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LEGAL PRACTITIONERS ACT 1893

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**LEGAL COSTS COMMITTEE  
DETERMINATION**

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LEGAL COSTS COMMITTEE  
DETERMINATION

The committee last made a determination with respect to legal practitioner's fees on 6 October 1989. The Committee, as is required by the *Legal Practitioners Act 1893*, advertised its intention to make a determination with respect to the fees charged by legal practitioners for non-contentious business and for contentious business for the following jurisdictions—

- Supreme Court of Western Australia
- District Court of Western Australia
- Workers' Compensation and Assistance Board of WA
- Local Court of Western Australia
- The Court of Petty Sessions in Western Australia

in two issues of the *West Australian*, namely 3 and 7 November 1990. The Law Society of Western Australia Inc (the "Law Society") was notified. In all nine submissions were received and considered by the Committee.

The Committee met with the Principal Registrar of the Supreme Court of Western Australia. The Principal Registrar and the Deputy Registrars are responsible for the taxing (fixing) of—

- party and party costs in the Supreme Court where the parties are unable to agree the costs payable at the conclusion of litigation, and
- solicitor/client costs in all jurisdictions where a dispute exists as to the amount of those costs.

The Law Society has urged the Committee, as well as giving a general percentage increase to the scales, to review a number of specific items in the Supreme Court scale. This the Committee has done.

In the course of its deliberations the Committee has taken into account that it has no power to influence the fees a solicitor charges a client (solicitor/client costs) where the solicitor and the client enter into a written agreement as to the fees to be charged. These agreements are governed by Section 59 of the *Legal Practitioners Act 1893* and fall outside the Committee's jurisdiction. The information before the Committee all confirms the view that costs charged pursuant to costs agreements exceed the costs allowed under the scales. That being the case any increase determined by the Committee will have little, if any, impact on fees charged by solicitors to their clients.

For the purposes of this determination it is sufficient to state that the Committee is of the view that the public interest is not served by there being too great a disparity between solicitor/client costs and what the Committee considers to be reasonable party and party costs. The submissions received from individuals and organisations strongly supported the maintenance of the principle that a successful litigant should recoup a significant proportion of the reasonable costs of conducting litigation. As a result, and based on the information available to the Committee, the Committee is satisfied that a number of specific items nominated in the Supreme Court Scale should be the subject of increases over and above any general per cent increase. Subject to the Court, under Order 63 Rule 12(1) making a special order for costs (for example, for complexity) the Supreme Court Costs scale should as far as possible represent the highest and lowest amounts which would ordinarily be charged in the course of general litigation. The Committee also considers and hereby determines that the limits formerly contained in Order 66 Rule 16 and adopted in the 15th July 1988 determination should not apply to proceedings commenced on or after 1st April 1991.

The Committee notes that as from 1 January 1991 the Federal Court Cost Scales were increased by 13.56 per cent. That increase covered an 18 month period. A similar period has elapsed in Western Australia between the Committee's last determination and this determination. The Federal Court increase resulted from an examination by the Federal Costs Advisory Committee on an Australia wide basis of—

Salaries and wages in legal practitioners' offices

Other overheads incurred by legal practitioners

Partner salaries and profit share.

Having regard to what has been said above, in the Committee's view, the most appropriate measure to apply in Western Australia is the 13.56 per cent increase. The Committee's current determination takes into account all relevant factors up until 1 April 1991.

The Committee is also of the view that in accordance with changing requirements of the Court a new item for pretrial and/or mediation conferences applicable to the Supreme, District and Local Courts should be inserted.

The Committee felt that as this is the third increase in scale fees since 1986 that items should be rounded off where this was appropriate.

The Committee is conscious that a number of anomalies may exist in the republished scales. The Committee will in future address each scale separately.

As to the Workers' Compensation Costs Scale, the Committee is aware of an appeal pending before the Full Court of the Supreme Court as to whether a practitioner can enter into an agreement with a client under Section 59 of the *Legal Practitioners Act* for costs in a workers' compensation case. Pending the judgement of the court the determination with respect to workers' compensation costs scale is therefore silent on whether practitioners can enter into agreements for costs under Section 59 of the *Legal Practitioners Act*.

For the assistance of the public, practitioners and the courts, the scales have been republished in full.

