

## Workplace Injury Rehabilitation and Compensation Act 2013

### NOTICE OF SCHEDULE OF FEES AND COSTS FOR ARBITRATION

Pursuant to section 301W of the **Workplace Injury Rehabilitation and Compensation Act 2013**, I, the Minister for Workplace Safety, Ingrid Stitt MP give notice of the following amounts payable (including GST) in respect of the reasonable costs of a claimant that the Accident Compensation and Conciliation Service (ACCS)<sup>1</sup> must award under section 301W.

#### Schedule of Costs for Legal Practitioner's Costs and Disbursements

These items correspond to consecutive, cumulative milestones for all Arbitration matters, with the Arbitration Officer to award costs after a determination in favour of the Claimant to include item 1.1 and then add all relevant consequential items as determined by the Arbitration Officer for the particular matter. Should parties come to an agreement prior to the Arbitration Officer making a determination, they may include, as part of their agreement, an amount for costs calculated using this Schedule, incorporating the applicable milestones. Where ACCS orders the Claimant to pay costs of the other party in accordance with section 301W(3), the Arbitration Officer may be guided by the amounts in this Schedule.

In fixing costs for Arbitration, the appropriate scale for use in the Schedule is determined based on the amount of the determination in the Claimant's favour. In matters of liability, the appropriate scale that applies is subject to the Arbitration Officer's discretion after taking into account the complexity of the matter, the difficulty and novelty of the questions involved, the skill, knowledge and responsibility involved, the general care and conduct of the legal practitioner and other relevant matters.

The costs set out refer to work done by a legal practitioner within the meaning of the Uniform Law.

Item No.	Particulars of Service	A	B	C	D	E
		Less than \$7,500	\$7,500 to less than \$20,000	\$20,000 to less than \$40,000	\$40,000 to less than \$70,000	\$70,000 and over
<b>SECTION A: PROFESSIONAL COSTS</b>						
<b>Institution of Arbitration:</b>						
1.1	<ul style="list-style-type: none"> <li>– Obtaining instructions from the Claimant</li> <li>– Legal advice to pursue Arbitration, including reviewing materials from conciliation, WorkCover claim and supporting documents</li> <li>– Preparation of the Referral for Arbitration (RFA) form</li> <li>– Preparation of request to represent Claimant</li> </ul>	\$573.00	\$917.00	\$1,146.00	\$1,375.00	\$1,604.00

<sup>1</sup> Trading as the Workplace Injury Commission

	<ul style="list-style-type: none"> <li>– Perusal of Reply to RFA prepared by the Authority, an Authorised Agent or self-insurer</li> <li>– Perusal of Arbitration Book and any Supplementary Books</li> <li>– Preparation of Responses to Reply to RFA</li> <li>– All necessary correspondence, perusals, copies and attendances</li> </ul>					
1.2	Where an application is made by a Claimant to extend time to lodge a Referral for Arbitration or to lodge a referral for Arbitration out of time	\$41.00	\$66.00	\$82.00	\$98.00	\$115.00
	<b>Pre-Hearing Procedure:</b>					
2	<ul style="list-style-type: none"> <li>– Obtaining instructions from the Claimant</li> <li>– Preparation of Pre Hearing Information Form</li> <li>– Perusal of Pre Hearing Information Form prepared by the Authority, an Authorised Agent or a self-insurer</li> <li>– Attendance to review and consider documents in preparation for Initial Hearing and any Subsequent Hearing days</li> <li>– Review of any subsequent documents received including review a Timeline, Submissions and Witness Statements relied upon by other parties</li> <li>– Perusal of requests for documents or information including requests for witnesses to give oral evidence</li> <li>– Drawing requests to ACCS, a party or non-party for further documents or information including requests for witnesses to give oral evidence</li> <li>– Review of documents produced in response to requests</li> <li>– All necessary correspondence, perusals, copies and attendances</li> </ul>	\$528.00	\$845.00	\$1,056.00	\$1,267.00	\$1,478.00

