



**WESTERN  
AUSTRALIAN  
GOVERNMENT**  
**Gazette**

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041



PERTH, TUESDAY, 18 JUNE 2013 No. 92

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.30 PM

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LEGAL PROFESSION ACT 2008

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**LEGAL PRACTITIONERS  
(SOLICITORS COSTS) REPORT  
AND DETERMINATION 2013**

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**LEGAL PRACTITIONERS  
(NON-CONTENTIOUS PROBATE  
COSTS) REPORT AND  
DETERMINATION 2013**

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**LEGAL PRACTITIONERS  
(PUBLIC NOTARIES) REPORT  
AND DETERMINATION 2013**



**LEGAL PROFESSION ACT 2008****LEGAL PRACTITIONERS (SOLICITORS COSTS) REPORT 2013**

Made by the Legal Costs Committee under Division 5 of Part 10 of the *Legal Profession Act 2008* (the Act).

**PART 1—PRELIMINARY****Citation**

- (1) This Report may be cited as the Legal Practitioners (Solicitors Costs) Report 2013.
- (2) The determination set out in the Schedule to this Report is referred to in this Report as the Solicitors Costs Determination 2013.

**PART 2—NOTICE AND ENQUIRIES****Notice under section 278 of the Act**

- The Legal Costs Committee has complied with the notice provisions of section 278 of the Act.

**Enquiries and submissions under section 277 of the Act**

- Before making the *Solicitors Costs Determination 2013*, the Legal Costs Committee—
  - reviewed the submission of the Law Society of Western Australia Inc received as a result of the notice given under section 277 of the Act; and
  - reviewed the impact of movements in the Consumer Price Index and Labour Price Index for the period between 1 July 2011 to 31 March 2013 (inclusive) as being an appropriate period given the time elapsed between the commencement of the previous Review and the commencement of this Review.

**PART 3—REPORT OF COMMITTEE'S CONCLUSIONS****Maximum hourly rates changed—scale of costs amended**

- (1) As a result of its inquiries and the submission described in clause 3, the Legal Costs Committee is satisfied it is appropriate to continue to adopt hourly rates charged by practitioners as the basis for the rates used in the *Solicitors Costs Determination 2013*. It is also considered appropriate to retain a system of instruction fees as set out in items 1 to 5 of the Table to clause 6 of the *Solicitors Costs Determination 2013*.
- (2) It is the recommendation of the Legal Costs Committee, as a result of the inquiries and submissions described in clause 3, that the hourly rates referred to in subclause 4 (1) are varied from the hourly rates used in the *Solicitors Costs Determination 2011* published in the *Government Gazette* on 24 June 2011 pp 2539-2544. Those rates are set out in Item 7 of the Table to clause 6 of the *Solicitors Costs Determination 2013*.
- (3) The Committee has resolved that the base amounts in Item 5 of the Table to clause 6 should be increased by an amount of 5% or thereabouts to account for movements in the CPI Indices and to be divisible by 11 for GST purposes.
- (4) The Committee resolved that by virtue of the amendment to Item 604 in the *Solicitors Costs Determination*, previous Item 605 in the *Solicitors Costs Determination 2011* is no longer required.
- (5) The recommendations of the Legal Costs Committee are not intended to override the entitlement of a practitioner to make a written agreement as to costs with a client under the *Legal Profession Act 2008*.

TED SHARP, Chairman.  
ANGELA GAFFNEY, Member.  
CLARE THOMPSON, Member.  
MARCUS COCKER, Member.  
JANICE DUDLEY, Member.  
MATTHEW CURWOOD, Member.

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Schedule

**LEGAL PROFESSION ACT 2008****SOLICITORS COSTS DETERMINATION 2013**

Made by the Legal Costs Committee under section 275 of the *Legal Profession Act 2008* (the Act).

**Citation**

- This Determination may be cited as the *Solicitors Costs Determination 2013*.

**Commencement**

- This Determination comes into operation on 1 July 2013.

