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LEGAL PRACTITIONERS ACT 1893

**LEGAL COSTS COMMITTEE
DETERMINATION**

**WORKERS' COMPENSATION—
REVIEW PROCEEDINGS COSTS
SCALE 1995**

**WORKERS' COMPENSATION—
COMPENSATION MAGISTRATES
COURT SCALE 1995**

LEGAL PRACTITIONERS ACT 1893

LEGAL COSTS COMMITTEE

DETERMINATION

WORKERS' COMPENSATION - REVIEW PROCEEDINGS
COSTS SCALE 1995WORKERS' COMPENSATION - COMPENSATION
MAGISTRATES COURT SCALE 1995

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

The Committee, in accordance with section 58Y, gave notice of its intention to make a determination under section 58W(1)(b)(v) of the Act. Both oral and written submissions were received from the Law Society of Western Australia (Inc.), the Legal Aid Commission, WorkCover and private practitioners. Submissions were not received from members of the public.

Schedule 1 has effect with respect to proceedings before a Review Officer.

Schedule 2 has effect with respect to proceedings in the Compensation Magistrate's Court.

Before making this determination the Committee has taken the following steps.

1. Reviewed all submissions received following notice given under section 58Y.
2. Arranged for an oral hearing with representatives from the Law Society of Western Australia (Inc.) and a representative from WorkCover.
3. After the oral hearing and consideration of the written submissions the Committee prepared and circulated to the relevant parties drafts of the scales with the descriptive items amended to accommodate the amendments to the *Workers' Compensation and Rehabilitation Act 1981*. Further written submissions in relation to the drafts were received from the Law Society of Western Australia (Inc.), the Legal aid Commission, WorkCover and private practitioners practising within the Workers' Compensation Jurisdiction.
4. The Committee decided that the costs scales should be time-based in conformity with other determinations made by the Committee.
5. The Committee obtained estimates of the time required to perform the work described in the items specified in the Schedules from the parties named in clause 3. It is noted that there were difficulties in providing the estimates of time for the Compensation Magistrates Court as there have been insufficient cases to provide estimates based on experience. However, from this information the Committee made an assessment as to what reasonable practitioners regard as the time reasonably necessary to perform the work involved.

6. The next task was to ascertain the hourly rate in dollar terms which should then be applied to the estimates of time. The Committee decided that if there is competition within the section of the profession which provides services in the Workers' Compensation jurisdiction, then market forces would determine that the hourly rates charged were reasonable. The Committee considered, and decided, that there are factors indicating the existence of competition.
7. A number of submissions were made to the Committee concerning appropriate hourly charge rates. Having regard to those submissions, the Committee decided that the applicable hourly charge rates were those applicable to the Local Court. The rates set out in the Table to this clause are identical to those set out in the determination made on 18 October 1994 and published in the *Gazette* on 28 October 1994 relating to the Local Court Scale..

TABLE

Senior Practitioner (admitted for more than 5 years) ('SP').....	\$200 per hour
Junior Practitioner (admitted for less than 5 years) ('JP').....	\$130 per hour
Articled Clerk ('AC')	\$60 per hour
Paralegal (supervised by a practitioner) ('PL').....	\$60 per hour

8. The final step was then to apply the hourly charge rates to the times referred to in the Schedules.

The figures set out in the scales are the maximum amounts which may be charged and may be reduced on taxation. This determination will provide guidance to the Taxing Officer about what the profession and this Committee regard as a reasonable amount of time to perform the work involved in each item in the scales and about what the Committee regards as a reasonable hourly rate. In no respect are the scales to be seen as providing a minimum charge for any work.

Therefore, by way of example, item 1 in Schedule 1 assumes that the services described in that item might be carried out by a junior practitioner or a senior practitioner, and that the average time involved would be from 1 to 2 hours. If carried out by a junior practitioner in one hour the charge would be \$130. If carried out by a senior practitioner in 2 hours the charge would be \$400.

Dated at Perth this 16th day of May 1995.

John Syminton, Chairman
Chris Pullin Q.C., Member
Jill Vander Wal, Member
Angela Gaffney, Member
Jason Berry, Member
Patrick Coward, Member

SCHEDULE 1

REVIEW PROCEEDINGS COSTS SCALE 1995

1. This scale of costs applies to review proceedings under the *Workers' Compensation and Rehabilitation Act 1981*.
2. Where any matter in relation to which remuneration is prescribed under items 1 to 6 is unusually complex, a legal practitioner is entitled to charge the remuneration which is reasonable in the circumstances.
3. Subject to clause 2, the costs payable to a legal practitioner in respect of review proceedings under the *Workers' Compensation and Rehabilitation Act 1981* must not exceed the maximum amount set out in this scale.

1	Preparing and lodging application for review (Form 3) including instructions.	1-2 hours	JP - SP	\$130-\$400
2	Preliminary hearing in review including preparation for the hearing.	1-3 hours	JP - SP	\$130-\$600
3	Particulars and discovery:			
	(a) Providing particulars (where ordered).	.5-2 hours	JP - SP	\$65-\$400
	(b) Giving discovery of documents (where ordered).	.5-2 hours	JP - SP	\$65-\$400
4	Preparing for hearing which includes getting up case for review hearing and consists of all aspects not otherwise specified associated with preparing for the review hearing, including taking statements from and proofing witnesses.	2-12 hours	PL - SP	\$120-\$2400

REVIEW PROCEEDINGS COSTS SCALE 1995 (cont'd)

