



Western Australia

Legal Profession Act 2008

**Legal Profession (Supreme Court) (Contentious
Business) Determination 2016**

Legal Profession (Supreme Court) (Contentious Business) Determination 2016

Contents

Part 1 — Preliminary		
1.	Citation	1
Part 2 — Notice and Inquiries		
2.	Notice under section 278 of the Act	2
3.	Inquiries and submissions under section 277 of the Act	2
Part 3 — Report of Legal Costs Committee's Conclusions		
4.	Maximum hourly and daily rates changed — scale of costs amended	3
Schedule		
1.	Citation	5
2.	Commencement	5
3.	Application	5
4.	Application of 0. 66, r. 11(3), r. 13, r. 18, r. 19, r. 20(3), r. 21 and r. 23 of the Rules of the Supreme Court	5
5.	Item 35 for negotiated motor vehicle personal injury claims	6
6.	Catastrophic personal injury claims	6
7.	Item 28 in the 2014 Determination deleted	6
8.	Amendments to items 10 and 11	7
9.	New item 34—Travel	7

Contents

10.	Introduction of new Restricted Practitioner category	9
11.	Maximum hourly and daily rates	10
12.	Costs	12
13.	Fixed amounts	13
	Notes	
	Compilation table	25

Western Australia

Legal Profession Act 2008

Legal Profession (Supreme Court) (Contentious Business) Determination 2016

Part 1 — Preliminary

1. Citation

- (a) This Report may be cited as the *Legal Profession (Supreme Court Appeals) (Contentious Business) Report 2016*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Supreme Court) (Contentious Business) Determination 2016*.

Part 2 — Notice and Inquiries

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 Profession (Supreme Court) (Contentious Business) Determination 2016*, the Legal Costs Committee —

- (a) reviewed all submissions received as a result of the notice given under section 278 of the Act including those made by The Law Society of Western Australia (Inc) and The Western Australian Bar Association (Inc);
- (b) considered the impact of changes in relevant Australian Bureau of Statistics data for the period; and
- (c) consulted with a range of people and organisations within the legal profession in respect to the impact of structural changes in the profession.

Part 3 — Report of Legal Costs Committee's Conclusions

- 4. Maximum hourly and daily rates changed — scale of costs amended**
- (a) The information gained as a result of the inquiries and submissions described in clause 3 satisfied the Legal Costs Committee that the manner in which legal services are provided made it appropriate to continue to adopt the hourly and daily rates charged by law practices as the basis for the rates used in the *Legal Profession (Supreme Court) (Contentious Business) Determination 2016*.
- (b) It is the recommendation of the Legal Costs Committee that —
- (1) as a result of the inquiries and submissions described in clause 3;
 - (2) having considered the impact of relevant Australian Bureau of Statistics data;
 - (3) having considered submissions and data from The Law Society of Western Australia and the Western Australian Bar Association; and
 - (4) taking into account the incidental administrative implications of the calculation of the Goods and Services Tax,

the hourly and daily rates referred to in subclause 4(a) be varied from the hourly and daily rates used in the *Legal Practitioners (Supreme Court) (Contentious Business) Determination 2014* as the basis for the recommended scale of costs which have been generally rounded up or down to represent increases of approximately 2%, inclusive of the Goods and Services Tax and for administrative convenience, are divisible by 11. Those rates are set out in Table A of the *Legal Profession (Supreme Court) (Contentious Business) Determination 2016*.

r. 4

- (c) It is the recommendation of the Legal Costs Committee, as a result of the inquiries and submissions described in clause 3, the scale of costs be varied in the manner set out in Table B of the *Legal Profession (Supreme Court) (Contentious Business) Determination 2016*.
- (d) It is the recommendation of the Legal Costs Committee, as a result of the consultations described in clause 3, that the new category of Restricted Practitioner should be introduced in the *Legal Profession (Supreme Court) (Contentious Business) Determination 2016*.
- (e) The recommendations of the Legal Costs Committee are not intended to override any entitlement of a law practice to make a written agreement as to costs with a client under the Act or any successor legislation.

Schedule

Legal Profession Act 2008

Legal Profession (Supreme Court) (Contentious Business) Determination 2016

1. Citation

This Determination may be cited as the *Legal Profession (Supreme Court) (Contentious Business) Determination 2016*.