**The *Solicitors Costs Determination 2011***

- The determination cited as the *Solicitors Costs Determination 2011* published in the *Government Gazette* on 24 June 2011 pp 2539-2544 does not apply to business carried out by practitioners after the commencement of this Determination.

### Interpretation

#### 4. In this Determination—

- “**clause**” means a clause in this Determination;
- “**document**” includes a document in electronic form;
- “**instruction fee**” means the fee set out in the column headed “Amount” in the Table, in relation to the matter specified next to that fee in the Table;
- “**instructions**” in relation to items 1 to 5 includes the initial attendance when instructions are taken, and all subsequent attendances at which instructions are taken which ought properly to have been taken at the initial attendance;
- “**item**” means an item in the Table;
- “**mortgagee**” includes the grantee of a security and, in relation to a hire-purchase agreement, means the owner;
- “**mortgagor**” includes the grantor of a security and, in relation to a hire-purchase agreement, means the hirer;
- “**prepare**” includes considering searches, researching matters of law, negotiating, settling and drafting the provisions of and producing a document;
- “**security**” includes a mortgage, hire-purchase agreement, debenture or charge or a bill of sale or assignment by way of security, or any other form of security granted by a person;
- “**sheet**” means one side of a single A4 page, with no less than 25 lines of print with a minimum of a 10 point font;
- “**Table**” means the Table to this Determination.

### Application

- 5. (1) This Determination applies to the maximum remuneration of practitioners in respect of any work carried out by a practitioner not being of a contentious nature and which is not governed by any other determination of the Legal Costs Committee under section 275 of the *Legal Profession Act 2008*.
- (2) This Determination does not apply to the remuneration of practitioners based on a written agreement as to costs with a client under the *Legal Profession Act 2008*.
- (3) This Determination does not apply to the remuneration of practitioners based on costs incurred before the commencement of this Determination.

### Costs

- 6. Unless a practitioner has made a written agreement as to costs with a client under the provisions of the *Legal Profession Act 2008*, the costs payable by the client to the client's practitioner shall not exceed an amount that is reasonable in the circumstances, that amount to be calculated on the basis of—
  - (a) the instruction fees and other fees for specific items set out in items 1 to 6 of the Table; and
  - (b) the time reasonably taken to perform the work referred to in item 7, charged at an hourly rate that does not exceed the hourly rates set out in that item; or
  - (c) where clause 14 applies, the skill, urgency or complexity required to perform the work, together with the time reasonably taken to do so.

### Instruction fee when acting for both parties to a transaction

- 7. Subject to clauses 8 and 9, where a practitioner lawfully acts for both parties to a transaction, the practitioner is entitled to charge each party the relevant instruction fee relating to that transaction.

### Instruction fees for related transactions

- 8. (1) Subject to this clause, where a practitioner acts for either a buyer-mortgagor or for a seller-mortgagee, the practitioner may charge either the instruction fee fixed in relation to the sale or the instruction fee fixed in relation to the security, but not both.
- (2) Where a practitioner acts for a seller in circumstances to which item 5 applies, and the consideration or part thereof is secured by a security prepared by the same practitioner and executed by the buyer in favour of the seller, the practitioner shall be entitled to charge in respect of the sale the fee set out in item 5 reduced by 20%, and for instructions in respect of the security the instruction fee calculated in accordance with item 3 on the basis of the sum secured.
- (3) Where, in respect of one and the same transaction, a practitioner lawfully acts for both a buyer-mortgagor and a seller-mortgagee—
  - (a) if all the costs are to be paid by only one of the parties, the practitioner is entitled to charge the instruction fee in relation to the sale, calculated on the basis that the practitioner was acting for the buyer, but is not entitled to charge an instruction fee in relation to the security;
  - (b) if each party is to pay their own instruction fee, the practitioner is entitled to charge each party such an amount so that the aggregate of the amounts payable by each is no greater than the instruction fee in relation to the sale, calculated on the basis that the practitioner was acting for the buyer.
- (4) Where, in one and the same transaction, a practitioner lawfully acts for both the seller and the buyer or for both the mortgagor and the mortgagee, the practitioner is not entitled to charge in respect of the instructions any amount which is greater in the aggregate than the instruction fee in relation to the sale or the security, calculated on the basis that the practitioner was acting for the buyer or the mortgagor, as the case may be.

