including advice on evidence), pleadings or for any work involving an advocate in his or her chambers or offices, views, including travelling time, taking a reserved judgment, appearing at call overs, mentions and adjournments, other than any work referred to in items 1–3 inclusive—per hour	\$140
<b>6</b>	<b>Senior counsel, additional advocates etc</b>	
	(a) In respect of items 1 to 4 for senior counsel, an amount to be decided at the discretion of the taxing officer/costs assessor	
	(b) Fees for senior counsel or more than one advocate will not be allowed without an order of the court	
	(c) The court may in a special case order that fees additional to those provided in this Schedule be payable to an advocate	
<b>7</b>	<b>Refreshers</b>	
	(a) Where the hearing is not concluded on the date on which it is begun, there will be allowed, unless the court otherwise orders, in respect of each further day on which the hearing continues—for more than 3 hours, a refresher of 75%, or for 3 hours or less, a refresher of 65% of the brief fee	
	(b) In respect of hearings outside the Sydney Metropolitan Area:	
	(i) a full refresher of 75% will be allowed in respect of any subsequent day on which the hearing continues at a location other than that at which it commenced, and	
	(ii) unless the court otherwise orders no refresher fee will be allowed in respect of a hearing which continues at another location on the day on which it commenced, and	
	(iii) no loading will be taken into account in calculating any refresher	
	(c) Where the hearing is adjourned on an order for payment of the costs of the day—the fee equal to a refresher of 65% of the brief fee	
	(d) Where the matter is not reached on a day on which it is listed for hearing—a fee equal to a refresher of 75% of the brief fee (if certified by the court)	
<b>8</b>	<b>Loadings</b>	
	(a) An advocate whose principal chambers or offices are in the Sydney Metropolitan Area is entitled, in respect of proceedings heard or partially heard in a location outside that area, to a loading in accordance with Part 3 of this Schedule for that location. If proceedings take place at 2 or more locations outside that area, the loading payable is that appropriate to the location that is the farther or farthest from those chambers or offices	
	(b) An advocate whose principal chambers or offices are in a location outside the Sydney Metropolitan Area is entitled, in respect of proceedings heard or partially heard in the Sydney Metropolitan Area, to a loading in accordance with Part 3 of this Schedule for that location	

---

No	Item	Amount
(c)	An advocate whose principal chambers or offices are in a location outside the Sydney Metropolitan Area is entitled, in respect of proceedings heard or partially heard at another such location, to a loading in accordance with Part 3 of this Schedule for that other location. If proceedings take place at 2 or more locations outside that area, the loading payable is that appropriate to the location that is the farther or farthest from those chambers or offices	
(d)	For the purposes of this item, if a location is not included in Part 3 of this Schedule, the loading for that location is to be the loading for the nearest location that is so included	
(e)	If an advocate holds more than one brief in respect of proceedings heard at a place on any one day and a loading is applicable under this item, the loading is to be divided equally between those briefs in respect of which an advocate's fees are awarded or payable	
(f)	A solicitor providing an advocacy service is entitled to only 66% of the fee calculated under this Part when the service is provided to his or her own client or to a client of his or her employer	

---

## Part 3 Country loadings

### 1 Loadings by location

For the purposes of item 8 of Part 2 of this Schedule, the loading for attending a hearing at any of the following locations for the first day is:

Albury	\$723
Armidale	\$663
Bateman's Bay	\$662
Bathurst	\$525
Bega	\$799
Bourke	\$1,141
Broken Hill	\$1,232
Campbelltown	\$63
Casino	\$745
Cessnock	\$411
Cobar	\$1,049
Coffs Harbour	\$584
Condobolin	\$889
Cooma	\$882
Coonamble	\$850
Cootamundra	\$603
Cowra	\$464
Deniliquin	\$777
Dubbo	\$615