2. Commencement

This Determination comes into operation on 1 July 2016.

3. Application

- (a) This Determination applies to the remuneration of legal practitioners, clerks and paralegals in respect of advice given by legal practitioners in respect of contentious business carried out by legal practitioners in or for the purposes of proceedings before—

- (1) the Supreme Court; and
- (2) the District Court other than contentious business to which the *Legal Profession (District Court Appeals) (Contentious Business) Determination 2016* applies.

- (b) This Determination does not apply to the remuneration of law practices based on a written agreement as to costs under the *Legal Profession Act 2008* or any successor legislation.

- (c) This Determination does not apply to the remuneration of law practices based on costs incurred before 1 July 2016.

4. Application of 0. 66, r. 11(3), r. 13, r. 18, r. 19, r. 20(3), r. 21 and r. 23 of the Rules of the Supreme Court

In the circumstances set out in Order 66, rules 11(3), 13, 18, 19, 20(3), 21 and 23 of the *Rules of the Supreme Court*, the Legal Costs Committee determines that the Court or the Taxing Officer, as the case may be, has the power to make the orders and allowances referred to in those rules.

5. Item 35 for negotiated motor vehicle personal injury claims

The introduction of item 35 was explained in the *Legal Profession (Supreme Court) (Contentious Business) Determination 2012* and *Legal Profession (Supreme Court) (Contentious Business) Determination 2014*. Whilst those paragraphs are not reproduced here, they continue to apply and express the Legal Costs Committee's views on the operation of item 35.

The allowance set out in item 35 is intended to apply to claims for personal injury under the *Motor Vehicle (Third Party Insurance) Act 1943* which follow a standard procedural pathway.

6. Catastrophic personal injury claims

The introduction of the items in the determinations relating to catastrophic personal injuries was explained in the *Legal Profession (Supreme Court) (Contentious Business) Determination 2012* and *Legal Profession (Supreme Court) (Contentious Business) Determination 2014*. Whilst those paragraphs are not reproduced here, they continue to apply and express the Legal Costs Committee's views on the operation of those items which relate to catastrophic personal injuries.

7. Item 28 in the 2014 Determination deleted

- (a) In making this Determination, the Legal Costs Committee has considered a submission that Item 28 of the *Legal Profession (Supreme Court) (Contentious Business) Determination 2014* ought to be amended to reflect the change in practice on seeking prerogative relief occasioned by the amendments to the Rules of the Supreme Court made in December 2013, including an amendment to reflect the title of Order 56, being Judicial Review.
- (b) The Legal Costs Committee has determined that the appropriate course is to incorporate applications made under Order 56 into item 11, with appropriate amendments, which applies to originating motions, originating summons and originating applications, and has consequently deleted item 28 of the *Legal Profession (Supreme Court) (Contentious Business) Determination 2014*.

8. Amendments to items 10 and 11

- (a) An allowance for Senior Counsel has been included in items 10 and 11 in this Determination in recognition of the increasing complexity of matters covered by those items of the Determination.
- (b) It is not intended that fees for both Senior Counsel and Counsel be recoverable unless the Court is of the opinion that it was reasonable to brief two counsel.
- (c) It is not intended that fees for Senior Counsel be recoverable unless the Court is of the opinion that it was reasonable to brief Senior Counsel.

9. New item 34—Travel

- (a) This Determination introduces a new item 34 which makes an allowance for travel.
- (b) It is the Committee's view that minor travel, which means incidental travel associated with attendance at court for a hearing where that travel is of a minor duration (minor travel) is properly included in the costs recoverable for the appearance for which it is associated, and notes paragraph 4.7.1.1 of the Supreme Court's Consolidated Practice Directions, which provides standard allowances for chambers appearances for amounts which include preparation and attendance at the hearing. Item 34 is intended to apply to travel necessary to undertake work other than minor travel. Examples of minor travel include, but are not limited to—
 - (1) a practitioner walking from their usual place of business to a court;
 - (2) a practitioner walking from a carpark to a court; or
 - (3) a practitioner walking or taking public transport from one centrally located court to another centrally located court.
- (c) Item 34, is intended to cover all travel other than minor travel including, but not limited to—
 - (1) travel by car or public transport within metropolitan Perth from a practitioner's usual place of business to a suburban court or a court in the City of Perth, for example, driving from Joondalup to the CBD, or taking the train to Armadale from the CBD;