(5) Where a practitioner acts for the mortgagee on instructions to extend the term of the security, the practitioner is entitled to charge, for instructions, an amount not exceeding 40% of the instruction fee that would be payable in relation to an original security for the same amount as that secured by the security as extended.

#### **Instruction fees for leases**

9. (1) Where a practitioner lawfully acts for both the lessor and the lessee in respect of a lease or an extension of lease, the practitioner is entitled to charge for instructions only the instruction fee set out in item 4 in relation to a lessor.

(2) For the purposes of calculating the instructions fees set out in item 4—

- (a) where a term of a lease exceeds 12 years but does not exceed 26 years—the instruction fee shall be calculated on the basis of the rent payable during the first 12 years of the lease;
- (b) where the term of the lease exceeds 26 years—the instruction fee shall be calculated on the basis of the rent payable during the first 15 years of the lease,

and for this purpose the term “rent”—

- (c) includes any moneys payable as a premium for the granting of the lease;
- (d) does not include any moneys payable or reserved under or by the lease in respect of—
  - (i) rates and taxes whether by way of reimbursement of the lessor or otherwise; or
  - (ii) expenditure incurred by the lessor in the conduct or management of the lease and premises or of any other property of which the leased premises forms part.

#### **Limitations on instruction fee in item 3**

10. In relation to an instruction fee set out in item 3—

- (a) any amount secured by an existing collateral security prepared by the same practitioner within one year prior to the instructions shall be deducted from the amount to be secured before calculating the instruction fee; and
- (b) where the security is for an annuity and the term during which the annuity is to be paid is a period exceeding 12 years or for life—the instruction fee shall be calculated on the basis that the amount secured is 12 times either the annual payment or the average of the first 12 payments.

#### **Uncompleted business**

11. Where any business is not completed the instruction fee payable shall be such proportion of the relevant instruction fee payable under this Determination as is reasonable in the circumstances.

#### **Services related to item 5**

12. (1) The fees set out in item 5 are the remuneration payable in respect of acting on instructions for the completion by transfer of an executed contract for the sale of land registered under the *Transfer of Land Act 1893* and include the fees for all services usually performed in respect of the transaction and in particular—

- (a) the investigation of title;
- (b) enquiries of and advice to all rating and taxing authorities of change of ownership;
- (c) the adjustment of rates and taxes;
- (d) preparation, execution, stamping and the registration of the transfer; and
- (e) the arrangements for and attendances on settlement including the discharge of encumbrances,

but the remuneration does not include the fees for—

- (f) any service performed or rendered in respect of an amendment to the contract of sale;
- (g) the perusal of any document other than the contract of sale;
- (h) the preparation of any document other than the transfer;
- (i) requisitions on title or answers thereto;
- (j) correspondence or attendances as may be rendered necessary by the amendment to, or the preparation of, any document other than the transfer;
- (k) correspondence or attendances not usually involved in respect of completion of the contract of sale including interpretation of or enforcement of the contract of sale; or
- (l) any costs or expenses lawfully incurred due to the distance of the practitioner from the place of settlement or from an office of the Western Australian Land Information Authority.

(2) Where a practitioner acting on instructions to which item 5 applies is obliged to perform additional services which are not services to which item 5 applies, the practitioner is entitled to charge for those additional services at the rate set out in item 7.

**Preparing documents and copies for execution, photocopying, facsimile and electronic transmissions (item 6)**

13. The fees set out in items 601 and 602 are fees in addition to time taken to prepare documents (including amendments to drafts or standard documents) and—

- (a) In the case of item 601, the fee is intended to recognize the cost to, and time taken by, a practitioner in the preparation and maintenance of standard precedents—by way of example, a standard office lease, shop lease, assignment of lease, extension of lease and mortgage; and
- (b) in the case of item 602, the fee is intended to recognize the cost to, and time taken by, a practitioner in the preparation, availability and maintenance of a document which is not a standard precedent within item 601, and the skill, cost of preparation and maintenance of having such a document available.

