



**WESTERN  
AUSTRALIAN  
GOVERNMENT  
Gazette**

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041



**PERTH, FRIDAY, 26 JUNE 2015 No. 93**

**SPECIAL**

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

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LEGAL PROFESSION ACT 2008

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**LEGAL PROFESSION (PUBLIC NOTARIES)  
REPORT AND DETERMINATION 2015**

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**LEGAL PROFESSION (NON-CONTENTIOUS  
PROBATE COSTS) REPORT AND  
DETERMINATION 2015**

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**LEGAL PROFESSION (SOLICITORS COSTS)  
REPORT AND DETERMINATION 2015**

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**LEGAL PROFESSION ACT 2008****LEGAL PROFESSION (PUBLIC NOTARIES) REPORT 2015**

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

**PART 1—PRELIMINARY****1. Citation**

- (1) This Report may be cited as the *Legal Profession (Public Notaries) Report 2015*.
- (2) The determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Public Notaries) Determination 2015*.
- (3) The citation for this Report (compared to previous Reports) has been amended to be consistent with the title of the Act.

**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 (Public Notaries) Determination 2015* the Legal Costs Committee—

- (a) reviewed all submissions received as a result of the notice given under section 277 of the Act;
- (b) consulted with the Courts, Law Society of Western Australia, Western Australian Bar Association and the Public Notaries Society of Western Australia Incorporated;
- (c) considered the rates payable for similar work in other Australian jurisdictions; and
- (d) has considered the hourly and daily rates applicable under the *Legal Profession (Solicitors Costs) Determination 2015* \*.

**PART 3—REPORT OF THE LEGAL COSTS COMMITTEE'S CONCLUSIONS****4. Adjustment in fees**

- (a) The Legal Costs Committee had regard to submissions made by the Public Notaries Society of Western Australia Incorporated. Having considered and thought them appropriate, the Legal Costs Committee resolved to include new items 1(f), 2(c) and 3(d) in Table A to clause 4 of the *Legal Profession (Public Notaries) Determination 2015*, the terms of which the Legal Costs Committee considers are self explanatory.
- (b) The Legal Costs Committee, for the purposes of administration and accounting convenience, amends all fees in the Scale so that they are divisible by 11 (except photocopying charges).

**5. Scale of costs to be adopted**

- (1) It is the recommendation of the Legal Costs Committee, after reviewing the information gained as a result of the inquiries and submissions described in clause 3, that the scale of costs set out in Table A to clause 4 of the *Legal Profession (Public Notaries) Determination 2015* be adopted for the business of Public Notaries.
- (2) It is the further recommendation of the Legal Costs Committee given that the amendments to the scale of costs in the manner set out in Table A to clause 4 of the *Legal Practitioners (Public Notaries) Determination 2002* were inclusive of any provision for the Goods and Services Tax (GST), the scale of Public Notaries fees continues to be inclusive of GST.

\*[To be published in the *Government Gazette* on or about the same time as the *Legal Profession (Public Notaries) Determination 2015*]

TED SHARP, Chairman.

ANGELA GAFFNEY, Member.

CLARE THOMPSON, Member.

MARCUS COCKER, Member.

JANICE DUDLEY, Member.

MATTHEW CURWOOD, Member.

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Schedule

**LEGAL PROFESSION ACT 2008****LEGAL PROFESSION (PUBLIC NOTARIES) DETERMINATION 2015**

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

**1. Citation**

- (a) This Determination may be cited as the *Legal Profession (Public Notaries) Determination 2015*.
- (b) The citation for this Determination (compared to previous Determinations) has been amended to be consistent with the title of the Act.

## 2. Commencement

This Determination comes into operation on 1 July 2015.

## 3. Application

(1) This Determination applies to the remuneration of a Public Notary for the provision of notarial services.

(2) This Determination does not apply to the remuneration of a Public Notary based on costs incurred in respect of instructions taken before the commencement of this Determination.