cl. 9

- (2) travel by car or public transport from a practitioner's usual place of business to visit a client or witness or to undertake any meeting or view necessary for the purposes of the proceedings, regardless of where the destination is;
 - (3) travel by any means from outside the metropolitan area to Perth, for example, flying from Port Hedland; or
 - (4) travel by any means from Perth to outside the metropolitan area, for example, taking the train to Mandurah.
- (d) Items 34(a) and (b) provide for the circumstances where travel is recoverable as part of the party—party costs in a proceeding. Item 34(b) is intended to cover circumstances where the Court convenes at a location other than its usual location for those proceedings. Examples of the situations covered by item 34(b) include, but are not limited to—
- (1) travel required to attend at a court ordered mediation scheduled to take place in Geraldton when the proceedings are case managed by the Court in Perth;
 - (2) travel required to attend a site visit or view, with the Court in attendance;
 - (3) travel required to attend a court ordered examination of a witness prior to trial in Esperance, when the proceedings are case managed by the Court in Perth; or
 - (4) travel required to attend the trial of proceedings in Perth when the proceedings were case managed by the Court in Kalgoorlie.
- (e) Travel to attend a location which does not include the Court and the parties attending together at that location falls within item 34(c).
- (f) Travel to attend at a directions hearing or similar in a centrally located court, from a non-centrally located business address of the legal practitioner, other than that component which falls within the definition of minor travel, falls within item 34(c). Examples of this include, but are not limited to—
- (1) travel by car or public transport from Perth to Mandurah to attend any court hearing;
 - (2) travel by car or public transport from Joondalup to Fremantle to attend any court hearing; or

- (3) travel from interstate to Perth to attend any court hearing.
- (g) In making its decision in this Determination, the Legal Costs Committee has taken note of the Law Society of Western Australia's Standard Costs Agreement, which contains a provision that a law practice will charge travel at 50% of the agreed hourly rates.
- (h) The Legal Costs Committee has also considered an informal policy of the Legal Profession Complaints Committee that travel should not ordinarily be charged at a rate of more than 50% of a law practice's normal hourly charge-out rate.
- (i) Whilst the Legal Costs Committee recognises that during a travel period a law practice may not necessarily utilise legal skill and knowledge, there is a recognition of a loss of opportunity for the time spent travelling.
- (j) The Legal Costs Committee notes that, having regard to the above—
 - (1) it is the responsibility of a law practice to allocate the cost of time spent on travel fairly and reasonably where the travel is necessary to service more than one client on the day of travel; and
 - (2) whilst nothing contained in this Determination prevents a law practice from charging time spent on a client matter or client matters in the course of travel (air travel by way of example), the law practice is not entitled to charge a client or clients for both time spent on a client matter (regardless of whether that time relates to the client for whom the travel is being undertaken) and the amount allowed under item 34.

10. Introduction of new Restricted Practitioner category

- (a) This determination introduces the new category Restricted Practitioner. This category includes all Australian legal practitioners engaging in restricted legal practice pursuant to section 50 of the Act, during the period when that person is undertaking the "required experience", as defined in section 50 of the Act, and whilst an endorsement to that effect remains on their practising certificate.
- (b) A Restricted Practitioner is not intended to include an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or

cl. 11

otherwise, requiring them to practise under supervision for disciplinary, medical or other reasons.