In accordance with Section 58W of the *Legal Practitioners Act 1893*, the Committee hereby makes this determination which applies from 1 April 1991, to the following scales which are published at the same time as, and form part of this determination—

Supreme Court Costs Scale 1991

Non-Contentious Probate Costs Scale 1991

Solicitors Remuneration Order 1991

Local Court Costs Scale 1991

Costs Scale 1991 under the *Official Prosecutions (Defendants Costs) Act 1973*

Dated 28 March 1991.

GRAHAM McDONALD, Chairman.

JOHN SYMINTON, Member.

RON BARRETT, Member.

MICHAEL MEGAW, Member.

CLIVE BROWN, Member.

CHRIS PULLIN QC, Member.

## SUPREME COURT COSTS SCALE 1991

1. This costs scale constitutes a determination of the Legal Costs Committee under Section 58W of the *Legal Practitioners Act 1893* (WA).
2. This scale applies on and after 1 April 1991.
3. This scale does not relate to costs incurred prior to 1 April 1991, which are governed by previous determinations and scales.
4. Subject to the provisions of the *Rules of the Supreme Court* and to the provisions of the *Legal Practitioners Act 1893* (WA) 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 action or other proceeding (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 maximum amounts set out in this scale.

1.	(a) Writ of summons, whether generally or specially indorsed, including instructions but excluding statement of claim .....	\$150
	(b) For each additional defendant .....	\$40
2.	Next friend or guardian <i>ad litem</i> .....	\$90
3.	Entry of judgement without trial .....	\$90
4.	(a) Payment into or out of court .....	\$90
	(b) Notice of offer to consent to judgement .....	\$60
5.	Appearance and notice .....	\$60
6.	<i>Pleadings:</i>	
	(a) Statement of claim .....	\$75-1000
	(b) Defence (including instructions) .....	\$75-1000
	If with counterclaim or set-off, and additional .....	\$75-1000
	(c) Reply (if necessary), defence to counterclaim or any other pleading (excluding application for leave) .....	\$75-1000
7.	Third party notice and pleadings in third party Proceedings .....	Allowances calculated in accordance with items 1 and 6
8.	Requesting particulars of a pleading ( <i>where and to the extent necessary</i> ) .....	\$30-390
9.	(a) Notice requiring discovery .....	\$60
	(b) Giving discovery of documents .....	\$60-580
	(c) Inspection and giving inspection—per hour .....	\$40-150
10.	(a) Delivery of interrogatories .....	\$50-390
	(b) Answer to interrogatories .....	\$50-390

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|-----|--|--|
| 11. | Examination of witness before trial by counsel or solicitor, pursuant to order .....   | An allowance calculated in accordance with item 14(b)  |
| 12. | Application for and striking jury .....  | \$150  |
| 13. | Getting up case for trial (subject to item 14(f)) .....  | Not exceeding \$6000 for the first \$25,000 of the value of the subject matter of the action; 2% for the balance thereof |
| 14. | <i>Counsel fees:</i>   |  |
| (a) | Counsel fee on trial .....   | \$750-6000   |
|     | For Queens Counsel<br>(where two or more counsel are certified for), add 50%   |  |
| (b) | Counsel fee for the second and each successive day of hearing .....  | \$750-2000   |
|     | For Queens Counsel<br>(where two or more counsel are certified for), add 50%   |  |
| (c) | Counsel fee on trial for second counsel (if certified for)<br>an allowance not exceeding two thirds of the amounts that would be allowed under item 14(a) or item 14(b) if counsel had appeared alone    |  |
| (d) | Solicitor attending trial, per hour, <i>not exceeding</i> .....  | \$250  |
|     | Note: a suitable allowance may be made for the attendance of a clerk   |  |
| (e) | Attending on a reserved judgement or at a callover, <i>not exceeding</i> .....   | \$300  |
| (f) | Where the only issue tried is the assessment of damages, three quarters of the amounts prescribed by items 13, 14(a), 14(b), 14(c) and 14(d) shall be allowable, unless otherwise directed by the Court. |  |
| 15. | Settling and extracting judgement after trial:   |  |
| (a) | With appointment, <i>not exceeding</i> .....   | \$150  |
| (b) | Without appointment, <i>not exceeding</i> .....  | \$90   |
| 16. | Drawing bill of costs, copies and service .....  | \$40-390   |
| 17. | Taking accounts; inquiries; taxation of costs; and the like per hour .....   | \$30-150   |

18. *Re-trial or Re-hearing:*

- (a) Getting up case for re-trial or re-hearing ..... Such amounts as are reasonable in the circumstances.
- (b) Re-trial or re-hearing