**Complex matters, and matters involving a high degree of skill or urgency**

14. Where a practitioner acts on instructions or performs a service in respect of a matter—

- (a) in relation to which a fee or rate of remuneration is set out under items 1 to 6, that is complex, or involves a high degree of skill or urgency; or
- (b) that is not referred to in any of items 1 to 6,

then, notwithstanding the rates in item 7, the practitioner is entitled to charge a fee, or charge at a rate (as the case requires) that is greater than one that is set out in an item, if it is reasonable in the circumstances.

**Effect on costs of Goods and Services Tax (GST)**

15. The hourly rates and the calculation of fees under each of the items in the Table are intended to be inclusive of GST. If any amount calculated under items 1 to 4 is not divisible by 11, it should be rounded up to the next highest amount which is divisible by 11.

**Table**

**ITEM 1—INSTRUCTION TO ACT ON A SALE OR OTHER DISPOSITION FOR VALUABLE CONSIDERATION OF PROPERTY**

Ref	Party	Consideration (\$)	Maximum Amount (as a %)
101	Buyer	1—100,000	0.45%
		100,001—7,500,000	0.25%
		7,500,001 or more	0.03%
102	Seller	1—100,000	0.35%
		100,001—7,500,000	0.17%
		7,500,001 or more	0.02%

**ITEM 2—INSTRUCTIONS TO ACT ON A GIFT OF REAL OR PERSONAL PROPERTY OR BOTH WHERE VALUE ASCERTAINABLE**

Ref	Party	Value (\$)	Maximum Amount (as a %)
201	Donor	1—100,000	0.45%
		100,001—7,500,000	0.25%
		7,500,001 or more	0.03%
202	Donee	1—100,000	0.35%
		100,001—7,500,000	0.17%
		7,500,001 or more	0.02%

**ITEM 3—INSTRUCTIONS TO ACT ON SECURITY**

Ref	Party	Consideration (\$)	Maximum Amount (as a %)
301	Mortgagee	1—100,000	0.45%
		100,001—7,500,000	0.25%
		7,500,001 or more	0.03%
302	Mortgagor	1—100,000	0.23%
		100,001—7,500,000	0.13%
		7,500,001 or more	0.013%

**ITEM 4—INSTRUCTIONS TO ACT ON A LEASE, SUB-LEASE, ASSIGNMENT OF LEASE OR EXTENSION OF LEASE OF PROPERTY (REAL OR PERSONAL OR BOTH)**

Ref	Party	Consideration (\$)	Maximum Amount (as a %)
401	Lessor/Sub-Lessor	1—20,000	0.80%
		20,001 or more	0.40%
402	Lessee/Sub-Lessee	1—20,000	0.40%
		20,001 or more	0.20%
403	Assignor/Assignee	1-20,000	0.40%
		20,001 or more	0.20%

**ITEM 5—THE SETTLEMENT OF A CONTRACT FOR THE SALE OF LAND UNDER THE TRANSFER OF LAND ACT 1893**

Ref	Party	Consideration (\$)	Maximum Amount or %
501	Buyer*	1-150,000	\$ 935
		150,001—500,000	\$935 plus 0.22% of any amount in excess of \$150,000
		500,001—1,000,000	\$1705 plus 0.165% of any amount in excess of \$500,000
		1,000,001 or more	\$2530 plus 0.11% of any amount in excess of \$1,000,000
502	Seller*	1-150,000	\$638
		150,001—500,000	\$638 plus 0.143% of any amount in excess of \$150,000
		500,001—1,000,000	\$1138.50 plus 0.11% of any amount in excess of \$500,000
		1,000,001 or more	\$1688.50 plus 0.077% of any amount in excess of \$1,000,000

\*If the contract for sale is for a Strata Title, add \$55.00 if acting for the Seller, and \$110.00 if acting for the Buyer.

