

Coal Mine Subsidence Compensation Amendment Regulation 2021

11-Claimants rights to payment of legal costs

- (1) A claimant is entitled to claim their legal costs and expenses from the liable party for their legal costs reasonably incurred in making an application for review of a claim determination within the meaning of section 15 of the Act.
- (2) The maximum legal costs claimable for the purposes of subsection (1) are to be not greater than the amounts prescribed in schedule 4 of this Regulation.

Schedule 4-

1-Maximum costs for legal services

- (1) The legal costs incurred by a person are payable by the liable party in accordance with this Schedule.
- (2) The maximum costs for legal services provided to a claimant in connection with an application for review of a claim determination are:
 - (a) If the amount of the claim is determined by the Secretary to not exceed \$50,000 no claim for the payment of legal services can be made.
 - (b) If the amount of the claim is determined by the Secretary to exceed \$50,000 but does not exceed \$100,000--maximum costs are fixed at 18% of the [amount recovered](#) or \$20,000, whichever is greater.
 - (c) If the amount of the claim is determined by the Secretary to exceed \$100,000--maximum costs are fixed at 15% of the [amount recovered](#) or \$45,000, whichever is greater.

2- Maximum costs do not affect solicitor-client costs under costs agreements

- (1) This Schedule does not apply to the recovery of costs payable as between a law practice and the practice's client to the extent that recovery of those costs is provided for by a costs agreement that complies with Division 4 of Part 4.3 of the *Legal Profession Uniform Law (NSW)*

- (2) The [local regulations](#) may make provision for or with respect to requiring disclosure by a law practice to the practice's client of information in relation to the effect of a costs agreement in connection with the operation of this Schedule.
- (3) The [local regulations](#) may provide that a failure by a law practice to comply with the requirements of the [local regulations](#) under this [clause](#) disentitles the law practice to the benefit of this [clause](#), and in such a case this Schedule applies in respect of the claim concerned despite the terms of any costs agreement.

3- Maximum costs for expert reports obtained by the claimant

- (1) The costs incurred by a person in obtaining expert evidence reports are payable by the liable party in accordance with this Schedule.
- (2) No amount is payable by a liable party for the costs of expert reports not served by the claimant.
- (3) The following amounts are claimable for costs incurred by a claimant in obtaining expert evidence reports;
 - (a) if an expert civil engineering report is obtained and served by the claimant an amount not greater than \$4,400.
 - (b) if an expert geotechnical engineering report is obtained and served by the claimant an amount not greater than \$4,400.
 - (c) if an expert building consultant or quantity surveyor report is obtained and served by the claimant an amount not greater than \$4,400.
 - (d) If an expert surveyor's report is obtained and served by the claimant an amount not greater than \$1,650.
 - (e) If any other miscellaneous expert is required to provide an opinion on matters relevant to their trade, and that report is served by the claimant and amount not greater than \$1,650.
 - (f) If a supplementary report is required to be provided by any of the experts listed in this schedule an amount not greater than half the amount of the experts original expert report.