

**Steps for proceedings under the Employment Relations Act 2000****Step 1: Employment Relations Authority proceedings**

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Proceedings for personal grievances and disputes</b> Investigate and complete mediation	up to <b>6</b> hours	For <ul style="list-style-type: none"> <li>• Taking instructions, attending the client</li> <li>• Preparing application for legal aid</li> <li>• Identifying legal and factual issues</li> <li>• Preparation for mediation conference</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> <li>• Attending mediation conference</li> </ul>

**Documentation Requirements**

- Application for Civil Legal Aid (*LSA Form 5*) [s12 Legal Services Act 2000]
- Civil Legal Aid Amendment to Grant (*LSA Form 19*) [s24 Legal Services Act 2000]
- Civil Legal Aid Tax Invoice (*LSA Form 20*)

**Granting Notes****Personal grievances and disputes**

- Personal grievance and dispute proceedings include action involving:
  - unjustifiable dismissal
  - unjustifiable disadvantage
  - breach of terms of conditions of agreement
  - breach of good faith obligations and disputes about the interpretation, application or operation of an employment agreement.
- Grievances and disputes may include issues in relation to:
  - fixed term employment
  - redundancy
  - probationary employment
  - discrimination
  - contract law.

**Mediation**

- The applicant and/or provider must demonstrate that if the matter was not resolved at mediation there is a “real likelihood” that proceedings could occur in the Employment Relations Authority or the Employment Court.
- The need for a “real likelihood” refers to the need for it to be more likely that if the dispute were not resolved a proceeding could occur in either the Employment Relations Authority or the Employment Court rather than an alternative forum such as arbitration.
- A grant of legal aid for legal representation for employment mediation can only be considered when:
  - mediation has been directed in the course of proceedings before the Employment Relations Authority or the Employment Court only, and
  - not to provide legal aid would mean the applicant suffers substantial hardship.

**Steps for proceedings under the Employment Relations Act 2000****Step 2: Cases not resolved by mediation**

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<p><b>Cases not resolved by mediation</b></p> <p>Set down for investigation meeting in the Employment Relations Authority</p>	<p>up to <b>16</b> hours</p>	<p>For</p> <ul style="list-style-type: none"> <li>• Taking instructions, attending the client</li> <li>• Preparing application for legal aid</li> <li>• Identifying prospects of success</li> <li>• Identifying legal issues to be resolved by the Authority and all steps taken to bring proceedings to completion</li> <li>• Preparation for hearing: <ul style="list-style-type: none"> <li>– interviewing witnesses</li> <li>– undertaking research of issues</li> <li>– preparing briefs of evidence</li> </ul> </li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> <li>• Attending 1-day hearing</li> </ul>

**Documentation Requirements**

- Application for Civil Legal Aid (*LSA Form 5*) [s12 Legal Services Act 2000]
- Civil Legal Aid Amendment to Grant (*LSA Form 19*) [s24 Legal Services Act 2000]
- Civil Legal Aid Tax Invoice (*LSA Form 20*)

**Granting Notes**

- If more than 16 hours is requested for the activities listed in step 2, the file may be referred to a specialist adviser for a recommendation.
- The rate of 16 guideline hours includes an allowance for 7 hours hearing time. If the hearing is for less than a full day, hearing and preparation hours are to be reduced accordingly.

## Steps for proceedings under the Employment Relations Act 2000

### Step 3: Application for judicial hearing or matters originating in the Court

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>All matters</b> All matters by way of application for judicial hearing or matters originating in the Court	To be determined by LSA on the recommendation of a specialist adviser	For <ul style="list-style-type: none"> <li>• Taking instructions, attending the client</li> <li>• Preparing application for legal aid</li> <li>• Identifying                             <ul style="list-style-type: none"> <li>– the legal and factual issues to be resolved by the Court</li> <li>– facts in issue and evidence</li> <li>– estimate of the time required to bring the proceedings to completion</li> <li>– the prospects of success.</li> </ul> </li> <li>• Preparation for hearing</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
<b>Hearing</b>	<b>Actual hours</b>	For attending hearing before the Employment Court

### Documentation Requirements

- Civil Legal Aid Amendment to Grant (*LSA Form 19*) [s24 Legal Services Act 2000]
- Civil Legal Aid Tax Invoice (*LSA Form 20*)

### Granting Notes

- If challenging the determination of the Authority, application must be made in the prescribed manner within 28 days of the Authority's determination.
- The application must:
  - specify the determination, or part thereof, to which the election relates
  - state whether or not a full hearing of the entire matter is sought.
- If a hearing de novo is not sought by the party challenging the Authority's determination, the election must also specify:
  - error of law or fact alleged
  - question of law or fact to be resolved
  - grounds on which the election is made
  - the relief sought.

### Additional documentation

- Copy of the application to have the proceedings heard in the Court
- If a hearing de novo is sought, a copy of the Authority's decision in the matter
- If removal to the Court is requested:
  - certification by the provider as to the reasons for removal to the Court
  - copy of application to the Court for special leave to order a removal
- If removal of the matter to the Court for a hearing and determination is sought, an application to the Court for special leave to order a removal must be made.

**Preparation of casebooks**

Casebooks are prepared for Appeals. They hold the case law relevant to the current appeal.

The Agency pays for the preparation of case books as follows:

- The provider's time for researching the cases is covered by the guideline hourly rates as part of preparation
- As an office disbursement at the rate of \$75.00 per casebook

**Disbursements**

There is no provision for the waiver of Employment Relations Authority or Employment Court fees, including hearing fees. Therefore they are payable as a disbursement.