## 4. Scale of costs

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

**TABLE A**  
**SCALE OF PUBLIC NOTARIES FEES**

| Item No | Matter  | Maximum amount<br>\$ |
|---------|---|----------------------|
| 1       | <b><i>Affidavits, affirmations and declarations—</i></b>  |                      |
|         | (a) For administering an oath or affirmation or taking a declaration and for signing the jurat or its equivalent—<br>where there is one deponent or declarant<br>and for each additional deponent, affirmant or declarant swearing, affirming or declaring at the same time | 132<br>66            |
|         | (b) For preparing an affidavit, affirmation or declaration verifying the execution of a document by a company or by a person  | 132                  |
|         | (c) For preparing a notarial certificate in respect of an oath, affirmation or declaration and for completing the certificate   | 132                  |
|         | (d) For completing a second and third certificate (if required)   | 66                   |
|         | (e) For preparing an exhibit to an affidavit, affirmation or declaration and for completing an exhibit  | 66                   |
|         | (f) For each page over and above the first 5 pages which requires signing by each deponent or declarant and witnessing by the Public Notary   | 0.66                 |
| 2       | <b><i>Deeds and other documents—</i></b>  |                      |
|         | (a) Witnessing and attesting the execution or signing of a deed or other document—<br>where there is one party<br>and for each additional party signing at the same time  | 132<br>66            |
|         | (b) For preparing a notarial certificate in respect of the attestation and for completing the certificate   | 132                  |
|         | (c) For each page over and above the first 5 pages which requires signing by the party or parties and witnessing by the Public Notary   | 0.66                 |
| 3       | <b><i>Verification of copies of documents—</i></b>  |                      |
|         | (a) For examining, with the original, a photocopy of the document<br>for each page exceeding one  | 66<br>6.60           |
|         | (b) For examining, with the original, a copy of a document other than a photocopy   | 132                  |
|         | (c) For preparing a notarial certificate verifying a copy of a document and for completing the certificate  | 132                  |
|         | (d) For each page over and above the first 5 pages which requires signing by the Public Notary  | 0.33                 |
| 4       | <b><i>Certificates under seal not otherwise prescribed by this scale—</i></b><br>For preparing a notarial certificate and for completing the certificate  | 121                  |
| 5       | <b><i>Bills of Exchange—</i></b>  |                      |
|         | (a) For noting a bill of exchange, entering in the register and supplying one copy of note  | 209                  |
|         | (b) For presenting bill—a fee for the time so occupied calculated in accordance with the <i>Legal Profession (Solicitors Costs) Determination 2015*</i> or any subsequent determination made in substitution for that determination   |                      |
|         | (c) For preparing, issuing and entering a protest of a bill of exchange and supplying one copy of protest<br>together with the reasonable disbursements necessarily incurred in connection with any of those services   | 209                  |

| Item No | Matter   | Maximum amount \$     |
|---------|--|-----------------------|
| 6       | <p><b>Ship's protests—</b></p> <p>(a) Preparing and attesting a ship's protest including three copies (if required)</p> <p>(b) Preparing and attesting extension of ship's protest</p>   | <p>264</p> <p>264</p> |
| 7       | <p><b>Duplicates—</b></p> <p>Except where otherwise provided, for more than one copy of any of the above notarial documents completed at the same time—</p> <p>for each copy (after the first) up to ten<br/>— one half of the prescribed fee</p> <p>for each copy (after the tenth)<br/>— one quarter of the prescribed fee</p>   |                       |
| 8       | <p><b>Miscellaneous services—</b></p> <p>For instructions, attendances, correspondence, drawing, engrossing, travel and all other services not covered by this scale, or, if so covered, for matters involving unusual work or difficulty—</p> <p>a fee calculated in accordance with the <i>Legal Profession (Solicitors Costs) Determination 2015*</i> or any subsequent determination made in substitution for that determination, having regard to the time skill and responsibility involved</p> <p>For photocopies where necessary, including of documents for which allowance is otherwise made in this Determination</p> | <p>1.00 per page</p>  |

\*/To be published in the *Government Gazette* on or about the date of this Determination/

Made by the Legal Costs Committee on 15 April 2015.

**LEGAL PROFESSION ACT 2008****LEGAL PROFESSION (NON-CONTENTIOUS PROBATE COSTS) REPORT 2015**

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

**PART 1—PRELIMINARY****1. Citation**

- (a) This Report may be cited as the *Legal Profession (Non-Contentious Probate Costs) Report 2015*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Non-Contentious Probate Costs) Determination 2015*.
- (c) The citation for this Report (compared to previous Reports) has been amended to be consistent with the title of the Act.

**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 (Non-Contentious Probate Costs) Determination 2015*, the Legal Costs Committee—

- (a) reviewed submissions of the Law Society of Western Australia Inc received as a result of the notice given under section 277 of the Act;
- (b) consulted with the Supreme Court of Western Australia; and
- (c) reviewed the impact of movements in the Consumer Price and Wage Price Indices for the period between 1 July 2013 to 31 March 2015 (inclusive) as being an appropriate period given the time elapsed between the commencement of the previous Review and the commencement of this Review.