- (c) The Legal Costs Committee consulted the profession regarding the necessity for amendments to the levels of practitioner set out in Table A, in light of the changing nature of legal practice in this State. In particular the Legal Costs Committee was conscious of the changes to admission requirements and pathways to admission, which have resulted in practitioners being admitted to practise without the close supervision of legal practice formerly afforded by articles of clerkship but with a longer period of restricted practice. The effect of this is that practitioners become senior practitioners with less experience than they previously have had, which has the effect of increasing the legal costs to consumers of their services.
- (d) It is the Legal Costs Committee's view, as expressed in this Determination, that the Determination should as far as possible reflect the regulated structure of the profession and thereby provide consumers of legal services with additional transparency as to the experience of the practitioner providing the legal services.
- (e) So as not to adversely affect clients of legal services provided by those practitioners who would, but for this change, have been Junior Practitioners or Senior Practitioners, transitional arrangements apply so that—
 - (1) practitioners admitted after 1 July 2014, but before 1 July 2016, are entitled to recover their legal costs as if they were Junior Practitioners until 30 June 2018, or the date on which they would, but for this clause, become Junior Practitioners under this Determination; and
 - (2) practitioners admitted after 1 July 2011, but before 1 July 2014, are entitled to recover their legal costs as if they were either Junior Practitioners or Senior Practitioners, whichever category would have applied but for this change, until 30 June 2018, or the date on which they would, but for this clause, become Senior Practitioners under this Determination.

11. Maximum hourly and daily rates

- (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the dollar amounts in the scale of

costs set out in Table B. Each item in the scale of costs specifies a dollar amount with reference to the practitioner.

- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 4 of the *Legal Profession (Supreme Court) (Contentious Business) Report 2016*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing or trial day, whether in or out of court, including preparation of written submissions and are not intended to be supplemented in any way by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.
- (d) The items in Table B are not intended to be calculated on the basis of a minimum 6 minute unit.

Table A

Fee Earner	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ^o	
hourly rate	\$484
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ^o	
hourly rate	\$341
Restricted Practitioner (RP) ^o , #	
hourly rate	\$297
Clerk/Paralegal (C/PL) ##	
hourly rate	\$231
Counsel fees charged as a disbursement to practitioners or charged by in house Counsel:	
Counsel (C)*	
hourly rate	\$396
daily rate	\$3,960
Senior Counsel (SC)**	
hourly rate	\$682

cl. 12

Fee Earner	Maximum allowable hourly and daily rates
daily rate	\$6,820
◦	The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.
#	The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in section 50 of the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical or other reasons.
##	The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
*	The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel.
**	The reference to Senior Counsel in this Determination means a person within the meaning of item 11 or item 12 of Regulation 5(2) of the <i>Legal Profession Regulations 2009 (WA)</i> .

12. Costs

- (a) Subject to the provisions of the Act permitting a law practice to make a written agreement as to costs with a client, the costs of or in relation to a party to an action or other proceeding (inclusive of GST and counsel fees, but exclusive of other disbursements)—
- (1) recoverable by one party from another party; or
 - (2) payable by a party to that party's own law practice,
- shall not exceed the amounts set out in Table B (except as otherwise provided in item 32 of Table B).

- (b) Allowances made under item 32 of Table B are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and not between party and party, unless the Court otherwise orders.
- (c) Allowances made under item 34(b) of Table B are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and not between party and party, unless the Court otherwise orders.

13. Fixed amounts

Based upon the Legal Costs Committee's enquiries it has determined that items 1(b), 3(a), 7(a), 14, 23(a), 25(b), 28(a) and 35 in Table B should be fixed amounts.

Table B

Supreme Court Scale of Costs 2016

Item		Time	Fee earner	\$
1.	Writ—			
	(a) Writ of summons, whether specially or generally endorsed, including instructions, but excluding Statement of Claim	1.5 hours	SP	726
	(b) For each additional defendant	10 hours	SP	77 4,840
	(c) Statement of Claim			
2.	Next friend or guardian <i>ad litem</i>	3 hours	RP	1,023
3.	Defence—			
	(a) Memorandum of appearance	10 hours	SP	99 4,840
	(b) Defence	10 hours	SP	4,840
	(c) Counterclaim			
4.	Reply and other pleadings— Reply (if necessary), defence to counterclaim, or any other pleading	10 hours	SP	4,840
5.	(a) Third party notice	2 hours	SP	968
	(b) Pleadings in third party proceedings	6 hours	SP	2,904

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016**

Schedule

cl.