Forbes	\$615
Glen Innes	\$584
Gosford	\$176
Goulburn	\$434
Grafton	\$715
Griffith	\$588
Gundagai	\$690
Gunnedah	\$680
Hay	\$761
Inverell	\$683
Katoomba	\$239
Kempsey	\$629
Lismore	\$658
Lithgow	\$273
Maitland (including East Maitland)	\$411
Moree	\$616
Moruya	\$516
Moss Vale	\$284
Mudgee	\$490
Murwillumbah	\$761
Muswellbrook	\$436
Narrabri	\$572
Narrandera	\$568
Newcastle	\$411
Nowra	\$411
Nyngan	\$977
Orange	\$468
Parkes	\$633
Penrith	\$63
Port Macquarie	\$530
Queanbeyan	\$526
Singleton	\$632
Tamworth	\$613
Taree	\$490
Tweed Heads	\$714
Wagga Wagga	\$544

Wentworth	\$1,154
Wollongong	\$260
Yass	\$463
Young	\$603
<b>2 Senior counsel</b>	
If the advocate is a senior counsel—add \$75 per day to the relevant loading	
<b>3 Refreshers</b>	
For each additional day attending a hearing at any of the locations listed above—add \$163	
<b>4 NRMA car rental discount</b>	
Where the NRMA car rental discount is applicable, the amount of the loading is to be reduced by an amount that is calculated by subtracting the discount amount paid from the amount allowed in the loading of \$99	

## **Part 4 Costs for other services in workers compensation matters**

- 1 Allowances to professionals**

Barristers, solicitors, accountants, medical practitioners, surveyors, architects, pharmacists and other professional persons attending to give evidence \$160–\$300

or per hour \$125–\$200
- 2 Preparation of reports**

Whenever a barrister, solicitor, accountant, surveyor, architect, pharmacist, or other professional person (not being a medical practitioner) prepares a report, the fee for the preparation of the report is to be allowed at a rate per hour or part of an hour \$125–\$200
- 3 Expert evidence**

Whenever the persons mentioned in item 1 are called to give expert evidence and not evidence of fact:

  - (a) attending to give expert evidence, including travelling to court, where period from departure from home, hospital, place of practice, office, place of employment or other place to return to that place from attendance at court does not exceed one and a half hours \$250–\$400
  - (b) for every full hour after the first hour and a half or a proportion of an hour if not for a full hour \$125–\$200
  - (c) the maximum amount payable per day under item 1 and paragraphs (a) and (b) is the total of the number of hours that reasonably involved a witness at the rates applicable in item 1 and paragraphs (a) and (b)
- 4 Travelling and accommodation**

Travelling and other allowances:

  - (a) payment to be made at the rate of \$0.90 per kilometre one way after the first kilometre up to and including 80 kilometres, plus reasonable parking fees
  - (b) exceeding 80 kilometres—the reasonable costs of travelling plus the costs of reasonable accommodation, meals and parking

## 5 Allowances to non-professionals

Other witnesses:

- (a) such allowance as is commensurate with the witnesses' remuneration or circumstances, but not exceeding the allowances provided under items 1 and 3
- (b) such additional amount as is reasonable for travelling expenses and sustenance and, in cases where accommodation is required, such further amount as having regard to all of the circumstances is reasonable and has been paid in respect of accommodation

## 6 Medical examinations and reports

The following fees may vary within the stated range, depending on the complexity of the matter, the number of documents to be studied and the amount of research needed to give the medical opinion:

- (a) Report made by an attending general practitioner:
  - (i) in respect of an initial consultation and examination of a patient \$120–\$160
  - (ii) in respect of any further consultation and examination after the first \$80–\$120
  - (iii) where a re-examination of the patient is not required \$60–\$80
- (b) Report made by an attending specialist:
  - (i) in respect of an initial consultation and examination of a patient \$200–\$300
  - (ii) in respect of any further consultation and examination after the first \$150–\$250
  - (iii) where a re-examination of the patient is not required \$100–\$175
- (c) Report made by a specialist who has not previously treated the patient:
  - (i) in respect of an initial consultation and examination of a patient \$220–\$500
  - (ii) in respect of any further consultation and examination after the first \$200–\$450
  - (iii) where a re-examination of the patient is not required \$100–\$215

