

## Criminal Law Cost Scale

(operative from 1 July 2017)

All new ie initial grants of aid and extensions of existing assignments approved on or after 1 July 2017 will be made in accordance with the following Scale.

See also the Explanatory Notes.

ITEM	DESCRIPTION OF WORK	FEE PAYABLE
<b>MAGISTRATES COURT and YOUTH COURT (Criminal Jurisdiction)</b>		
1.	Solicitor and counsel – hourly rate	\$143
<b>GUILTY PLEAS</b>		
2.	Guilty plea - instructions and all preparation - solicitor	\$268
3.	Guilty plea - counsel	\$268
4.	Guilty plea in social security matter where there are more than 30 counts - solicitor	\$536
5.	Guilty plea in social security matter where there are more than 30 counts - counsel	\$268
6.	Guilty plea - additional solicitor's proportion in consolidated pleas	\$268
<b>BAIL</b>		
7.	Bail application - opposed	\$286
8.	Bail application to vary - where opposed or where separate appearance required and not opposed	\$143
9.	Bail application/variation - if unopposed and no separate appearance required by the Court	No fee payable
10.	Application to revoke bail	\$143
<b>DEFENDED MATTERS (TRIALS &amp; ORAL COMMITTALS)</b>		
11.	Instructions - including all preparation - solicitor	\$572
12.	Pre-trial conference - all preparation and attendance	\$143
13.	Special reasons application and hearing	\$429
14.	Fee on brief and first day - counsel	\$1,144
15.	Each subsequent day - counsel	\$858
16.	½ day trial - fee on brief - counsel	\$715
<b>DEFENDED MATTERS NOT PROCEEDING ON THE MORNING OF THE TRIAL</b>		
17.	Instructions - including all preparation - solicitor	\$572
18.	Fee on brief and time in court - counsel	\$429
<b>GENERAL</b>		
19.	No case to answer submissions (major indictable at committal)	\$572
20.	Case conference (major indictable matters)	\$472
21.	Release on licence	\$858
22.	Vary / Revoke licence	\$429
23.	Set non-parole period	\$572
<b>SUPREME AND DISTRICT COURTS</b>		
<b>HOURLY RATES</b>		
24.	Solicitor – hourly rate	\$171
25.	Counsel – hourly rate	\$196
26.	Queen's Counsel/Senior Counsel – hourly rate	\$272
27.	Junior Counsel hourly rate ( where Senior Counsel approved)	\$171
<b>GUILTY PLEAS</b>		
28.	Guilty plea - instructions and all preparation - solicitor	\$727
29.	Guilty plea - counsel	\$392
30.	Early Guilty Plea in major indictable matter – Additional Payment	\$500

