

Legal and Valuation Services and Fees

This fact sheet sets out acquiring authorities' approach to professional fees in the event of a negotiated settlement following an agreed or compulsory acquisition of land. Please be aware that if you refer the matter to the Supreme Court, the Court has discretion to make appropriate costs orders.

This fact sheet is relevant if you hold an entitlement to compensation for an acquisition of land under the Land Acquisition Act 1969. It sets out the acquiring authorities approach to professional fees in the event of a negotiated settlement following an agreed or compulsory acquisition of land.

The information in this fact sheet should not be relied upon as legal advice.

Legal and Valuation Services and Fees

The acquiring authority will reimburse reasonable legal and valuation fees that you are charged. To obtain advice concerning your entitlement to compensation in respect of the acquisition of the property you should obtain independent advice from a certified valuer who is a member of the Australian Property Institute, subject to the terms set out in this fact sheet. You are entitled to obtain independent legal advice in relation to your compensation claim for the acquisition of the property. Additionally, you are encouraged to obtain valuation advice.



**Government
of South Australia**

Authorised by The Government of South Australia.

If you do instruct a legal representative or engage a valuer, please provide a copy of this fact sheet to them prior to their engagement.

You are strongly encouraged to contact your Acquisition Case Managers to discuss the proposed fees upfront. This will allow your Acquisition Case Managers to provide you with advice in regards to reasonable costs and prevailing industry rates. You should also provide the acquiring authority with contact details for your legal representative and/or valuer at your earliest convenience.

Legal

The acquiring authority will reimburse legal fees (including GST where relevant) that are:

1. reasonably incurred by you in relation to your claim for compensation arising from the acquisition of the property
2. charged at the Higher Court Scale Rates applicable as at the date on which the relevant services are provided.

Please be aware that legal fees do not include conveyancing fees. If legal fees are not agreed, they will be adjudicated by the Court.

Payment of legal fees is conditional upon presentation of a tax invoice and/or a bill of costs in taxable form that is acceptable to the acquiring authority. The acquiring authority will refer the assessment of legal costs to an external costing solicitor (at the acquiring authority's cost). Payment will be made, following the assessment, upon final settlement of your compensation claim in respect of the acquisition of the property (after deducting

any amounts paid to you under section 26B of the Land Acquisition Act 1969 (“the Act”) as discussed below).

It is your responsibility to manage the billing arrangements with your legal representative. Please be aware that your legal representative may charge you at rates higher than the Higher Court Scale. If this occurs, you will have to bear any difference between the amount payable to your legal representative and the amount reimbursed by the acquiring authority.

Valuation

The acquiring authority will reimburse valuation fees (including GST where relevant) that are:

1. reasonably incurred by you in relation to your claim for compensation arising from the acquisition of the property
2. charged at a rate that is prevailing in the valuation industry at the time that the valuation services are provided (inclusive of any disbursements).

If valuation fees are not agreed, they will be adjudicated by the Court.

Reasonable valuation fees will be reimbursed to you, or paid directly to your nominated valuer following assessment by the acquiring authority (after deducting any amounts paid under section 26B of the Act as discussed below). To enable the acquiring authority to assess the reasonableness of the fees, you must provide your valuer’s tax invoice and a copy of the valuation report in its entirety.

Your nominated valuer or valuation firm should be a member of the Australian Property Institute. It is recommended that you sight a copy of your valuer’s Certificate of Currency for Professional Indemnity Insurance.

Your nominated valuer or valuation firm is required to undertake any valuation in this matter in accordance with the Australian Property Institute’s Practice Standards and Guidance Notes, as well as the applicable Uniform Civil Rules.

Please be aware that the acquiring authority will only reimburse fees that are assessed as reasonable. Accordingly, you are responsible for payment of fees outside this scope. You are strongly encouraged to contact your Acquisition Case Managers to discuss your valuers proposed fee prior to engaging them. This will ensure that you are aware of the acquiring agency’s position in relation to reasonable costs.

Other Professional Services

Before you engage any other professional adviser and incur any fees, it is recommended that you contact your Acquisition Case Managers to ascertain the acquiring agency’s position on reimbursement or payment of those fees.

Reimbursement of Fees (Section 26B) – For owners of the land only

Subject to the terms set out above and in accordance with section 26B of the Act, prior to the formal resolution of your claim the acquiring authority may pay you an amount up to \$10,000 towards payment of your legal and/or valuation costs (and any other prescribed costs). The acquiring authority has discretion to make this payment and may seek evidence that you have or will incur such costs (e.g. tax invoices). Please note that this amount will be deducted from your final claim for such fees. Your allocated Acquisition Case Managers will discuss this provision with you further, as it relates to your own personal matter.



Please contact your Acquisition Case Managers for more information.