



HIGH COURT OF AUSTRALIA

Explanatory Statement **High Court Amendment (Fees) Rules 2023** **13 November 2023**

These Amendment Rules of Court, signed by the Justices of the High Court of Australia on 13 November 2023, are made by the Justices under the *Judiciary Act 1903*, the *Commonwealth Electoral Act 1918* and the *High Court of Australia Act 1979*.

Schedule 2 of the High Court Rules 2004 specifies the amount which solicitors, who are entitled to practise in the High Court, may charge and be allowed on taxation of costs by the Taxing Officer of the Court in respect of proceedings in the Court. The amounts in the Schedule were last varied by the *High Court Amendment (Forms and Other Matters) Rules 2022* (F2022L01483) made on 18 November 2022 and apply to work done and services performed by solicitors after 1 January 2023.

The Joint Costs Advisory Committee (JCAC) was established in 2007 to review annually and recommend variations in the quantum of costs contained in the Rules made by the High Court of Australia, the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia. It comprises representatives of those courts. In conducting its reviews, the JCAC applies a formula which has regard to movements in wages and salaries and other costs of solicitors' practices.

The JCAC conducted its annual review in 2023, writing to the Commonwealth Attorney-General's Department, the Law Council of Australia, the National Association of Community Legal Centres and National Legal Aid inviting them, and their respective constituent bodies or State and Territory counterparts, to make submissions to the review. A notice of the review was also placed on the website of each court. The JCAC received submissions from the Law Council of Australia, the Tasmanian Department of Justice, and the Commonwealth Attorney-General's Department. Following its review, the JCAC published its Sixteenth Report on Legal Practitioners' Costs in September 2023. Issues raised in submissions received by the Committee were addressed in the report.

In its report the JCAC recommended an increase of 4.5% to the solicitors' costs provided for in the Rules of each Court. The High Court has accepted the recommendation of the Committee. The increases to the solicitors' costs provided in Schedule 2 will take effect on 1 January 2024 and will apply in respect of all work done and services performed by solicitors after 1 January 2024.

Statement of compatibility

Section 8 of the *Legislation Act* 2003 provides that Rules of Court made for the High Court of Australia are not legislative instruments for the purposes of that Act. The *Human Rights (Parliamentary Scrutiny) Act* 2011 does not apply to any such Rules of Court and no statement of compatibility for the purposes of that latter Act is included in the Explanatory Statement.