

Legal costs in general federal law matters

What is the court's role in relation to legal costs?

In general federal law proceedings the court normally awards costs to a successful party. They are intended to reimburse a party (usually the successful one) for their legal costs. The costs awarded are normally only part of the costs incurred. These are referred to as **party-party costs**. Costs may be awarded before a final hearing; for example if a party has not complied with a timetable and the other party brings the matter back to court for further directions.

Indemnity costs – the court can award all costs reasonably and properly incurred where the conduct of a party warrants such an order being made. These costs are most frequently awarded when a party has declined an offer of settlement and has been awarded a sum less than that offered.

The court is not responsible for overseeing private fee arrangements between a lawyer and client - refer to rule 21.09(3) of the *Federal Circuit Court Rules 2001*. These are referred to as **solicitor-client costs**. If you wish to dispute the fees charged by your lawyer, you need to contact the law society or institute in your State or Territory.

How does the court make a party-party cost order?

The rules in relation to party-party costs are found in Part 21 of the Federal Circuit Court Rules.

Unless the court otherwise orders, the appropriate scale for a party-party costs order (other than bankruptcy) is the **event-based scale** in Schedule 1 of the Rules.

Bankruptcy costs – a party entitled to costs in bankruptcy proceedings is entitled to costs in accordance with the *Federal Circuit Court (Bankruptcy) Rules 2006*.

The court has a general discretion to depart from the fixed event-based scale. Sometimes the court may order that a specific amount of costs be paid. In these situations, the Judge may assess the costs by using:

- the costs rules of the Federal Court, or
- another method for determining the amount of costs.

Taxation of costs in the Federal Circuit Court is only possible when costs are fixed according to the Federal Court scales. There is no provision for taxation of costs if they are fixed according to Schedule 1. Judges will determine disputes about the calculation of costs under [Schedule 1](#).

How can I dispute the fees charged by my lawyer?

If you are not happy with the fees charged by your lawyer, you should first explain your concerns to your lawyer and attempt to resolve the dispute.

If you are unable to resolve the dispute directly with your lawyer, contact the law society or institute in your State or Territory. Each law society or institute has different procedures and timeframes in place for challenging the fees charged by your lawyer.

For a list of law societies and institutes in your State or Territory, visit the court's website at www.federalcircuitcourt.gov.au

Schedule 1: Party-Party Costs

(the amounts in this schedule are inclusive of GST)

Item	Description	General federal law amount
1	Initiating or opposing an application up to the completion of the first court date	Both a) \$2,992; and b) the daily hearing fee mentioned in item 13 that applies to the hearing.
2	Initiating or opposing an application which includes Interim orders (other than procedural orders) up to the completion of the first court date	Both a) \$3,744; and b) the daily hearing fee mentioned in item 13 that applies to the hearing.
3	Interim or summary hearing – as a discrete event	Both a) \$1,867; and b) the daily hearing fee mentioned in item 13 that applies to the hearing.
4	Up to and including the conciliation conference	Not applicable
5	Dispute resolution litigation intervention	\$3,138
6	Preparation for final hearing – one day matter	\$6,728
7	Preparation for final hearing – two day matter	\$10,111
8	Preparation for final hearing – each additional hearing day after the second hearing day	\$2,127
9	Final hearing costs for attendance of solicitor at Hearing to take judgment and explain orders	Both: a) \$305; and b) the daily hearing fee mentioned in item 13 that applies to the hearing.
10	Application for family law location, recovery or enforcement of an order (other than an application for enforcement by a Registrar under item 11)	Not applicable
11	Application for enforcement by a Registrar of: a) a warrant under rule 25B.22; or b) a third party debt notice under rule 25B.40	Not applicable
12	Advocacy loading	\$50% of the daily hearing fee mentioned in item 13 that applies to the hearing

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Item	Description	General federal law amount
13	Daily hearing fee	Either: a) for a short mention – \$305; or b) for a half day hearing - \$1,120; or c) for a full day hearing - \$2,241
14	Disbursements – Court fees and other fees and payments to the extent that they have been reasonably incurred	The amount of the fees and payments
15	Disbursements – photocopying for each page	\$0.77
16	Agents fees and travelling costs Note: For 2 or more hours travel	\$630

Part 2 – Child support proceedings

Division 2 – Costs for appeal of a Tribunal or Child Support Registrar decision

Item	Description	General federal law amount
1	A proceeding concluded at or before the first court date for the proceeding	\$1,444
2	A proceeding concluded: a) after the first court date for the proceeding; and b) at least 4 weeks before the final hearing for the proceeding	\$3,604
3	A proceeding concluded at a final hearing	\$7,200

Part 3 – Migration proceedings

Division 1 – Costs for migration proceedings that have concluded

Item	Description	General federal law amount
1	A proceeding concluded at or before the first court date for the proceeding	\$1,495
2	A proceeding concluded: a) after the first court date for the proceeding; and b) at or before the hearing under rule 44.12 or other interlocutory hearing	\$3,737
3	A proceeding concluded at a final hearing	\$7,467

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Division 2 – Costs for migration proceedings that have been discontinued

Item	Description	General federal law amount
1	A proceeding in which the notice of discontinuance is filed and served at least 14 days before the first court date for the proceeding	\$744
2	A proceeding in which the notice of discontinuance is filed and served: a) less than 14 days before the first court date for the proceeding; and b) at least 15 days before the hearing under rule 44.12 or other interlocutory hearing	\$1,864
3	A proceeding in which the notice of discontinuance is filed and served: a) less than 15 days before the hearing under rule 44.12 or other interlocutory hearing; and b) at least 15 days before the final hearing	\$3,737
4	Any other case	\$5,227

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