**ITEM 6 –PREPARE DOCUMENTS AND COPIES FOR EXECUTION AND COPYING**

Ref	Description of task	Maximum Amount
<b>Preparation of documents</b>		
601	Documents which could economically be a standard precedent	\$11.00 per sheet
602	Documents which could not economically be a standard precedent	\$44.00 per sheet
<b>All copies for execution and cost of binding</b>		
603	Each document for execution	\$5.50 per page
<b>Copying (other than item 603)</b>		
604	Copies where reasonably necessary, including of documents for which allowance is otherwise made in this Determination	\$0.165 per page

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**ITEM 7—ATTENDANCES AND PERFORMANCE OF WORK WHERE ITEMS 1–6 DO NOT APPLY, AND TRAVEL**

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Ref	Practitioner	Maximum Rate
701	Practitioner (admitted 5 years or more)	\$462 per hour
702	Practitioner (admitted less than 5 years)	\$330 per hour
703	Clerk/Paralegal	\$220 per hour

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Note: The reference to practitioner in this Determination includes all Australian legal practitioners even if the services were rendered in another State or Territory. Where a local legal practitioner has held an interstate practice certificate, the length of admission in that other jurisdiction is to be counted in assessing that practitioner's years of admission for the purposes of this Determination.

**Travel**

704 Travel is to be calculated in the same manner as items 701 to 703, with a maximum of 8 hours in any one day

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Made by the Legal Costs Committee on 15 May 2013.

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**LEGAL PROFESSION ACT 2008****LEGAL PRACTITIONERS (NON-CONTENTIOUS PROBATE COSTS) REPORT 2013**

Made by the Legal Costs Committee under Division 5 of Part 10 of the *Legal Profession Act 2008* (the Act)

**PART 1—PRELIMINARY****1. Citation**

- (a) This Report may be cited as the *Legal Practitioners (Non-Contentious Probate Costs) Report 2013*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Practitioners (Non-Contentious Probate Costs) Determination 2013*.

**PART 2—NOTICE AND ENQUIRIES****2. Notice under section 278 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 278 of the Act.

**3. Inquiries and submissions under section 277 of the Act**

Before making the *Legal Practitioners (Non-Contentious Probate Costs) Determination 2013*, the Legal Costs Committee—

- (a) reviewed submissions of the Law Society of Western Australia Inc received as a result of the notice given under section 278 of the Act; and
- (b) reviewed the impact of movements in the Consumer Price Index and Labour Price Index for the period between 1 July 2011 to 31 March 2013 (inclusive) as being an appropriate period given the time elapsed between the commencement of the previous Review and the commencement of this Review.

**PART 3—REPORT OF COMMITTEE'S CONCLUSIONS****4. Maximum hourly rates changed—scale of costs amended**

- (a) It is the recommendation of the Legal Costs Committee as a result of the inquiries and submissions described in clause 3 that the hourly rates referred to in paragraph (b) of clause 4 are varied from the hourly rates used in the *Legal Practitioners (Non-Contentious Probate Costs) Determination 2011* published in the *Government Gazette* on 24 June 2011 pp 2546-2547. Those rates are set out in paragraph (e) of clause 4 of the *Legal Practitioners (Non-Contentious Probate Costs) Determination 2013*.
- (b) The recommendations of the Legal Costs Committee are not intended to override the entitlement of a law practice to make a written agreement as to costs with a client under the *Legal Profession Act 2008*.
- (c) The Legal Costs Committee has concluded that its Determination does not apply to—
  - (1) those areas of business performed by law practices in connection with the administration and winding up of deceased persons' estates (including the gathering in and distribution of assets and satisfaction of liabilities) which can be properly chargeable under the provisions of the *Solicitors Costs Determination 2009* published in the *Government Gazette* on 30 September 2009 or any subsequent determination in substitution for, or by way of variation to the same; or
  - (2) any contentious work associated with a deceased estate which can be properly chargeable under the provisions of the *Legal Practitioners (Supreme Court) (Contentious Business) Determination 2010* published in the *Government Gazette* 29 June 2010 or any subsequent determination in substitution for, or by way of variation to the same; for example—
    - (A) an application to prove a Will in solemn form; or
    - (B) an application to prove an informal Will under Part X of the *Wills Act 1970*.