## 19. (a) Special case, case stated (otherwise than by way of appeal) or trial of an issue (not covered by item 14(f)).

\$380-2900

(but the court may direct that the costs be taxed as in an action)

## (b) For the second and each successive day of the trial or hearing

An allowance calculated in accordance with item 14(b)

20. *Appeals to Judge or to the Full Court (including appeals by way of case stated):*

- (a) Notice of appeal, motion for order *nisi* to review, and the like ..... \$75-1000
- (b) Getting up appeal for hearing (including settling index to transcript) ..... \$250-6000
- (c) Counsel fee on hearing ..... \$350-6000  
For Queens Counsel (where two or more counsel are certified for) add 50%
- (d) Counsel fee for the second and each successive day of hearing *not exceeding* ..... \$2000  
For Queens Counsel (*where two or more counsel are certified for*) add 50%
- (e) Counsel fee on hearing for second counsel (*if certified for*)—an allowance *not exceeding* two thirds of the amounts that would have been allowed under item 20(c) or 20(d) if counsel had appeared alone
- (f) Attending on reserved decision, *not exceeding* ..... \$300
- (g) Settling and extracting order disposing of the appeal—
- (i) with appointment *not exceeding* ..... \$150
- (ii) without appointment, *not exceeding* ..... \$90

21.	Originating motion or originating summons or petition .....	\$300-6000 but the court may direct that the costs of the parties or any of them be taxed as in an action.
22.	Motions in Court not otherwise provided for .....	\$75-1000
23.	Proceedings in Chambers other than proceedings to which item 21 applies .....	\$75-6000
23A.	Pretrial and mediation conferences including preparation and notices associated therewith .....	\$75-1000
24.	Arbitration proceedings .....	The same costs as in an action
25.	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 .....	The same costs <i>mutatis mutandis</i> as allowed in civil actions, but the Court or tribunal shall determine what is a just and equitable basis for the taxation.
26.	Proceedings by way of prerogative writ .....	Allowances calculated in accordance with item 20.
27.	(a) Execution .....	\$150
	(b) If against land, an additional .....	\$120
28.	<i>Service of process:</i>	
	(a) Personal service where service in another manner is not authorised .....	\$30
	(b) Service by post or at an address for service .....	\$10
	(c) Where the process is served at a place more than one kilometre from the nearest office of the solicitor effecting service, for each kilometre (one way) from the solicitor's office .....	\$0.75

- (d) Where the process cannot be served after reasonable inquiry (in addition to the allowance prescribed by paragraph (c) of this item) ..... \$10
- (e) Where the process is subsequently served at another address, for attempted service *in the discretion of the Taxing Officer* (in addition to the allowance prescribed by paragraph (c) of this item) ..... \$10
- (f) Where more than one attendance is necessary to ground an application for substituted service such further allowance may be made as the Taxing Officer thinks fit
- (g) Where it is proper to effect service through an agent, such allowance may be made as the Taxing Officer thinks fit.

*Notes:*

- (1) Where a person has or could have been served with more than one process at the one time, one service fee only shall be allowed.
- (2) One allowance only under paragraph (c) of this item shall be made where two or more processes are served at the one time, whether on one person or on more than one person.
- (3) An allowance under paragraph (c) of this item shall not exceed the cost of service by the nearest Sheriff's office or bailiff of a local court.
- (4) In this item, "process" means a writ, notice of motion, summons, petition, judgement or order.
29. Photocopying of documents (where necessary),  
*not exceeding*—per page ..... \$0.80
30. *Allowances to witnesses*
- (1) (a) Persons carrying on a profession or business as principals, a daily allowance  
*not exceeding* ..... \$1000
- (b) Other persons, a daily allowance, *not exceeding* ..... \$200
- (2) In fixing the allowance to be made under subparagraph (1) of this item, the Taxing Officer may have regard to the amount of salary or wages (if any) actually lost by the witness.
- (3) In addition to the foregoing allowances, a witness residing at a distance from the place of trial or hearing may be allowed reasonable travelling expenses actually paid, and a reasonable amount for maintenance or sustenance.
- (4) The Taxing Officer may also allow such amount as has been reasonably and properly incurred and paid to a witness for qualifying to give skilled evidence.

- (5) Except by special order of the trial judge, an allowance shall not be made to an expert witness for attendance at Court in assisting or advising counsel or the solicitor for a party during a trial or hearing.
- (6) In the case of a person giving evidence as an expert, the foregoing allowances may be increased at the discretion of the Taxing Officer.