ITEM	DESCRIPTION OF WORK	FEE PAYABLE
<b>BAIL</b>		
31.	Bail application - opposed - instructions and all preparation - solicitor	\$342
32.	Bail application - opposed - counsel	\$294
33.	Bail variation - opposed or where not opposed but a separate appearance required by the court	\$196
34.	Bail variation - not contested and no separate appearance required	No fee payable
35.	Bail review - instructions, all documents and all preparation- solicitor	\$342
36.	Bail review – all preparation and attendances – counsel	\$294
37.	Application to revoke bail.	\$171
<b>DEFENDED MATTERS</b>		
38.	Instructions - including all preparation – solicitor	\$1026
39.	Directions Hearings	\$171
40.	Fee on brief and first day - counsel	\$1,960
41.	Each subsequent day – counsel	\$1,176
42.	Queen's counsel/Senior Counsel fee on brief and first day	\$2,720
43.	Queen's counsel/Senior Counsel each subsequent day	\$1,632
44.	½ day trial – fee on brief - counsel	\$1,372
<b>DEFENDED MATTERS NOT PROCEEDING ON THE MORNING OF THE TRIAL</b>		
45.	Instructions - including all preparation - solicitor	\$1,026
46.	Fee on brief and time in court - counsel	\$1,176
<b>GENERAL</b>		
47.	Release on licence	\$1,026
48.	Vary/revoke licence	\$513
49..	Set non-parole period	\$1,026
<b>MAGISTRATES APPEALS</b>		
50.	Magistrates appeal - preparation - solicitor	\$428
51.	Appeal - against sentence only - counsel	\$490
52.	Appeal - others (including complex) - counsel	\$980
53.	Queens Counsel - appeal against sentence	\$680
54.	Queens Counsel - others (including complex)	\$1,360
<b>CCA/FULL COURT</b>		
55.	Permission to appeal - preparation - solicitor	\$342
56.	Permission to appeal against sentence - counsel	\$392
57.	Permission to appeal against sentence - Queens Counsel	\$544
58.	Permission to appeal against conviction - counsel	\$784
59.	Permission to appeal against conviction - Queens Counsel	\$1,088
60.	Permission to appeal against both conviction and sentence - counsel	\$784
61	Permission to appeal against conviction and sentence - Queens Counsel	\$1,088
62.	Appeal against conviction - counsel	\$1,960
63.	Appeal preparation - solicitor	\$1026
64.	Appeal against conviction - Queens Counsel	\$2,720
65.	Appeal against sentence - counsel	\$1,470
66.	Appeal against sentence - Queens Counsel	\$2,040
<b>HIGH COURT</b>		
67.	Special Leave to appeal - preparation - solicitor	\$1,197
68.	Special Leave to appeal - fee on brief and time in court - counsel	\$1,960
69.	Special Leave to appeal - fee on brief and time in court - Queen's Counsel/Senior Counsel	\$2,720

ITEM	DESCRIPTION OF WORK	FEE PAYABLE
70.	Appeal - preparation - solicitor	\$1,197
71.	Appeal - fee on brief and time in court - counsel	\$1,960
72.	Appeal - fee on brief and time in court - Queen's Counsel/Senior Counsel	\$2,720
<b>ALL COURTS - MISCELLANEOUS ITEMS</b>		
73.	Remand, arraignment, callover	No fee payable
74.	Travelling time	No fee payable
75.	Waiting time	No fee payable
76.	Approved reading time – per hour – all jurisdictions	\$110
77.	Attendance upon judgment	No fee payable
78.	Mileage	Payable only on prior approval
79.	Junior counsel - all trials and appeals where two counsel approved - fee on brief and time in court	\$1,368
80.	Junior counsel - each subsequent day	\$821
81.	Parole Board advice	\$143

#### EXPLANATORY NOTES

A legal practitioner who undertakes legal aid criminal law assignments must be a member of the Legal Services Commission General Panel of practitioners.

A practitioner included on the General Panel may apply for inclusion on the Complex Criminal Law Panel or the murder subpanel of that Panel.

Please see Legal Practitioner Panels on the Legal Services Commission website at [http://www.lsc.sa.gov.au/cb\\_pages/practitioners.php](http://www.lsc.sa.gov.au/cb_pages/practitioners.php)

#### MAGISTRATES AND YOUTH COURT MATTERS

##### Hourly Rate (applicable to special cases only)

##### 1. *Magistrates and Youth Court (solicitor and counsel hourly rates)*

It is envisaged that not many matters heard in the Magistrates and Youth Courts will qualify for certification as requiring additional funding over the prescribed lump sums.

A matter will be certified by the Commission for additional funding where the degree of preparation or the difficulty involved is exceptional and the work encompassed by the standard lump sums would, in all of the circumstances, be unreasonable. The amount of extra funding allowed will be specified in an additional commitment certificate. Should further work be required the Commission will always consider such applications which must be made in advance of the work being done. The maximum amounts specified in each commitment certificate aggregate to form the maximum fees payable in relation to a particular grant.

##### Guilty Pleas

##### 2. *Solicitor's proportion*

The fee for a guilty plea includes all attendances upon client and preparatory work.