TED SHARP, Chairman.  
 ANGELA GAFFNEY, Member.  
 CLARE THOMPSON, Member.  
 MARCUS COCKER, Member.  
 JANICE DUDLEY, Member.  
 MATTHEW CURWOOD, Member.

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 Schedule
**LEGAL PROFESSION ACT 2008****LEGAL PRACTITIONERS (NON-CONTENTIOUS PROBATE COSTS) DETERMINATION 2013**

Made by the Legal Costs Committee under section 275 of the *Legal Profession Act 2008*.

**1. Citation**

This Determination may be cited as the *Legal Practitioners (Non-Contentious Probate Costs) Determination 2013*.

## 2. Commencement

This Determination comes into operation on 1 July 2013.

## 3. Application

- (a) This Determination applies to the remuneration of law practices in respect of—
- (1) Applications for Grants of Probate and Letters of Administration within Western Australia or reseals of Grants and Letters of Administration made outside Western Australia;
  - (2) Agency allowances where the law practice acting for the applicant for a Grant of Probate or Letters of Administration or to reseal a Grant does not carry on practice in the Perth metropolitan area and engages a law practice in Perth as agent in connection with the application; and
  - (3) Other instances which do not come under the above categories or are otherwise of a complex nature.
- (b) This Determination does not apply to the remuneration of law practices based on a written agreement with a client as to costs under the *Legal Profession Act 2008*.
- (c) This Determination does not apply to the remuneration of law practices based on costs incurred in respect of business carried out before the commencement of this Determination.
- (d) This Determination does not apply—
- (1) to those areas of business performed by law practices in connection with the administration and winding up of deceased persons' estates (including the gathering in and distribution of assets and satisfaction of liabilities) which can be properly chargeable under the provisions of the *Solicitors Costs Determination 2009* published in the *Government Gazette* on 30 September 2009 or any subsequent determination in substitution for, or by way of variation to the same; or
  - (2) any contentious work associated with a deceased estate which can be properly chargeable under the provisions of the *Legal Practitioners (Supreme Court) (Contentious Business) Determination 2010* published in the *Government Gazette* on 29 June 2010 or any subsequent determination in substitution for, or by way of variation to the same; for example—
    - (A) an application to prove a Will in solemn form; or
    - (B) an application to prove an informal Will under Part X of the *Wills Act 1970*.

## 4. Costs

Unless a law practice has made a written agreement as to costs with a client under the provisions of the *Legal Profession Act 2008*, the maximum costs payable by the client to the client's law practice shall be as follows—

- (a) in the case of an application for a Grant of Probate to the Supreme Court of Western Australia or to reseal a Grant of Probate made outside Western Australia within another Australian jurisdiction—\$1650 (inclusive of GST);
- (b) in the case of an Application for Letters of Administration with the Will annexed to the Supreme Court of Western Australia or to reseal Letters of Administration with the Will annexed made outside Western Australia within another Australian jurisdiction—\$2310 being the equivalent of 5 hours of a Senior Practitioner's time at the hourly rate described in sub-paragraph (e)(1) below);
- (c) in the case of an Application for Letters of Administration to the Supreme Court of Western Australia or to reseal Letters of Administration made outside Western Australia within another Australian jurisdiction—\$2772 being the equivalent of 6 hours of a Senior Practitioner's time at the hourly rate described in sub-paragraph (e)(1) below);
- (d) subject to paragraph (e) below, where the law practice for the applicant for a Grant or to reseal a Grant of Probate or Letters of Administration does not carry on practice in the Perth Metropolitan Area and engages a law practice in Perth as agent in connection with the application—\$924 being the equivalent of 2 hours of a Senior Practitioner's time at the hourly rate described in sub-paragraph (e)(1) below);

provided that in all of the above cases, where the application for a grant or reseal of a Grant requires more than a primary affidavit, then up to a further hour of a Senior Practitioner's time at the hourly rate described in paragraph (e)(1) below for each affidavit required (other than where the law practice has by its own act or omission caused the need for that additional affidavit); and