	<b>Arbitration Hearing:</b>					
3.1	Preparation for Hearing* including: <ul style="list-style-type: none"> <li>– Instructions for brief for Counsel</li> <li>– Necessary conferences with Counsel</li> <li>– Attending on and correspondence with the Claimant</li> <li>– Taking instructions for examination of any party or witness</li> <li>– Requests for lay and expert witnesses to attend to give evidence at Hearing</li> <li>– Interviewing and corresponding with witnesses</li> <li>– Obtaining reports or advice from experts</li> <li>– All necessary correspondence, perusals, copies and attendances</li> </ul> * A claim for item 3.1 can only be made once regardless of the number of days of the Arbitration Hearing, including the Initial Hearing	\$279.00	\$447.00	\$558.00	\$669.00	\$780.00
3.2	Attendance by legal practitioner at Initial Hearing, each hour or part thereof	\$93.00	\$149.00	\$186.00	\$223.00	\$260.00
3.3	Attendance by legal practitioner for each subsequent hour of hearing after the Initial Hearing, each hour or part thereof	\$93.00	\$149.00	\$186.00	\$223.00	\$260.00
3.4	Advocacy loading – If a legal practitioner appears as Counsel at the Initial Hearing and any subsequent hearing days, an additional 50% of the applicable fees as specified in items 3.1, 3.2, and 3.3					

	<b>Preparation of Documents:</b>					
4.1	Preparation of a Claimant's Statement, Timeline, or similar document where they are drafted by a legal practitioner and reasonably incurred for the purposes of determining the dispute Preparation of a procedural request or a response to a procedural request made outside of a hearing, not otherwise provided for in the Schedule of Costs, which may include a request for an adjournment of the hearing, a request to have the matter referred for further conciliation, and/or a request to dismiss the matter	\$113.00	\$181.00	\$226.00	\$271.00	\$316.00
4.2	Preparation of Written Submissions including Submissions on Facts and Law where they are drafted by a legal practitioner and reasonably incurred for the purposes of determining the dispute	\$189.00	\$302.00	\$378.00	\$454.00	\$529.00
	<b>Oral Evidence – Lay Witnesses:</b>					
5	Preparation of Lay Witness Statements where they are drafted by a legal practitioner and reasonably incurred for the purposes of determining the dispute (for each Witness Statement)	\$113.00	\$181.00	\$226.00	\$271.00	\$316.00
	<b>Medical Panel Referral:</b>					
6.1	Where ACCS proposes to refer medical question(s) to the Medical Panel including: <ul style="list-style-type: none"> <li>– Perusal of draft Medical Panel referral documents</li> <li>– Instructions for brief for Counsel</li> <li>– Necessary conferences with Counsel</li> </ul>	\$269.00	\$430.00	\$538.00	\$646.00	\$753.00

	<ul style="list-style-type: none"> <li>– Attendances and preparation of written responses to draft Medical Panel referral documents</li> <li>– Attendance to settle any necessary medical panel referral documents drawn by Counsel</li> <li>– Perusal of Submissions prepared by the Authority, an Authorised Agent or a self-insurer</li> <li>– Perusal of Medical Panel Opinion and Reasons</li> <li>– All necessary correspondence, perusals, copies and attendances</li> </ul>					
6.2	Preparation of Medical Panel Submissions, in addition to item 6.1, where they are drafted by a legal practitioner and reasonably incurred for the purposes of determining the dispute	\$189.00	\$302.00	\$378.00	\$454.00	\$529.00
	<b>Request for a Costs Decision:</b>					
7.1	<p>Where a party requests that ACCS make a Costs Decision including:</p> <ul style="list-style-type: none"> <li>– Drawing Request for Costs Decision Form</li> <li>– Perusal of Response to Request for Costs</li> <li>– Preparation of any responses for requests for further information made by ACCS</li> <li>– Perusal of Costs Decision</li> <li>– All necessary correspondence, perusals, copies and attendances</li> </ul>	\$41.00	\$66.00	\$82.00	\$98.00	\$115.00
7.2	If ACCS determines it is necessary to conduct an oral hearing prior to making a Costs Decision, an additional fee shall be payable to a legal practitioner for each hour or part thereof spent at the hearing	\$93.00	\$149.00	\$186.00	\$223.00	\$260.00