##### 3. *Counsel's proportion*

The fee on brief includes all attendances on client and at court.

##### 4. *Social security matters involving more than 30 counts - solicitor's proportion*

The fee for a guilty plea in a social security matter that involves more than 30 counts on the one Information attracts a higher guilty plea fee (which includes all attendances upon client and preparatory work). If there are considerably more than 30 counts, authorisation may be sought for additional funding certification. Each such application will be considered on its individual merits.

5. *Social security matters involving 30 counts - counsel's proportion*

The fee on brief for a guilty plea in a social security matter that involves more than 30 counts on one Information attracts a higher fee (which includes all attendances upon client and at court). If there are considerably more than 30 counts, authorisation may be sought for additional funding certification. Each such application will be considered on its individual merits.

6. *Additional solicitor's fee*

This additional fee is payable for up to 3 additional Complaints or Informations or part thereof, over, and above the first 3 Complaints or Informations, and which are the subject of pleas and submissions at the same time as the first 3 Complaints or Informations. This additional fee is only payable where the matters would normally be the subject of a grant of legal aid. The fee is the same regardless of the numbers of counts on each Complaint or Information.

**Bail**

7. *Bail application (opposed)*

The fee for a bail application includes all attendances to take instructions, completing application and all attendances at court to argue the application.

8. *Bail variation*

The fee for a bail variation includes all attendances to take instructions and all attendances at court to argue.

9. *Bail application/variation*

No fee payable where no separate attendance is required at court.

10. *Application to revoke bail*

The fee payable to appear on a prosecution application to revoke bail, includes all attendances to take instructions and all attendances at court to argue.

**Defended matters (trials and oral committals)**

11. *Solicitor's proportion*

The fee for a defended matter includes all attendances upon client and preparatory work including preparation of brief. Please note that where commitment has been previously raised in the matter for a guilty plea, the amount for this item which will appear on the certificate aggregates with the previous certificate to the full lump sum fee for defended matters.

12. *Pre-trial conference*

The fee for a pre-trial conference includes all attendances to take instructions and all attendances at court.

13. *Special reasons application and hearing*

The fee for a special reasons application includes all attendances upon client and time spent in court making the application.

14. *Fee on brief and first day - Counsel*

The fee on brief includes all preparation, reading, conferences and the first day in court. Please note that where commitment has been raised previously in the matter for a guilty plea the amount for this client which will appear on the certificate aggregates with the previous certificate to the full lump sum fee for defended matters.

15. *Each subsequent day (refreshers) - Counsel*

The fee for refresher includes any reading or conferences during trial and time spent in court.

16. *Half day trial - fee on brief - Counsel - (item 11 applies to solicitor's proportion)*

The fee on brief includes all preparation, reading, conferences and half day in court. (see note 1 for special cases)

**Defended matters not proceeding on the morning of the trial**

17. *Instructions - including all preparation - Solicitor*

The fee for a defended matter which resolves by plea or withdrawal includes all attendances upon client and preparatory work including preparation of brief.

18. *Fee on Brief and time in Court - Counsel*

The fee for a defended matter which resolves or does not proceed due to unavailability of a court room or magistrate on the morning of the trial includes all preparation, reading, conferences and time spent in court making submissions and attending upon sentence.

**GENERAL**

19. *No case to answer submissions (major indictable at committal)*

No case to answer submissions may be authorised in circumstances where sufficient information is provided to the Commission for it to determine that the submissions satisfy the merits test.

20. *Case Conference*

A Case Conference, if ordered by a Magistrate, will be funded for major indictable matters and includes all preparation and attendance at the Conference.

21. *Release on licence*

Release on licence includes all preparation and time spent in court.

22. *Application to vary or revoke licence*

The fee payable for all attendances to take instructions, complete or respond to any application and all attendances at court to argue the application.