Item		Time	Fee earner	\$
6.	(a) Requesting particulars of a pleading (where and to the extent necessary)	3 hours	JP	1,023
	(b) Giving particulars of a pleading	5 hours	JP	1,705
7.	Discovery—			
	(a) Notice requiring discovery	10 hours	SP	66
(b) Giving discovery of documents	4,840			
8.	Inspection— Inspection and giving inspection of discovered documents whether by personal attendance or otherwise	per hour	SP	484
9.	Interrogatories—			
	(a) Delivery of interrogatories	5 hours	SP	2,420
	(b) Answers to interrogatories	10 hours	SP	4,840
10.	Chambers—			
	(a) Proceedings in Chambers other than proceedings to which item 11 applies	2 days preparation, 1 day hearing; per hour	SC C	20,460 11,880
	(b) Attending on a reserved judgment in Chambers (including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders)			484
	(c) Consent Orders including conferral but excluding extraction	1.5 hours		506

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016
Schedule**

cl.

Item		Time	Fee earner	\$
11.	Motions and originating process— (a) Originating motion, originating summons or originating application and applications for Judicial Review under Order 56 (1) if senior counsel is briefed without second counsel (2) if senior counsel is briefed with second counsel (3) if counsel alone is briefed (b) For 2nd and each successive day of hearing (c) Attendance at hearing by instructing legal practitioner (d) Attendance at directions hearings, strategic conferences, status conferences or other case management hearings where required by order of the Court, by the <i>Rules of the Supreme Court</i> or by practice direction Note: an allowance under item 11(a)(2) should only be made where in the opinion of the Court it was reasonable to brief two counsel.	2 days preparation; 1 day hearing and preparation of case—50 hours per hour per hour	SC C SP SC C SP	44,660 6,820 3,960
12.	Proceedings in Court not otherwise provided for, including appeals from a Registrar	2 days preparation; ½ day hearing	C	9,900
13.	Listing Conference— Attending at a Listing Conference (convened pursuant to Order 29 Rule 8 of the <i>Rules of the Supreme Court</i> or Rule 43 of the District Court Rules) and all necessary preparation	per hour	SP	

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016**

Schedule

cl.

Item		Time	Fee earner	\$
14.	Entry of judgment without trial			231
15.	Offers of compromise, notices, practice directions, etc—			
	(a) Payment into or out of Court	2 hours 4 hours	JP SP	682 1,936
	(b) Offer of compromise under O.24A			66
	(c) Acknowledgment of offer under O.24A	4 hours	SP	1,936
	(d) Acceptance of offer of compromise under O.24A	2 hours	SP	968
	(e) Notice of offer to consent to judgment			77
	(f) Other notices and certificates referred to or required by the Rules or procedures of the court (including practice directions)			
16.	Entry for trial/Entry for hearing—			
	(a) Advising on, and preparing, documents required to be filed by the <i>Rules of the Supreme Court</i> or the Rules of the District Court	2 hours	SP	968
	(b) Preparation of Schedules (if any) required by District Court Rules 45C and 45D	8 hours	SP	3,872
	(c) Advice on evidence Note: In relation to particulars of damages under District Court Rule 45C, if the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner in preparation of case for trial, shall not be limited to 8 hours but shall be an amount which is reasonable in the circumstances.	per hour	C/SC	

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016
Schedule**

cl.

Item		Time	Fee earner	\$
17.	Preparation of case— Preparation of case for trial (includes work reasonably and necessarily undertaken prior to commencement of proceedings) Note: If the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner in preparation of case for trial shall not be limited to 120 hours but shall be an amount which is reasonable in the circumstances.	120 hours	SP	58,080
18.	Examination of witness before trial, pursuant to order			An allowance in accordance with item 20(c) or (d)
19.	Application for and striking jury	1 hour	JP	341

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016**

Schedule

cl.