- (e) in all other cases (including Applications for resealing Grants of Probate and Letters of Administration made outside Western Australia and any other Australian jurisdiction), subject to the qualification in paragraph (b) of clause 4 of the *Legal Practitioners (Non-Contentious Probate Costs) Report 2013* and the proviso above, such amount as is reasonable in the circumstances calculated on the basis of the time reasonably taken to perform the work described in clause 3 above and charged at an hourly rate (inclusive of GST) which does not exceed the hourly rates set out below—

(1) **General Maximum rates**

Senior Practitioner (admitted 5 years or more)	\$462 per hour
Junior Practitioner (admitted less than 5 years)	\$330 per hour
Clerk/Paralegal	\$220 per hour

Note: The reference to Practitioner in this Determination includes all Australian legal practitioners even if the services were rendered in

another State or Territory. Where a local legal practitioner has held an interstate practising certificate, the length of admission in that other jurisdiction is to be counted in assessing that legal practitioner's years of admission for the purposes of this Determination.

(2) **Complex matters and matters involving a high degree of skill**

Where a law practice acts on instructions or performs a service in respect of a matter that is complex or involves a high degree of skill, the law practice is entitled to charge a fee or charge at a rate (as the case requires) that is reasonable in the circumstances.

**5. Effect on costs of Goods and Services Tax (GST)**

The hourly rates set out above are intended to be inclusive of GST.

Made by the Legal Costs Committee on 15 May 2013.

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**LEGAL PROFESSION ACT 2008****LEGAL PRACTITIONERS (PUBLIC NOTARIES) REPORT 2013**

Made by the Legal Costs Committee under Division 5 of Part 10 of the *Legal Profession Act 2008* (the Act).

**PART 1—PRELIMINARY****Citation**

1. (1) This Report may be cited as the *Legal Practitioners (Public Notaries) Report 2013*.
- (2) The determination set out in the Schedule to this Report is referred to in this Report as the *Legal Practitioners (Public Notaries) Determination 2013*.

**PART 2—NOTICE AND INQUIRIES****Notice under section 278 of the Act**

2. The Legal Costs Committee has complied with the notice provisions of section 278 of the Act.

**Inquiries and submissions under section 277 of the Act**

3. Before making the *Legal Practitioners (Public Notaries) Determination 2013* the Legal Costs Committee—
  - (a) reviewed all submissions received as a result of the notice given under section 277 of the Act;
  - (b) consulted with the Courts, Law Society of Western Australia, Western Australian Bar Association and the Public Notaries Society of Western Australia;
  - (c) considered the rates payable for similar work in other Australian jurisdictions; and
  - (d) has considered the hourly and daily rates applicable under the *Solicitors Costs Determination 2013* \*.

**PART 3—REPORT OF COMMITTEE'S CONCLUSIONS****Adjustment in fees**

4. The Legal Costs Committee, for the purposes of administration and accounting convenience, amends all fees in the Scale so that they are divisible by 11 (except photocopying charges).

**Scale of costs to be adopted**

5. (1) It is the recommendation of the Legal Costs Committee, after reviewing the information gained as a result of the inquiries and submissions described in clause 3, that the scale of costs set out in the Table to clause 4 of the *Legal Practitioners (Public Notaries) Determination 2013* be adopted for the business of Public Notaries.

(2) It is the further recommendation of the Committee given that the amendments to the scale of costs in the manner set out in the Table to clause 4 of the *Legal Practitioners (Public Notaries) Determination 2002* were inclusive of any provision for the Goods and Services Tax (GST), the scale of Public Notaries fees continues to be inclusive of GST.

\*[To be published in the *Government Gazette* on or about the same time as the *Legal Practitioners (Public Notaries) Determination 2013*]

TED SHARP, Chairman.  
ANGELA GAFFNEY, Member.  
CLARE THOMPSON, Member.  
MARCUS COCKER, Member.  
JANICE DUDLEY, Member.  
MATTHEW CURWOOD, Member.