23. *Set non-parole period*

An application to set a non-parole period includes all preparation and time spent in court.

**SUPREME AND DISTRICT COURT**

**Hourly Rates**

24. *Supreme and District Court - solicitor hourly rates*

A matter will be certified by the Commission for additional funding where the matter involves unusual complexity or other special circumstances compared with the usual range of such matters and where the work encompassed by the standard lump sums would, in all of the circumstances, be unreasonable.

The amount of extra funding allowed will be specified in an additional commitment certificate. Should it be considered that further funding is necessary in light of matters of an exceptional nature, then the Commission will always consider such applications which must be made in advance of the work being done. The maximum amounts specified in each commitment certificate aggregate to form the maximum fees payable in relation to a particular grant.

25. *Supreme and District Courts - counsel hourly rates*

A matter will be certified by the Commission for additional funding where the matter involves unusual complexity or other special circumstances compared with the usual range of such matters and where the work encompassed by the standard lump sums would, in all of the circumstances, be unreasonable.

The amount of extra funding allowed will be specified in an additional commitment certificate. Should it be considered that further funding is necessary in light of matters of an exceptional nature, then the Commission will always consider such applications which must be made in advance of the work being done. The maximum amounts

specified in each commitment certificate aggregate to form the maximum fees payable in relation to a particular grant.

26. *Queen's Counsel/Senior Counsel - Supreme and District Court hourly rates*

A grant of aid will only be extended to brief Queen's Counsel/Senior Counsel if, in the opinion of the Director, the matter is of:

- sufficient complexity; or
- such an unusual nature; or
- sufficient importance, on questions of law, or due to intricacy of facts, or involves potential changes to the law,

so as to warrant the briefing of Queen's Counsel/Senior Counsel. The Commission must be satisfied that the skill and services of Queen's Counsel/Senior Counsel are required for the adequate presentation of the particular case. Where a matter is certified for Queen's Counsel/Senior Counsel the same scale of fees applies in all jurisdictions.

27. *Supreme and District Courts – Junior Counsel hourly rates (where Senior Counsel is approved)*

A grant of aid will only be extended to brief Junior Counsel, where in the opinion of the Director, the matter is of sufficient complexity and funding for Queen's Counsel/Senior Counsel has been approved. Junior Counsel must be retained from the independent bar.

## **Guilty Pleas**

28. *Guilty Plea - solicitor's proportion*

The fee for a guilty plea includes all attendances upon client and at court, all preparation and preliminary steps other than oral committal. (for oral committal see scale items for **Defended matters (trial and oral committals)**, and notes **10 to 15**).

29. *Guilty Plea - counsel's proportion*

The fee for counsel's proportion on a guilty plea includes all preparation, reading, conferences and time spent in court.

30. *Early Guilty Plea*

Where a Major Indictable matter is concluded by way of an early guilty plea so that the Legal Aid file is ready for closure an additional payment of \$500 will be made to the assigned practitioner. The guilty plea must be entered before, or on, the first appearance on arraignment.

All matters on the Information must be concluded by that date. There must be a guilty plea to one or more matters and any other counts on the Information must have ended either by guilty plea or withdrawal/nolle.

The division of the \$500 payment between the solicitor and the counsel will be a matter to be negotiated by the solicitor and counsel.

This payment will not be available in relation to breach of bond proceedings and is limited to charges where the arraignment follows committal from the Magistrates Court.

Once the guilty plea has been entered the practitioner must write to the Commission confirming:

- the date the plea was entered,
- the Judicial Officer, and
- that all matters are resolved and only sentencing submissions remain outstanding (if this is the case).

The Commission will then issue a commitment certificate for the new cost scale item. The certificate can be completed and returned to the Commission for certification.

## **Bail**

31. *Bail application (opposed) - solicitor's proportion*

The fee for a bail application includes all attendances to take instructions, drawing application and affidavit in support and lodging documents.