### NON-CONTENTIOUS PROBATE COSTS SCALE 1991

1. This costs scale constitutes a determination of the Legal Costs Committee under Section 58W of the *Legal Practitioners Act 1893* (WA).
2. This scale applies on and after 1 April 1991.
3. This scale does not relate to costs incurred prior to 1 April 1991, which are governed by previous determinations and scales.
4. Subject to the provisions of the *Rules of the Supreme Court* and to the provisions of the *Legal Practitioners Act 1893* (WA) 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 action or other proceeding (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 amounts set out in this scale.

1. Application for a grant, or to reseal a grant made outside Western Australia—

Value of Estate	Fee
Where the gross value of the property of the deceased in Western Australia—	
does not exceed \$27,850 .....	\$600
exceeds \$27,850 and does not exceed \$55,160 .....	\$680
exceeds \$55,160 and does not exceed \$82,740 .....	\$770
exceeds \$82,740 and does not exceed \$110,320 .....	\$930
exceeds \$110,320 and does not exceed \$137,900 .....	\$1100
exceeds \$137,900 .....	\$1100 plus \$220 for each \$69,000 or part thereof with a maximum allowance of \$3300

2. Agency allowance where the solicitor for the applicant for a grant or to reseal a grant does not carry on practice in the Perth metropolitan area and employs a solicitor in Perth as agent in connexion with the application—

Where the gross value of the property of the deceased in Western Australia—	
does not exceed \$27,580 .....	\$90
exceeds \$27,580 .....	\$110

### SOLICITORS REMUNERATION ORDER 1991

#### Determination and Citation

1. (1) This Solicitors Remuneration Order constitutes a determination of the Legal Costs Committee under Section 58W of the *Legal Practitioners Act 1893* (WA).

(2) This Determination may be cited as the *Solicitors Remuneration Order, 1991* and is referred to hereinafter as "Order".

#### Commencement and savings

2. (1) This Order takes effect from and including 1 April 1991.

(2) This Order does not relate to costs incurred prior to 1 April 1991 which are governed by previous determinations and scales.

#### Application

3. Subject to the provisions of the *Legal Practitioners Act 1893* (WA) permitting a solicitor to make a written agreement as to costs with a client this Order applies to and in relation to the maximum remuneration of practitioners in respect of any business connected with sales, purchases, leases, mortgages, settlements, and other matters of conveyancing and other business not being business in any action, suit or proceeding or transacted in any court and not being otherwise contentious business.

#### Interpretation

4. In this Order unless the contrary intention appears—

"clause" means a clause in this Order;

"instruction fee" means the fee prescribed under the column headed "Instruction Fee" in the Schedule in relation to a matter specified in the Schedule;

"instructions" in relation to items 1 to 7 (both inclusive) 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 specified in the Schedule;

"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;

"reference" means a reference number under the column headed "Ref." in the Schedule in relation to a matter specified in the Schedule;

"Schedule" means the Schedule to this Order;

"security" includes a mortgage, hire-purchase agreement, debenture or charge or a bill of sale or assignment by way of security.

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

5. Subject to clauses 6 and 7, where a practitioner properly acts for both parties to a transaction the practitioner is entitled to charge each party the instruction fee prescribed in relation to that party under the item relevant to that transaction.

#### Instruction fees for related transactions

6. (1) Subject to this clause, where a practitioner acts for either a purchaser-mortgagor or for a vendor-mortgagee, the practitioner is entitled to charge either the instruction fee prescribed in relation to the sale or the instruction fee prescribed in relation to the security, but not both.

(2) Where a practitioner acts for a vendor in circumstances to which item 8 applies and the consideration or part thereof is secured by a security prepared by the same practitioner and executed by the Purchaser in favour of the vendor, the practitioner shall be entitled to charge in respect of the sale the fee prescribed by item 8 reduced by one-fifth, and for instructions in respect of the security the instruction fee calculated in accordance with item 4 on the basis of the sum secured.

(3) Where in respect of one and the same transaction a practitioner acts for both a purchaser-mortgagor and a vendor-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 prescribed in relation to the sale on the basis that the practitioner was acting for the purchaser but is not entitled to charge the instruction fee prescribed 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 prescribed in relation to the sale on the basis that the practitioner was acting for the purchaser.

