



# Victoria Government Gazette

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## Appeal Costs Act 1998

### ORDER SPECIFYING MAXIMUM AMOUNTS PAYABLE BY APPEAL COSTS BOARD

I, Rob Hulls, Attorney-General, make the following Order specifying the maximum amounts payable by the Appeal Costs Board for each day in respect of which an indemnity certificate has been granted under section 17 of the **Appeal Costs Act 1998** –

**1. CITATION**

This Order may be cited as the Appeal Costs (Maximum Amount) Order (No 1).

**2. DEFINITIONS**

In this Order –

- (a) “Act” means the **Appeal Costs Act 1998**;
- (b) “Board” means the Appeal Costs Board;
- (c) “each day” means “each day in respect of which an indemnity certificate has been granted”;
- (d) “circuit town” means a non-metropolitan location at which the Supreme Court, County Court or Magistrates’ Court sits;
- (e) “plea” means proceeding listed as a plea;
- (f) “trial” means proceeding listed as a trial.

**3. AUTHORISING PROVISIONS**

This Order is made under sub-ss 17(5) and (6) of the Act.

**4. OBJECTIVE**

It is the objective of this Order to give effect to the intention of s 17(5) of the Act by specifying maximum amounts payable by the Board to a party for each day in respect of which an indemnity certificate has been granted under s 17 of the Act where the hearing of criminal proceedings is adjourned. As the amounts specified are maximum amounts, it is also the objective of this Order to otherwise not interfere with the Board’s consideration of whether costs claimed by a party to whom an indemnity certificate has been granted under s 17 have been reasonably incurred within the meaning of s 35B of the Act, or with any other power or function of the Board under the Act.

**5. SPECIFIED MAXIMUM AMOUNTS**

**5.1 Magistrates’ Court and Children’s Court**

In relation to all summary crime proceedings, bail hearings and committal mentions in the Magistrates’ Court or the Children’s Court, the maximum amount payable by the Board to a party for each day is \$350.

In relation to contested committals in the Magistrates’ Court or the Children’s Court, the maximum amount payable by the Board to a party for each day is \$570.

**5.2 County Court**

In relation to appeals in the County Court (whether by the Crown or any other person), the maximum amount payable by the Board to a party for each day is \$440.

In relation to a plea in the County Court, the maximum amount payable by the Board to a party for each day is \$385.

In relation to a trial in the County Court, the maximum amounts payable by the Board to a party for each day are \$825 in respect of counsel or an advocate and \$200 per half day in respect of an instructing solicitor.

**SPECIAL**

**5.3 Supreme Court**

In relation to a plea in the Supreme Court, the maximum amount payable by the Board to a party for each day is \$605.

In relation to a trial in the Supreme Court, the maximum amounts payable by the Board to a party for each day are \$1,320 in respect of counsel or an advocate and \$315 per half day in respect of an instructing solicitor.

In relation to bail hearings in the Supreme Court, the maximum amount payable by the Board to a party for each day is \$404.

**5.4 Court of Appeal**

In relation to Crown appeals in the Court of Appeal, the maximum amount payable by the Board to a party for each day is \$1,250. In relation to other appeals in the Court of Appeal, the maximum amount payable by the Board to a party for each day is \$917.

**5.5 Senior Counsel**

If in respect of any criminal proceeding to which this Order relates application is made to the Board for payment in relation to Senior Counsel, separate payment for Senior Counsel may be made to the maximum amounts specified in this sub-clause.

Where Senior Counsel is briefed in relation to Crown appeals in the Court of Appeal, the maximum amount payable by the Board to a party for each day in respect of Senior Counsel is \$2,900. Where Senior Counsel is briefed in relation to any other criminal proceeding, the maximum amount payable by the Board to a party for each day in respect of Senior Counsel is \$2,035.

[**Note:** section 35B(a) of the Act requires the Board, in considering whether costs have been reasonably incurred, to take into account whether the seniority and number of counsel engaged were appropriate for the proceeding.]

**5.6 Circuit towns**

The following amounts are specified in respect of any criminal proceeding heard in a circuit town in which counsel or an advocate does not reside or is not his or her place of business, as the maximum amounts payable by the Board to a party, subject to the requirements of the Act.

If by reason of an adjournment of a criminal proceeding heard in a circuit town counsel or an advocate is reasonably required to stay overnight in the circuit town, the maximum amount payable by the Board as an overnight fee for each day is \$118.

If by reason of an adjournment of a Magistrates' Court or Children's Court criminal proceeding heard in a circuit town counsel or an advocate is reasonably required to undertake travel in excess of 80 kilometres, the maximum amount payable by the Board in respect of that travel is 58.3 cents per kilometre in excess of 80 kilometres.

In respect of an adjournment of a County Court appeal, plea or trial or a Supreme Court plea or trial in a circuit town the maximum amount payable by the Board as a circuit fee for counsel for each day is the fee set out in Table 1 opposite the corresponding circuit town.

The following amounts are specified in respect of a solicitor who instructs in a County Court or Supreme Court trial that is heard more than 50 kilometres from his or her place of business as the maximum amounts payable by the Board to a party, subject to the requirements of the Act.

If by reason of an adjournment of a trial in the County Court or Supreme Court a solicitor is reasonably required to stay away from home overnight, the maximum amount payable by the Board as an overnight fee for each day is \$118.

In respect of a solicitor who instructs in a County Court or Supreme Court trial that is heard more than 50 kilometres from his or her place of business, the maximum amount payable by the Board as a circuit fee will depend on the distance between the solicitor's place of business and the place where the proceeding is heard. The maximum amount payable is the fee set out in Table 1 opposite the corresponding circuit town whose distance from Melbourne is the same as, or the closest to, the distance between the solicitor's place of business and the place the proceeding is heard.

6. This Order operates on and from the date it is published in the Government Gazette.

Dated 12 December 2004

ROB HULLS MP

Attorney-General

**Table 1: Circuit Fee Table**

<b>Circuit town</b>	<b>Maximum amount payable (\$)</b>
Ararat	179
Bairnsdale	196
Ballarat	127
Bendigo	149
Colac	151
Geelong	108
Hamilton	205
Horsham	205
Kerang	205
Korumburra	127
Mildura*	249
Morwell	151
Sale	179
Shepparton	170
Wangaratta	187
Warragul	136
Warrnambool	196
Wodonga	205

\* Where the return economy airfare to Mildura is greater than the circuit fee, then the amount of the airfare is the maximum amount payable in place of the circuit fee.

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