32. *Bail application (opposed) - counsel's proportion*

The fee for counsel's proportion on a bail application includes all preparation, reading, conferences and time spent in court.

33. *Bail variation*

The fee includes all attendances to take instructions and time spent in court.

34. *Bail variation (not contested etc)*

No fee payable.

35. *Bail review (solicitors proportion)*

The fee for a bail review includes all attendances to take instructions, drawing application and affidavit in support and lodging documents.

36. *Bail review (counsel's proportion)*

The fee for counsel's proportion on a bail review includes all preparation, reading, conferences and time spent in court.

37. *Application to revoke bail*

The fee payable to appear on a prosecution application to revoke bail, includes all attendances to take instructions and all attendances at court to argue.

## **Defended matters**

38. *Solicitor's proportion*

The fee for a defended matter includes all attendances upon client and preparatory work including preparation of brief.

39. *Directions Hearings*

The fee for a directions hearing includes taking of instructions, negotiations and attendance at court including waiting time and travel to and from court.

40. *Counsel's proportion - fee on brief*

The fee on brief includes all preparation, reading, conferences and first day in court.

41. *Counsel's proportion - subsequent days (refreshers)*

The fee for refresher includes any reading or conferences during trial and time spent in court.

42. *Fee on brief - Queen's Counsel/Senior Counsel*

The fee on brief includes all preparation, reading, conferences and first day in court.

43. *Subsequent days (refreshers) - Queen's Counsel/Senior Counsel*

The fee for refresher includes any reading or conferences during trial and time spent in court.

44. *Half day trial - fee on brief - Counsel - (item 10 applies to solicitor's proportion)*

The fee on brief includes all preparation, reading, conferences and half day in court.

**Defended matters not proceeding on the morning of the trial (or in some circumstances a day or so prior to the trial date)**

45. *Solicitor's proportion*

The fee for a defended matter which does not proceed on the morning of the trial (or in some circumstances a day or so prior to the trial date) includes all attendances upon the client and preparatory work including preparation of brief.

46. *Counsel's proportion*

The fee for a defended matter does not proceed on the morning of the trial (or in some circumstances a day or so prior to the trial date), includes all preparation, reading, conferences and time spent in court making submissions and attending upon sentence.

**GENERAL**

47. *Release on licence*

48. *Application to vary or revoke licence*

The fee payable for all attendances to take instructions, complete or respond to any application and all attendances at court to argue the application.

49. *Set non-parole period*

**Magistrates Appeals**

50. *Solicitor's proportion*

The fee for a Magistrates Appeal includes all attendances upon client, drawing and lodging notice of appeal and affidavit in support, and preparation of the brief for counsel.

51. *Counsel's proportion - appeal against sentence only*

The fee on brief includes all preparation, reading, conferences and time spent in court.

52. *Counsel's proportion - other (including complex)*

The fee on brief includes all preparation, reading, conferences and time spent in court.

53. *Queens Counsel/Senior Counsel - appeal against sentence*

The fee on brief includes all preparation, reading, conferences and time spent in court.

54. *Queens Counsel/Senior Counsel - other appeal (including complex)*

The fee on brief includes all preparation, reading, conferences, and time spent in Court.

**CCA/FULL COURT**

**Permission to appeal**

55. *Solicitor's proportion*

The fee for permission to appeal to the CCA includes all attendances upon client, drawing and lodging notice of appeal, any other necessary documents and preparation of the brief for counsel.

NOTE: The fee on brief for includes all preparation, reading, conference and time spent in court.