(4) Where in one and the same transaction a practitioner acts for both the vendor and the purchaser 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 prescribed in relation to the sale or the security on the basis that the practitioner was acting for the purchaser 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 two-fifths 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**

7. (1) Where a practitioner properly 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 prescribed under item 5 in relation to a lessor.

(2) For the purposes of calculating the instruction fees prescribed under item 5—

- (a) where the 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 re-imbusement 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.

(3) Where a practitioner acts on the instructions of a lessor on an extension of a lease the practitioner is entitled to charge for instructions an amount not exceeding two-fifths of the instruction fee that would be payable in relation to an original lease on the same terms as the extension.

#### Limitations on instruction fee in item 4

8. In relation to the instruction fee prescribed under item 4—

- (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

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

#### Services related to item 8

10. (1) The fee prescribed by item 8 is 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 includes 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;

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- (k) correspondence or attendances not usually involved in respect of completion of the contract of sale; or
- (l) any costs or expenses properly incurred due to the distance of the practitioner from the place of settlement or from the Office of Titles.

(2) Where a practitioner acting on instructions to which item 8 applies is obliged to perform additional services which are not services to which item 8 applies the practitioner is entitled to charge the fees prescribed under item 9 in respect of those additional services.

#### Drawing, engrossing, copying, tabling, etc. (item 9)

11. The fees prescribed under item 9 are the fees payable in respect of the performance of the services specified in that item.

#### Unusual matters and matters not in the Schedule

12. Where—

- (a) any matter in relation to which a fee or remuneration is prescribed under items 1 to 9 (both inclusive) is unusually complex, involves an unusually high degree of skill or urgency; or
- (b) a practitioner acts on instructions or performs a service in respect of a matter that is not referred to in items 1 to 9 (both inclusive),

the practitioner is entitled to charge such fee or charge, as the case requires, as is reasonable in the circumstances.

#### Schedule

Item 1.—Instructions to act on a sale or other disposition for valuable consideration or real or personal property or of both:

Ref.	Party	Instruction Fee
101	Purchaser	\$0.90 for every complete \$200 of consideration or value as the case may be, up to \$120,000; and \$0.50 for every complete \$200 of consideration or value as the case may be, above \$120,000 and up to \$7,500,000 and for every complete \$1,000 of consideration or value as the case may be above \$7,500,000.
102	Vendor	2/3 of the instruction fee payable under Ref. 101.

Item 2.—Instructions to act on settlement of real or personal property or both:

Ref.	Party	Instruction Fee
201	Settlor or trustee or both.	\$0.90 for every complete \$200 of value up to \$120,000; and \$0.50 for every complete \$200 of value above \$120,000 and up to \$7,500,000 and for every complete \$1,000 of value above \$7,500,000

## Item 3.—Instructions to act on a gift of real or personal property or both:

<u>Ref.</u>	<u>Party</u>	<u>Instruction Fee</u>
301	Donor	\$0.90 for every complete \$200 of value up to \$120,000; and \$0.50 for every complete \$200 of value above \$120,000 and up to \$7,500,000; and \$0.50 for every complete \$1,000 of value above \$7,500,000
302	Donee	1/2 of the instruction fee payable under Ref.301

## Item 4.—Instructions to act on a security:

<u>Ref.</u>	<u>Party</u>	<u>Instruction Fee</u>
401	Mortgagee	\$0.90 for every complete \$200 of amount secured up to \$100,000 and; \$0.50 for every complete \$200 of amount secured above \$100,000 and up to \$7,500,000 and \$0.50 for every complete \$1,000 of amount secured above \$7,500,000.
402	Mortgagor	1/2 of the instruction fee payable under Ref.401.

## Item 5.—Instructions to act on a lease of real or personal property or both:

<u>Ref.</u>	<u>Party</u>	<u>Instruction Fee</u>
501	Lessor	\$1.60 for every complete \$200 of the total rent up to \$20,000; and \$0.40 for every \$200 of the total rent above \$20,000.
502	Lessee	1/2 of the fee payable under Ref.501

## Item 6.—Instructions to incorporate a public company:

<u>Nominal Capital</u>	<u>Ref.</u>	<u>Instruction Fee</u>
Not exceeding \$500,000	601	\$930
Exceeding \$500,000 and not exceeding \$1,000,000	602	\$1200
Exceeding \$1,000,000 and not exceeding \$2,000,000	603	\$1900
Exceeding \$2,000,000	604	\$2500