Item		Time	Fee earner	\$
20.	<p>Trial— Counsel fees</p> <p>(a) Fee on brief, i.e. first day of trial and preparation (including submissions)</p> <p>(b) Fee on brief for Senior Counsel, i.e. first day of trial and preparation (including submissions)</p> <p>(c) Counsel fee for the second and each successive day of hearing</p> <p>(d) Counsel fee for Senior Counsel for second and each successive day of hearing</p> <p>(e) Instructing legal practitioner attending trial</p> <p>(f) Clerk or Restricted Practitioner attending trial</p> <p>(g) Preparation of written closing submissions—</p> <p>(1) when ordered by the trial judge;</p> <p>(2) for filing and service prior to an adjourned date for oral addresses, or in substitution of oral addresses; and</p> <p>(3) which could not reasonably have been undertaken during the course of the trial</p> <p>(h) Attending on reserved judgment (including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders)</p> <p>(i) for each five hearing days after the first five, additional fee on brief</p> <p>Note: If the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by Counsel or</p>	<p>3.5 days preparation; 1st day of trial</p> <p>3.5 days preparation; 1st day of trial</p> <p></p> <p>per hour</p> <p>per hour</p> <p></p> <p>per hour</p> <p>1 day</p>	<p>C</p> <p>SC</p> <p>C</p> <p>SC</p> <p>SP</p> <p>C/PL RP</p> <p>SC/C</p> <p>SP</p> <p>SC/C</p>	<p>17,820</p> <p>30,690</p> <p>3,960</p> <p>6,820</p> <p></p> <p></p> <p>An amount which is reasonable in the circumstances</p>
page 18	<p>Senior Counsel in preparation of a case for trial shall be an amount which is reasonable in the circumstances.</p>	<p>Version 00-b0-02 Published on www.legislation.wa.gov.au</p>		<p>As at 23 Aug 2016</p>

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016
Schedule**

cl.

Item		Time	Fee earner	\$
21.	Re-trial or Re-hearing (a) Preparation of case for re-trial or re-hearing (b) Re-trial or re-hearing			An amount which is reasonable in the circumstances
22.	(a) Special case, case stated (otherwise than by way of appeal) or trial of an issue (b) For the second and each successive day of the trial or hearing			An amount which is reasonable in the circumstances

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016**

Schedule

cl.

Item		Time	Fee earner	\$
23.	<p>Appeals to the Court of Appeal and Single Judge appeals (including appeals by way of case stated) and applications for leave to appeal</p> <p>(a) Appeal Notice, Service Certificate, Notice of Respondent's Intention</p> <p>(b) Appellant's Case, Respondent's Answer including relevant forms and all annexures</p> <p>(c) Appellant's Reply to Notice of Contention, when required</p> <p>(d) Settling appeal book indexes (including drafting and settling appeal book index)</p> <p>(e) An application in an appeal, an interlocutory or directions hearing before a single Judge or Registrar</p> <p>(f) Preparation of case appeal for hearing</p> <p>(g) Counsel fee on hearing (including preparation)</p> <p>(h) Counsel fee for Senior Counsel (including preparation)</p> <p>(i) Counsel fee for the second and each successive day of hearing</p> <p>(j) Counsel fee for Senior Counsel for the second and each successive day of hearing</p> <p>(k) Instructing legal practitioner attending appeal</p> <p>(l) Attending on reserved decision (including preparation, consideration of reasons for decision and all necessary work and</p>	<p>40 hours</p> <p>10 hours</p> <p>8 hours</p> <p>10 hours</p> <p>10 hours</p> <p>2 days preparation; 1 day hearing</p> <p>2 days preparation; 1 day hearing</p> <p>per hour</p> <p>per hour</p>	<p>SC</p> <p>SC</p> <p>SP</p> <p>C</p> <p>SP</p> <p>C</p> <p>SC</p> <p>C</p> <p>SC</p> <p>JP/SP</p> <p>SP</p>	<p>484</p> <p>27,280</p> <p>6,820</p> <p>3,872</p> <p>3,960</p> <p>4,840</p> <p>11,880</p> <p>20,460</p> <p>3,960</p> <p>6,820</p>
page 20	attendants to obtain Version 00-b0-02 orders) Published on www.legislation.wa.gov.au			As at 23 Aug 2016

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016
Schedule**

cl.