5	<p>Review hearing:</p> <p>(a) Counsel fee on review hearing (includes preparation and first day of trial).</p> <p>(b) Counsel fee for second and each successive day of review hearing.</p> <p>Note: In relation to item (a) and item (b) if the review hearing -</p> <p>(1) lasts less than 2 hours; or</p> <p>(2) does not commence and is settled or adjourned on the day of the hearing,</p> <p>then the amount which is applicable under items (a) and (b) will be the amount which is reasonable in the circumstances.</p> <p>(c) Paralegal, articulated clerk or solicitor attending review hearing per - hour.</p>	<p>3-12 hours</p> <p>2-8 hours</p>	<p>JP - SP</p> <p>JP - SP</p> <p>AC - PL</p> <p>JP</p>	<p>\$390-\$2400</p> <p>\$260-\$1600</p> <p>\$60</p> <p>\$130</p>
6	<p>Any other time necessarily spent not included in any item in this scale - per hour.</p>		<p>AC - PL</p> <p>JP</p> <p>SP</p>	<p>\$60</p> <p>\$130</p> <p>\$200</p>
7	<p>Taxation and costs:</p> <p>(a) Drawing bill of costs, copies and service.</p> <p>(b) Attending taxation - per hour.</p>	<p>.5-1 hour</p>	<p>PL - JP</p> <p>JP</p>	<p>\$30-\$130</p> <p>\$130</p>
8	<p>Facsimile and copying:</p> <p>(a) For each facsimile transmitted - irrespective of number of pages and destination.</p> <p>(b) For each facsimile transmission received - irrespective of the number of pages transmitted.</p> <p>(c) For each photocopy - per page.</p>			<p>\$5.00</p> <p>\$2.50</p> <p>\$0.50</p>
9	<p>Disbursements:</p> <p>The amount which is reasonable in the circumstances.</p>			

SCHEDULE 2

COMPENSATION MAGISTRATES COURT SCALE 1995

1. This scale of costs applies to proceedings in a compensation magistrates court under Part IIIA of the *Workers' Compensation and Rehabilitation Act 1981*.
2. Where any matter in relation to which remuneration is prescribed under items 1 to 6 is unusually complex, a legal practitioner is entitled to charge the remuneration which is reasonable in the circumstances.
3. Subject to clause 2, the costs payable to a legal practitioner in respect of proceedings before a compensation magistrates court under Part IIIA of the *Workers' Compensation and Rehabilitation Act 1981* must not exceed the maximum amount set out in this scale.

1	Initial attendance to take instructions including, where applicable, reviewing transcripts and preparation and lodgment of any Notice of Appeal.	2-8 hours	JP - SP	\$130-\$1600
2	Attendance at conference at court prior to trial (including pre-trial conference, directions hearing or preliminary hearing) and including preparation for the conference.	1-3 hours	JP - SP	\$130-\$600
3	Particulars and discovery: (a) Providing discovery (where ordered). (b) Providing particulars (where ordered). (c) Preparing agreed statement of facts. In respect of items (b) and (c), the fee includes filing, service and all copies.	.5-2 hours .5-2 hours 1-2 hours	JP - SP JP - SP JP - SP	\$65-\$400 \$65-\$400 \$130-\$400
4	Preparing for hearing which involves getting up case for hearing and consists of all aspects not otherwise specified associated with preparing for the hearing, including, where applicable, taking statements from and proofing witnesses, advice on evidence and law and delivering brief to counsel.	2-10 hours	PL - SP	\$120-\$2000

COMPENSATION MAGISTRATES COURT SCALE 1995 (cont'd)

5	<p>Trial or hearing:</p> <p>(a) Counsel fee on trial or hearing (includes preparation and first day of trial) or hearing.</p> <p>(b) Counsel fee for second and each successive day of trial or hearing.</p> <p>(c) Counsel fee on trial or hearing for second counsel (if certified for) - an allowance not exceeding two-thirds of the amounts that would have been allowed under items (a) and (b) if counsel had appeared alone.</p> <p>Note: In relation to items (a), (b) and (c) if the trial or hearing -</p> <p>(1) lasts less than 2 hours; or</p> <p>(2) does not commence and is settled or adjourned on the day of trial,</p> <p>then the amount which is applicable under items (a), (b) and (c) will be the amount which is reasonable in the circumstances.</p> <p>(d) Paralegal, articulated clerk or solicitor attending trial per hour.</p> <p>(e) Attending on a reserved judgment.</p>	<p>3-12 hours</p> <p>2-8 hours</p> <p>1-2 hours</p>	<p>JP - SP</p> <p>JP - SP</p> <p>PL - JP</p> <p>JP</p>	<p>\$390-\$2400</p> <p>\$260-\$1600</p> <p>\$60-\$130</p> <p>\$130-\$260</p>
6	Any other time necessarily spent not included in any item in this scale - per hour.		AC - PL JP SP	\$60 \$130 \$200
7	Issuing and arranging service of witness summons including copies.	.5-2 hours	PL	\$30-\$130
8	<p>Taxation and costs:</p> <p>(a) Preparing bill of costs including filing, service and copies.</p> <p>(b) Attending on taxation - per hour.</p>	.5-1 hour	PL - JP JP	\$30-\$130 \$130

COMPENSATION MAGISTRATES COURT SCALE 1995 (cont'd)

9	Facsimile and copying: (a) For each facsimile transmitted - irrespective of the number of pages and destination. (b) For each facsimile transmission received - irrespective of the number of pages transmitted. (c) For each photocopy - per page.			\$5.00 \$2.50 \$0.50
10	Disbursements: The amount which is reasonable in the circumstances.			



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