## Item 7.—Instructions to incorporate a proprietary company:

<u>Nominal Capital</u>	<u>Ref.</u>	<u>Instruction Fee</u>
Not exceeding \$250,000	701	\$540
Exceeding \$250,000 and not exceeding \$500,000	702	\$650
Exceeding \$500,000 and not exceeding \$1,000,000	703	\$1200
Exceeding \$1,000,000 and not exceeding \$2,000,000	704	\$1800
Exceeding \$2,000,000	705	\$2400

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Item 8.—The completion by transfer of a contract of sale of land registered under the *Transfer of Land Act 1893*:

Ref.	Party	Instruction Fee	
801	Purchaser	Where the consideration does not exceed \$10,000—	\$310
		Where the consideration exceeds \$10,000 but does not exceed \$20,000—	\$320
		Where the consideration exceeds \$20,000 but does not exceed \$30,000—	\$320
		Where the consideration exceeds \$30,000 but does not exceed \$40,000—	\$330
		Where the consideration exceeds \$40,000—a fee calculated in accordance with Ref.101 together with the sum of	\$140
802	Vendor	Where the consideration does not exceed \$10,000—	\$200
		Where the consideration exceeds \$10,000 but does not exceed \$20,000—	\$210
		Where the consideration exceeds \$20,000 but does not exceed \$30,000—	\$220
		Where the consideration exceeds \$30,000 but does not exceed \$40,000—	\$230
		Where the consideration exceeds \$40,000—a fee calculated in accordance with Ref.102 together with the sum of	\$100

Item 9.—Drawing, engrossing, copying letters, attendances and journeys:

Service	Ref.	Extent of Service	Remuneration
Drawing	901	Matter which is in print or could economically be in print	\$1.80 per folio
	902	Matter which is not in print and which could not economically be in print	\$4.80 per folio
Engrossing	903	Printed and photocopy documents—original and each copy for inclusion in executed document	\$2.10 per page
	904	Engrossment in type (including all carbon copies)	\$3.55 per folio
	905	Drafts for perusal	\$1.50 per folio
Copying	906	Photocopy or copy for any use other than that mentioned in Ref.903	\$0.80 per page

<u>Service</u>	<u>Ref.</u>	<u>Extent of Service</u>	<u>Remuneration</u>
Letters	907	Acknowledgement or circular letter	\$11
	908	Letter, telegram, telex or facsimile	Such sum as is reasonable in the circumstances
Attendances (including time otherwise necessarily spent where no other charges applicable)	909	By a junior clerk	\$45 per hour
	910	By a senior clerk	\$140 per hour
	911	By a practitioner—according to the nature and importance of the work and any <i>ad valorem</i> instruction fee allowable but not exceeding	\$235 per hour
Journeys	912	A fee calculated in accordance with References 909 to 911 inclusive, but on the basis that not more than 7 hours in any one day are charged for.	

#### WORKERS COMPENSATION COSTS SCALE 1991

1. This costs scale constitutes a determination of the Legal Costs Committee under Section 58W of the Legal Practitioners Act 1893 (WA).
2. This scale applies on and after 1 April 1991.
3. This scale does not relate to costs incurred prior to 1 April 1991, which are governed by previous determinations and scales.
4. Subject to the provisions of the Workers' Compensation and Assistance Act 1981(WA) and to the provisions of the Legal Practitioners Act 1893 (WA), the costs of or in relation to a party to an action or other proceeding (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 this scale

1.	Substantive application, including instructions	\$240
2.	Next friend or guardian <i>ad litem</i>	\$60
3.	Payment into or out of the Board and offer to consent to judgement	\$60
4.	Answer to application or to third party notice	\$240
5.	Third party notice including instructions	\$240
6.	Request for particulars	\$60
7.	(a) Notice requiring discovery	\$60
	(b) Giving discovery of documents	\$240
	(c) Inspection and giving inspection—per hour	\$60 - 130
8.	(a) Delivery of interrogatories	\$160
	(b) Answer to interrogatories	\$160