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Schedule

**LEGAL PROFESSION ACT 2008****LEGAL PRACTITIONERS (PUBLIC NOTARIES) DETERMINATION 2013**

Made by the Legal Costs Committee under section 275 of the *Legal Profession Act 2008* (the Act).

**Citation**

1. This Determination may be cited as the *Legal Practitioners (Public Notaries) Determination 2013*.

**Commencement**

2. This Determination comes into operation on 1 July 2013.

**Application**

3. (1) This Determination applies to the remuneration of a Public Notary for the provision of notarial services.
- (2) This Determination does not apply to the remuneration of a Public Notary based on costs incurred in respect of instructions taken before the commencement of this Determination.

**Scale of costs**

4. The fee charged by a Public Notary for providing notarial services shall not exceed the fee for those services set out in the Table to this clause (inclusive of GST).

TABLE  
SCALE OF PUBLIC NOTARIES FEES

Item No	Matter	Maximum amount \$
1	<b><i>Affidavits, affirmations and declarations—</i></b>	
	(a) For administering an oath or affirmation or taking a declaration and for signing the jurat or its equivalent— where there is one deponent or declarant	121
	and for each additional deponent, affirmant or declarant swearing, affirming or declaring at the same time	66
	(b) For preparing an affidavit, affirmation or declaration verifying the execution of a document by a company or by a person	121
	(c) For preparing a notarial certificate in respect of an oath, affirmation or declaration and for completing the certificate	121
	(d) For completing a second and third certificate (if required)	66
2	(e) For preparing an exhibit to an affidavit, affirmation or declaration and for completing an exhibit	66
	<b><i>Deeds and other documents—</i></b>	
3	(a) Witnessing and attesting the execution or signing of a deed or other document— where there is one party	121
	and for each additional party signing at the same time	66
	(b) For preparing a notarial certificate in respect of the attestation and for completing the certificate	121
4	<b><i>Verification of copies of documents—</i></b>	
	(a) For examining, with the original, a photocopy of the document for each page exceeding one	66
	(b) For examining, with the original, a copy of a document other than a photocopy	6.60
	(c) For preparing a notarial certificate verifying a copy of a document and for completing the certificate	121
5	<b><i>Certificates under seal not otherwise prescribed by this scale—</i></b> For preparing a notarial certificate and for completing the certificate	121
6	<b><i>Bills of Exchange—</i></b>	
	(a) For noting a bill of exchange, entering in the register and supplying one copy of note	187
	(b) For presenting bill—a fee for the time so occupied calculated in accordance with the <i>Solicitors Costs Determination 2011*</i> or any subsequent determination made in substitution for that determination	
	(c) For preparing, issuing and entering a protest of a bill of exchange and supplying one copy of protest	187
	together with the reasonable disbursements necessarily incurred in connection with any of those services	
7	<b><i>Ship's protests—</i></b>	
	(a) Preparing and attesting a ship's protest including three copies (if required)	242
	(b) Preparing and attesting extension of ship's protest	242
8	<b><i>Duplicates—</i></b> Except where otherwise provided, for more than one copy of any of the above notarial documents completed at the same time— for each copy (after the first) up to ten - one half of the prescribed fee for each copy (after the tenth) - one quarter of the prescribed fee	

8	<p><b>Miscellaneous services—</b></p> <p>For instructions, attendances, correspondence, drawing, engrossing, travel and all other services not covered by this scale, or, if so covered, for matters involving unusual work or difficulty—</p> <p>a fee calculated in accordance with the <i>Solicitors Costs Determination 2011</i>* or any subsequent determination made in substitution for that determination, having regard to the time skill and responsibility involved</p> <p>For photocopies where necessary, including of documents for which allowance is otherwise made in this Determination</p>	1.00 per page
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*\*[Published in the Government Gazette 24 June 2011]*

Made by the Legal Costs Committee on 15 May 2013.

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