## 7 Joint examination

Attending a joint examination (including travelling time where the distance does not exceed 8 kilometres):

- (a) as an examining practitioner (including provision of report) \$300–\$500
- (b) as a non-examining practitioner where the examination is conducted by another practitioner \$130–\$175
- (c) provision of report by non-examining practitioner (see paragraph (b)) \$100–\$175

## 8 Special circumstances

Where special circumstances are shown to exist, eg, as in the case of a psychiatrist or psychologist necessitating prolonged or repeated attendances in a particular case, fees may be charged in accordance with item 1

## 9 Interpreters

Allowances for interpreters:

- (a) amounts reasonably paid to an interpreter attending court in respect of hearing not exceeding per day \$250

- (b) in respect of attending any conference or medical examination:
  - (i) for the first two hours or part of two hours \$80
  - (ii) for every hour or part of an hour after the initial two hours \$30
- (c) in respect of a translation of any document—per folio of 100 words \$22
- (d) travelling—as per amounts allowed under item 5

## **Schedule 3 Costs for legal services for probate and administration matters**

(Clause 26)

### **Part 1 Obtaining first time grant or the resealing of probate**

<b>Disclosed value of assets</b>	<b>Costs payable</b>
Not exceeding \$30,000	\$560 Plus \$13.33 for each \$1,000 up to \$30,000
Exceeding \$30,000 but not exceeding \$150,000	\$960 Plus \$5.90 for each \$1,000 in excess of \$30,000
Exceeding \$150,000 but not exceeding \$1,000,000	\$1,670 Plus \$4.47 for each \$1,000 in excess of \$150,000
Exceeding \$1,000,000 but not exceeding \$3,000,000	\$5,470 Plus \$1.66 for each \$1,000 in excess of \$1,000,000
Exceeding \$3,000,000 but not exceeding \$5,000,000	\$8,800 Plus \$1.10 for each \$1,000 in excess of \$3,000,000
Exceeding \$5,000,000 but not exceeding \$10,000,000	\$11,000 Plus \$0.90 for each \$1,000 in excess of \$5,000,000
Exceeding \$10,000,000	\$15,500

### **Part 2 Obtaining of any grant or resealing of probate after the first, up to and including the uplifting of the probate so granted or resealed**

<b>Value of assets remaining at the time of application</b>	<b>Costs payable</b>
Not exceeding \$30,000	\$460 Plus \$10.83 for each \$1,000 up to \$30,000
Exceeding \$30,000 but not exceeding \$150,000	\$785 Plus \$4.88 for each \$1,000 in excess of \$30,000
Exceeding \$150,000 but not exceeding \$1,000,000	\$1,370 Plus \$3.65 for each \$1,000 in excess of \$150,000
Exceeding \$1,000,000 but not exceeding \$3,000,000	\$4,480 Plus \$1.37 for each \$1,000 in excess of \$1,000,000
Exceeding \$3,000,000 but not exceeding \$5,000,000	\$7,230 Plus \$0.91 for each \$1,000 in excess of \$3,000,000
Exceeding \$5,000,000 but not exceeding \$10,000,000	\$9,060 Plus \$0.72 for each \$1,000 in excess of \$5,000,000
Exceeding \$10,000,000	\$12,685

### **Part 3 Obtaining first time grant of administration or of the resealing letters of administration**

Such amount as is allowed under Part 1 for the first time grant of probate and, if a law practice is required to perform any work in addition to that for which Part 1 makes provision, such additional amount as is allowed under Table 1 in Schedule G to the *Supreme Court Rules 1970*.