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9.	Examination of witness before trial by counsel or solicitor pursuant to order	An allowance calculated in accordance with Item 12(b)
10.	Getting up case for trial and/or pre-trial conferences not exceeding in the aggregate	\$3200
11.	Counsel fee on attendance at pre-trial conference—per hour	\$130
12.	Counsel fee:	
	(a) Counsel fee on trial For Queen's Counsel (where two or more counsel are certified for) add 50%	\$1900
	(b) Counsel fee for the second and each successive day of hearing	\$950
	(c) Counsel fee on trial for second counsel (if certified for)—an allowance not exceeding two-thirds of the amounts that would have been allowed under item 11(a) or 11(b) if counsel had appeared alone.	
	(d) Solicitor attending trial, per hour	\$130
	(e) Attending on a reserved judgement	\$130
13.	Settling and extracting certificate of award or order	\$80
14.	(a) Drawing bill of costs, copies and service	\$160
	(b) Attending taxation—per hour	\$60 - 130
15.	Re-trial, re-hearing or hearing upon reference back from the Full Court for re-trial, getting up case and re-trial or re-hearing	Such amounts as are reasonable in the circumstances
16.	Preliminary hearing	\$120
17.	Chambers applications of an originating nature and Interlocutory proceedings	\$400
18.	Execution	\$160
19.	Service of process, photocopies of documents and allowances to witnesses:	(as in items 28, 29 and 30 of the Supreme Court Costs Scale 1991)
20.	Taking instructions for, negotiating and preparing agreement	\$320

#### LOCAL COURT COSTS SCALE 1991

1. This cost scale constitutes a determination of the Legal Costs Committee under Section 58W of the Legal Practitioners Act 1893 (WA).
2. This scale applies on and after 1 April 1991.
3. This scale does not relate to costs incurred prior to 1 April 1991, which are governed by previous determinations and scales.

4. Subject to the provisions of the Local Court Act 1904 (WA) and to the provisions of the Legal Practitioners Act 1893 (WA) 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 action or other proceeding (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 this scale.

Item	A Not exceeding \$500	B Exceeding \$500 but not exceeding \$2000	C Exceeding \$2000 but not exceeding \$4000	D Exceeding \$4000
1. (a) Summons	\$40	\$71	\$87	\$110
(b) For each additional defendant	\$8	\$8	\$16	\$16
2. Entry of Judgment	\$16	\$24	\$32	\$47
3. Payment into, or out of Court (as part of pleadings only)	\$24	\$32	\$40	\$63
4. (a) Notice of Intention to Defend	\$16	\$24	\$32	\$40
(b) Particulars of Defence	\$24 - 71	\$32 - 130	\$47 - 160	\$47 - 190
(ba) Further and better particulars of claim	\$24 - 71	\$32 - 130	\$47 - 160	\$47 - 190
(c) Counterclaim	\$24 - 71	\$32 - 130	\$47 - 160	\$47 - 190
5. (a) Reply	\$24 - 71	\$32 - 130	\$47 - 160	\$47 - 190
(b) Defence to Counterclaim	\$24 - 71	\$32 - 130	\$47 - 160	\$47 - 190
6. Examination of witness before trial pursuant to order, per hour	\$79	\$95	\$100	\$110
6A Pretrial conferences including preparation and notices associated therewith	\$40 - 95	\$63 - 160	\$63 - 210	\$63 - 240
7. Getting up case for trial	\$160 - 400	\$240 - 710	\$320 - 870	\$400 - 1200
8. (a) Trial	\$120 - 400	\$160 - 710	\$240 - 870	\$320 - 1200
(b) Extra day	\$120 - 240	\$160 - 400	\$240 - 550	\$240 - 630
(c) Reserved decision	\$55	\$63	\$79	\$95

Item	A Not exceeding \$500	B Exceeding \$500 but not exceeding \$2000	C Exceeding \$2000 but not exceeding \$4000	D Exceeding \$4000
9. Application in Court, not otherwise provided for	\$40 - 95	\$63 - 160	\$63 - 210	\$63 - 240
10. (a) Delivery of Interrogatories	\$24 - 63	\$32 - 95	\$47 - 120	\$47 - 130
(b) Answer to Interrogatories	\$24 - 63	\$32 - 95	\$47 - 120	\$47 - 130
11. (a) Notice requiring discovery	\$16	\$24	\$32	\$32
(b) Giving discovery of documents	\$24 - 63	\$32 - 95	\$47 - 120	\$47 - 130
(c) Inspection and giving inspection per hour	\$32 - 63	\$32 - 79	\$32 - 95	\$32 - 95
12. Interpleader (uncontested)	\$63	\$95	\$120	\$120
13. Proceedings in Chambers:				
(a) Without appearance	\$32	\$47	\$63	\$79
(b) Including appearance by clerk	\$47	\$63	\$79	\$95
(c) Including appearance by solicitor	\$47 - 130	\$63 - 160	\$79 - 190	\$95 - 240
14. (a) Drawing Bill of Costs, copies and service	\$40	\$63	\$71	\$71
(b) Taking accounts, inquiries, taxation of costs—per hour	\$47	\$71	\$79	\$79
15. Enforcement—				
(a) Judgment Summons	\$40	\$55	\$63	\$79
(b) Bench Warrant	\$40	\$55	\$63	\$79
(c) Order of Commitment	\$24	\$32	\$40	\$47
(d) Consent Affidavit	\$24	\$32	\$40	\$47
(e) Warrant of Execution or Possession	\$32	\$40	\$47	\$55
(f) Warrant of Execution where land involved	\$55	\$79	\$100	\$110