<b>SECTION B: DISBURSEMENTS AND OTHER EXPENSES</b>						
<b>Fees to Counsel:</b>						
8.1	To draw or settle any Witness Statement, Claimant's Statement or similar document or settle any Submissions prepared by a legal practitioner, where reasonably incurred for the purposes of determining the dispute	\$131.00	\$209.00	\$270.00	\$325.00	\$376.00
8.2	To draw any Submissions including Submissions on facts and law and Medical Panel Submissions where reasonably incurred for the purposes of determining the dispute	\$262.00	\$418.00	\$540.00	\$650.00	\$752.00
8.3	Whenever Counsel appears at an Arbitration Hearing, for any work that was reasonably performed by Counsel in preparation for Arbitration, inclusive of time spent in conferring, preparing, advising, viewing, and consulting *A claim for item 8.3 can only be made once regardless of the number of days of Arbitration Hearing including the Initial Hearing.	\$291.00	\$522.00	\$657.00	\$789.00	\$918.00
8.4	Brief to appear at Hearing	\$389.00	\$697.00	\$874.00	\$1,051.00	\$1,224.00
8.5	For each hour or part thereof after the first 90 minutes of the Hearing on the same day	\$97.00	\$174.00	\$219.00	\$263.00	\$306.00
<b>Other Disbursements:</b>						
9.1	Treating Health Practitioner reports other than medical specialist reports or other Expert Reports relied upon and exchanged and reasonably incurred for the purposes of determining the dispute – up to an amount of *The Arbitration Officer may approve a greater sum than that specified in the Schedule for Treating Health Practitioner reports if the Arbitration Officer deems it reasonable and appropriate	\$550.00*				

9.2	<p>Treating Specialist Medical Reports relied upon and exchanged and reasonably incurred for the purposes of determining the dispute – up to an amount of</p> <p>*The Arbitration Officer may approve a greater sum than that specified in the Schedule for Treating Specialist Medical Reports if the Arbitration Officer deems it reasonable and appropriate</p>	\$1,800.00*
9.3	<p>Other Expert reports, Medico-Legal /Independent Medical Examination Reports relied upon and exchanged, limited to one report per specialty relevant to the injury or injuries to be accepted and/or determined and reasonably incurred for the purposes of determining the dispute – up to an amount of</p> <p>*The Arbitration Officer may approve a greater sum or number of reports than that specified in the Schedule for Medical or other Expert Reports if the Arbitration Officer deems it reasonable and appropriate</p>	\$2,350.00*
9.4	<p>Treating Health Practitioner’s notes and records relied upon and exchanged and reasonably incurred for the purposes of determining the dispute</p>	Such fees are payable in accordance with the Health Records Regulations 2012 (Vic.)
9.5	<p>Hearing transcription fees where the transcript was reasonably required for the purposes of determining the dispute</p>	100% of the cost of the transcript/s.
9.6	<p>Reasonable interpreters’ fees payable in accordance with Schedule 2 of the County Court Civil Procedure Rules except those incurred on hearing days for which ACCS will provide professional interpreter services and save that interpreters’ fees and allowances which relate to an attendance resulting in a report are payable only where the report is payable under item 9.3.</p>	Such fees are payable in accordance with Schedule 2 of the County Court Civil Procedure Rules 2018

9.7	Reasonable Witness Expenses to give evidence at the Arbitration Hearing	Such fees are payable in accordance with item 82 of Appendix A of the Magistrates' Court General Civil Procedure Rules 2020
	<b>Claimants' Lost Wages:</b>	
10.1	Ordinarily required to work the day of the Arbitration hearing	100% loss of pre-tax income up to a maximum of \$450 per day upon production of acceptable evidence detailing: <ul style="list-style-type: none"> <li>– Total time lost in hours including the time taken to travel to and from the hearing; or</li> <li>– Total amount of gross income lost; or</li> <li>– Hourly average weekly earnings rate.</li> </ul> Where the Claimant is not paid an hourly rate, or is self-employed, pre-tax income from lost earnings up to a maximum of \$450 per day.
	<b>Claimant Travel, accommodation and meals expenses to attend Arbitration Hearing:</b>	
11.1	Travel by public transport (including but not limited to bus, tram and/or train including v/line)	100% of the cost of the daily fare up to a maximum amount of \$65.00. Evidence of costs incurred to be provided to ACCS.
11.2	Travel by private vehicle	30 c per kilometre travelled calculated from the Claimant's place of residence. Cost of parking and tolls to be reimbursed upon production of the relevant invoice, receipt, or ticket. Maximum amount that can be claimed for costs of travel by private vehicle, parking and tolls is \$65.
11.3	Travel by Taxi where there is reasonable medical evidence that the claimant is not capable of travelling by public or private transport	At cost if determined that the Claimant is not capable of travelling by public or private transport.
11.4	Other mode of transport	At cost up to a maximum amount of \$65.
11.5	Accommodation and meals where overnight stay because the hearing lasts for more than one day where reasonably incurred	At cost up to a maximum amount of \$250.00 per night