56. *Permission to appeal - Counsel's proportion against sentence*
57. *Permission to appeal against sentence - Queens Counsel/Senior Counsel*
58. *Permission to appeal against conviction - counsel*
59. *Permission to appeal against conviction - Queens Counsel/Senior Counsel*
60. *Permission to appeal against both conviction and sentence - counsel*
61. *Permission to appeal against conviction and sentence - Queens Counsel/Senior Counsel*
62. *Appeal against conviction - counsel*
63. *Appeal against conviction - solicitor*
64. *Appeal against conviction - Queens Counsel/Senior Counsel*
65. *Appeal against sentence - counsel*
66. *Appeal against sentence - Queens Counsel/Senior Counsel*

#### **HIGH COURT**

67. *High Court Special Leave to appeal- solicitor's proportion*

The fee for an application for Special Leave to appeal to the High Court includes all attendances upon client, drawing and lodging the application, any other necessary documents and preparation of brief for counsel.

68. *High Court Special Leave to appeal - counsel's proportion*

The fee on brief includes all preparation, reading, conferences and time spent in court.

69. *High Court Special Leave to appeal - Queen's Counsel/Senior Counsel*

The fee on brief includes all preparation, reading, conferences and time spent in court.

70. *High court appeal - solicitor's proportion*

The fee for the appeal to the High Court includes all attendances upon the client, drawing and lodging any necessary documents and preparation of the brief for counsel.

71. *High Court appeal - counsel's proportion*

The fee on brief includes all preparation, reading, conferences and time spent in court.

72. *High Court appeal - Queen's Counsel/Senior Counsel*

The fee on brief includes all preparation, reading, conferences and time spent in court.

#### **ALL COURTS - MISCELLANEOUS ITEMS**

73. *Remands, arraignments and callovers*

Attendances for remands, arraignments and callovers are included in the lump sum fees. No additional fees will be paid by the Commission.

74. *Travelling time*

Travelling time is normally included in the lump sum fees.

75. *Waiting time*

Waiting time is included in the lump sum fees. No additional fees will be paid by the Commission.

76. *Approved reading time*

Ordinarily reading time is included in the lump sum fees. Additional fees will only be allowed by the Commission where a matter is certified as requiring additional funding. (The Commission will authorise payment at a rate of 60 pages per hour).

77. *Attendance upon judgment*

Attendance upon judgment is included in the lump sum fees

78. *Mileage*

The Commission does not normally pay mileage fees to practitioners who offer a service to a particular court and are therefore considered as being local to that court, notwithstanding that they do in fact travel from an office not in the general area of that court. However, if for some unforeseen reason the Commission assigns a practitioner/s to a court which that practitioner does not normally service, and it is a Commission generated assignment, then mileage may be approved.

79. *Junior Counsel all trials and appeals*

Where the Commission approves two counsel, the term junior counsel means counsel who is not leading.

80. *Subsequent days (refreshers)*

The refresher fee includes any reading and or conferences during the trial and time spent in court.

81. *Parole Board advice*

The Commission does not fund attendance at Parole Board hearings.

## **GENERAL**

(a) *Commitment certificates/Tax Invoices*

Commitment certificates/Tax Invoices will be issued by the Commission for all work authorised.

Extensions may be sought as further work is required. Additional commitment certificates will be issued to cover any further work approved by the Commission.

All commitment certificates/Tax Invoices aggregate to form the total amount of funding approved by the Commission.

No payment will be made for work which has not been authorised and for which no commitment certificate/Tax Invoice has been issued by the Commission.

(b) *Definition of a grant of aid*

The term "grant" is used to describe an approved application for legal assistance and may include more than one matter as long as all matters are related.

A new application must be submitted for any unrelated matters.

A matter is unrelated if it cannot be finalised in the same court at the same time as other matters.

(c) *Youth Court matters*

Cases heard in the Youth Court will be paid at Magistrate's Court rates.

(d) *Terms of Assignment*

Practitioners should read the terms of assignment letters and commitment certificates/Tax Invoices carefully. Further authorisation must be sought before the authorised costs can be exceeded, or if work outside the terms of assignment is required. Legal aid, where granted usually dates from the date of receipt of the application, except where urgent telephone or fax approval has been given.

Photocopying, if required and approved, will normally be paid at the maximum rate of 0.04 cents per page.