Item	A Not exceeding \$500	B Exceeding \$500 but not exceeding \$2000	C Exceeding \$2000 but not exceeding \$4000	D Exceeding \$4000
16. Certified copy of Judgment	\$24	\$32	\$40	\$40
17. Registration of Supreme or District Court Judgment	\$32	\$40	\$47	\$47
18. Affidavits justifying choice of Court	\$32	\$40	\$47	\$47
19. Recovery of Possession—undefended including appearance	\$130	\$160	\$190	\$240
20. Service of any process—Bailiff's scale				
21. Allowances to Witnesses:—				
(a) Persons carrying on a profession or business as principals, not exceeding \$160 per day.				
(b) Other adult persons, not exceeding \$95 per day				
(c) Persons under 18 years of age in receipt of salary or wages, not exceeding \$71 per day.				
(d) Persons under 18 years of age, not in receipt of salary or wages—the amount of any loss in respect of which the Taxing Officer thinks the person should be indemnified, but not exceeding \$55 per day.				
(e) Where any person is required, by reason of the distance which he or she has to travel, to remain away from home overnight, not exceeding an additional \$79 per day.				

Note: In fixing the allowance to be made under paragraphs (b) and (c) of this item, the Taxing Officer shall have regard to the amount of salary or wages actually lost by the witness.

In addition to the above allowances, witnesses residing at a distance from the place of trial or hearing may be allowed reasonable travelling expenses actually paid, excluding any charges for maintenance or sustenance.

The Taxing Officer may also allow such amount as the Taxing Officer thinks has been reasonably and properly incurred and paid to witnesses for qualifying to give skilled evidence.

Except by special order of the trial magistrate no allowance shall be made to any expert witness for attendance at Court assisting or advising counsel or solicitor for a party during the trial.

In the case of persons giving evidence as experts the allowance in the above scale may be increased in the discretion of the Taxing Officer.

**COSTS SCALE 1991 UNDER THE OFFICIAL PROSECUTIONS (DEFENDENTS COSTS) ACT 1973 (WA)**

Costs Allowable where Defendant or Appellant is Legally Represented

1. This costs scale constitutes a determination of the Legal Costs Committee under Section 58W of the Legal Practitioners Act 1893 (WA).

2. This scale applies on and after 1 April 1991.

3. This scale does not relate to costs incurred prior to 1 April 1991, which are governed by previous determinations and scales.

Item No.	Item	Maximum Allowable	Notes	
1.	First day of trial including preparation of case for trial and counsel fee	\$710	No allowance should be made for second counsel or solicitor attending trial	Regard should be had to the complexity of the issues and to the time taken at the hearing
2.	Second or subsequent day of trial	\$470		
3.	First day of appeal, including preparation of case for appeal and counsel fee	\$790	Includes notice of appeal. Consider allowance in a proper case for second counsel	
4.	Second or subsequent day of appeal	\$550		
5.	Counsel fee for attending court for reserved decision on appeal	\$80		

Allowances to Witnesses

6.	Any principal of a profession or business, per day	Not exceeding \$90		In each case assess actual financial loss up to maximum amount
7.	Other adults, per day	Not exceeding \$50		
8.	Minors in receipt of salary or wages, per day	Not exceeding \$20	The amount of salary or wages actually lost	
9.	Minors not in receipt of salary or wages, per day	Not exceeding \$20	Actual financial loss suffered	

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## Other Expenses

10.	Travelling and accommodation	All travelling and accommodation expenses reasonably and properly incurred by the defendant, the defendant's solicitor, counsel and witnesses
11.	Other expenses	All other expenses including court fees reasonably and properly incurred in the preparation of the case, including those in respect of inquiries and scientific and other investigations and tests, and the provision of appeal books