



Western Australia

Legal Practitioners Act 1893

**Legal Practitioners (District Court Appeals)
(Contentious Business) Determination 2002**

Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2002

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Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2002

Part 1 — Preliminary

1. Citation

- (1) This report may be cited as the *Legal Practitioners (District Court Appeals) (Contentious Business) Report 2002*.
- (2) The determination set out in the Schedule to this report is referred to in this report as the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2002*.

Part 2 — Notice and Inquiries

2. Notice under section 58Y of the Act

The Legal Costs Committee has complied with the notice provisions of section 58Y of the Act.

3. Inquiries and submissions under section 58Y of the Act

Before making the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2002*, the Legal Costs Committee —

- (a) reviewed all submissions received as a result of the notice given under section 58Y of the Act;
- (b) conducted oral hearings with interested parties;
- (c) reviewed the operation of the time based system of calculating costs; and
- (d) reviewed the impact of movements in the Consumer Price Index for the financial years ending June 1997 to June 2001 (inclusive).

4.

In addition to the matters described in clause 3, the Committee resolved to circulate a Questionnaire amongst a number of legal firms known to actively practice in the Supreme Court and the District Court jurisdictions as well as members of the Independent Bars.

This was considered appropriate as some 5 years had elapsed since the previous survey on which results, the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 1996* (Gazette 20 December 1996 pp 7079 and 7080) was largely based.

The Committee noted that since the 1996 Determination and up to 30 June 2001, the Wage Increase Component of the movements in the Consumer Price Index have increased by 7.4%.

The Committee considered the impact of the Goods and Services Tax on the level of fees charged by Practitioners to be relevant.

The Committee resolved that whilst various percentage increased in costs could be attributable to the GST, it would adopt 8.5% as a reasonable percentage increase which could be said to apply to most legal practices.

As well, the Committee noted that the fees set by the Committee in the 1996 Determination (*Gazette* 20 December 1996 pp 7079 and 7080) have not been increased.

Part 3 — Report of Committee's Conclusions

5. Scale of costs

- (1) As a result of the information gained from the inquiries and submissions described in clause 3 and 4 it is the recommendation of the Legal Costs Committee that the scale of costs as set out in the Table to clause 3 of the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2002* be adopted for appeals in the District Court which have been generally rounded up or down to represent an increase of 16%.
- (2) It is the further recommendation of the Committee that given the amendments to the scale of costs in the manner set out in the Table to clause 3 of the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2002* are inclusive of any provision for the Goods and Services Tax, that from and including the date of that determination coming into operation the *Legal Practitioners (Effect on Costs of a New Tax System) Goods and Services Tax) Determination 2000* as published in the *Gazette* on 15 September 2000 p 5411 will no longer apply to the Legal Practitioners (District Court Appeals) (Contentious Business) Scale of Costs from that date.
- (3) The recommendation of the Legal Costs Committee is not intended to override the entitlement of a solicitor to make a written agreement as to costs with a client under the *Legal Practitioners Act 1893*.

Schedule

Legal Practitioners Act 1893

*Legal Practitioners District Court Appeals (Contentious Business)
Determination 2000*

Made by the Legal Costs Committee under section 58W of the Act.

1. Citation

This determination may be cited as the *Legal Practitioners District Court Appeals (Contentious Business) Determination 2002*.

2. Commencement

This determination comes into operation on 1 June 2002.

3. Scale of costs

Subject to the provisions of the Legal Practitioners Act 1893 permitting a solicitor to make a written agreement as to costs with a client, the costs of or in relation to a party to an appeal to the District Court (inclusive of counsel fees but exclusive of other disbursements) —

- (a) recoverable by one party from another party; or
- (b) payable by a party to that party's own solicitor,

shall not exceed the amount set out in the Table to this clause.

TABLE

DISTRICT COURT APPEALS SCALE OF COSTS

Item	Description	Amount \$	+16%
1.	Notice of appeal	500	580
2.	Proceedings in Chambers	1000	1160
3.	Getting up appeal for hearing	1000	1160
4.	Counsel fee on hearing including preparation (see Notes 1 and 2)	3500	4060
5.	Counsel fee for second and each successive day of hearing (see Notes 1 and 2)	1500	1740
6.	Attending on reserved decision	200	232
7.	Settling and extracting order disposing of appeal		

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Schedule

Item	Description	Amount \$	+16%
	(a) with appointment	200	232
	(b) without appointment	100	116
8.	Drawing bills of costs, copies and service	300	348
9.	Attending taxation—per hour	175	203
10.	Disbursements In addition to the fees and charges allowed under this determination— (a) as between practitioner and client, a practitioner may charge and be allowed disbursements necessarily or reasonably incurred; and (b) as between party and party, a party may be allowed disbursements necessarily or reasonably incurred.		

Note 1 The Judge may in a proper case certify for second counsel.

In cases for which two counsel are certified the allowance for Senior Counsel is the amount shown increased by 50%.

Note 2 The reference to a Senior Counsel in this determination includes reference to Queens Counsel or Senior Counsel appointed in any State or Territory in Australia and whose appointment is afforded recognition by the Chief Justice of the Supreme Court of Western Australia.

Notes

- ¹ This is a compilation of *Legal Practitioners (District Court Appeals) (Contentious Business) Report 2002* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Citation	Gazettal	Commencement
<i>Legal Practitioners (District Court Appeals) (Contentious Business) Report 2002</i>	10 May 2002 p. 2446-8	1 Jun 2002