Item		Time	Fee earner	\$
24.	<p>Pretrial, mediation, conferrals, or other conferences</p> <p>(a) Where required by order of the Court, by the <i>Rules of the Supreme Court</i> or by practice direction</p> <p>(b) including informal conferences where reasonably held before or after commencement of proceedings</p> <p>(c) attendances by Counsel and instructing legal practitioners at the conferrals and conferences set out in paragraphs (a) and (b) of this item</p> <p>(d) preparation reasonably undertaken for the conferrals and conferences described in paragraphs (a), (b) and (c) of this item</p> <p>(e) conferences between Counsel and own instructing legal practitioner where reasonably necessary</p>	<p>per hour</p> <p>per hour</p> <p>per hour</p> <p>per hour</p> <p>per hour</p>	<p>SP/SC/C</p> <p>SP/SC/C</p> <p>SP/SC/C</p> <p>C</p> <p>SP/SC/C</p>	
25.	<p>Orders— Settling and extracting judgment or order</p> <p>(a) With appointment</p> <p>(b) Without appointment</p>	<p>2 hours</p>	<p>RP</p>	<p>594</p> <p>297</p>
26.	Arbitration proceedings where costs are to be assessed under section 33B(5) of the <i>Commercial Arbitration Act 2012 (WA)</i>			The same costs as in an action
27.	Proceedings, whether by action or otherwise, for the recovery of compensation for the taking or resumption of land or any other property by the Crown in right of the State or of the Commonwealth or by any other person, body or instrumentality pursuant to any statutory power			An amount which is reasonable in the circumstances

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016**

Schedule

cl.

Item		Time	Fee earner	\$
28.	(a) Execution (b) If against land, an additional	3 hours	RP	341 891
29.	Taxing including drawing— (a) Drawing bill of costs and service; and (b) Taxation of costs (including the time spent in preparing for the taxation)		SP	An amount which is reasonable in the circumstances
30.	Copying— Copies where reasonably necessary, including of documents for which allowance is otherwise made in this Determination. This item covers all forms of electronic reproduction and copying.	per page		0.165
31.	Accounts and inquiries— Taking accounts, inquiries		SP	An amount which is reasonable in the circumstances
32.	Other work— (a) Time reasonably spent by a legal practitioner on work requiring the skill of a legal practitioner (of the standing indicated) but not covered by any other item; or (b) Time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, on work not covered by any other item or by paragraph (a) Note: Allowances under item 32 are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and <i>not</i> between party and party unless the Court otherwise orders.	per hour per hour	SC SP C JP RP C/PL	

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016
Schedule**

cl.

Item	Time	Fee earner	\$
33.	<p>Disbursements— In addition to the fees and charges allowed under this Determination—</p> <p>(a) As between a law practice and client, a law practice may charge and be allowed disbursements necessarily or reasonably incurred; and</p> <p>(b) As between party and party, a party may be allowed disbursements incurred by that party except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, that party is fully reimbursed for its disbursements.</p>		
34.	<p>Travel—</p> <p>(a) As between party and party, minor travel as defined in this Determination, is to be allowed as part of the costs awarded for an attendance at chambers or court within the existing item, without further order.</p> <p>(b) As between party and party, time spent travelling by a law practice which is not minor travel and which is required by reason of an order of the Court requiring the parties to attend at a location other than the location at which the proceedings is case managed, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day, without further order.</p> <p>(c) As between a law practice and its own client, time spent travelling by a law practice, other than minor travel, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day.</p> <p>Note: Allowances under item 34(c) are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and <i>not</i> between party and party unless the Court otherwise orders.</p>		

**Legal Profession (Supreme Court) (Contentious Business) Determination
2016**

Schedule

cl.

Item		Time	Fee earner	\$
35.	<p>Claims under the <i>Motor Vehicle (Third Party Insurance) Act 1943 (WA)</i> including—</p> <ul style="list-style-type: none"> (a) Writ of Summons; (b) Statement of Claim; (c) Giving discovery (whether formally or informally); (d) Inspection and giving inspection of discovered documents; (e) Preparation of Entry for Trial, Papers, including Schedules of Damages; (f) Applications for Subpoena to produce documents prior to pre-trial conference; (g) Preparation for and attendance at pre-trial conference or, if appropriate, pre-trial conferences; and (h) Copying. <p>If Counsel is engaged for and attends pre-trial conference, an additional</p>		C	<p>16,401</p> <p>3,960</p>

[Schedule correction: Gazette 23 Aug 2016 p. 3605.]

Notes

- ¹ This is a compilation of the *Legal Profession (Supreme Court) (Contentious Business) Determination 2016*. The following table contains information about that determination.

Compilation table

Citation	Gazettal	Commencement
<i>Legal Profession (Supreme Court) (Contentious Business) Determination 2016</i>	24 Jun 2016 p. 2481-91 (Correction in Gazette 23 Aug 2016 p. 3605)	1 Jul 2016 (see cl. 2)