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

(a) It is the recommendation of the Legal Costs Committee as a result of the inquiries and submissions described in clause 3 that the hourly rates referred to in paragraph (b) of clause 4 are varied from the hourly rates used in the *Legal Practitioners (Non-Contentious Probate Costs) Determination 2013* published in the *Government Gazette* on 18 June 2013 pp 2327-2329. Those rates are set out in paragraph (e) of clause 4 of the *Legal Profession (Non-Contentious Probate Costs) Determination 2015*.

(b) The Legal Costs Committee—

- (1) resolved to amend the text in paragraph (d) of clause 4 of the *Legal Profession (Non-Contentious Probate Costs) Determination 2015* to clarify that the fee relates to a law practice engaged to act as agent for a law practice outside the Perth Metropolitan Area; and
- (2) noted that under paragraph (d) of clause 4 of the *Legal Profession (Non-Contentious Probate Costs) Determination 2015*, it expects the law practice engaging an agent in the manner contemplated by that paragraph, will include the agent's costs in any bill of costs rendered to the client.

(c) The recommendations of the Legal Costs Committee are not intended to override the entitlement of a law practice to make a written agreement as to costs with a client under the Act.

(d) The Legal Costs Committee has concluded that its Determination does not apply to—

- (1) those areas of business performed by law practices in connection with the administration and winding up of deceased persons' estates (including the gathering in and distribution of assets and satisfaction of liabilities) which can be properly chargeable under the provisions of the *Legal Profession (Solicitors Costs) Determination 2015* to be published on or about the date of this Report or any subsequent determination in substitution for, or by way of variation to the same; or
- (2) any contentious work associated with a deceased estate which can be properly chargeable under the provisions of the *Legal Profession (Supreme Court) (Contentious Business) Determination 2014* published in the *Government Gazette* 20 June 2014 or any subsequent determination in substitution for, or by way of variation to the same; for example—
  - (A) an application to prove a Will in solemn form; or
  - (B) an application to prove an informal Will under Part X of the *Wills Act 1970*.

TED SHARP, Chairman.

ANGELA GAFFNEY, Member.

CLARE THOMPSON, Member.

MARCUS COCKER, Member.

JANICE DUDLEY, Member.

MATTHEW CURWOOD, Member.

## Schedule

**LEGAL PROFESSION ACT 2008****LEGAL PROFESSION (NON-CONTENTIOUS PROBATE COSTS) DETERMINATION 2015**

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

**1. Citation**

- (a) This Determination may be cited as the *Legal Profession (Non-Contentious Probate Costs) Determination 2015*.
- (b) The citation for this Determination (compared to previous Determinations) has been amended to be consistent with the title of the Act.

**2. Commencement**

This Determination comes into operation on 1 July 2015.

**3. Application**

- (a) This Determination applies to the remuneration of law practices in respect of—
- (1) Applications for Grants of Probate and Letters of Administration within Western Australia or reseals of Grants and Letters of Administration made outside Western Australia;
  - (2) Agency allowances where the law practice acting for the applicant for a Grant of Probate or Letters of Administration or to reseal a Grant does not carry on practice in the Perth metropolitan area and engages a law practice in Perth as agent in connection with the application; and
  - (3) Other instances which do not come under the above categories or are otherwise of a complex nature.
- (b) This Determination does not apply to the remuneration of law practices based on a written agreement with a client as to costs under the Act.
- (c) This Determination does not apply to the remuneration of law practices based on costs incurred in respect of business carried out before the commencement of this Determination.
- (d) This Determination does not apply—
- (1) to those areas of business performed by law practices in connection with the administration and winding up of deceased persons' estates (including the gathering in and distribution of assets and satisfaction of liabilities) which can be properly chargeable under the provisions of the *Legal Profession (Solicitors Costs) Determination 2015* to be Published on or about the date of this Determination or any subsequent determination in substitution for, or by way of variation to the same; or
  - (2) any contentious work associated with a deceased estate which can be properly chargeable under the provisions of the *Legal Profession (Supreme Court) (Contentious Business) Determination 2014* published in the *Government Gazette* on 20 June 2014 or any subsequent determination in substitution for, or by way of variation to the same; for example—
    - (A) an application to prove a Will in solemn form; or
    - (B) an application to prove an informal Will under Part X of the *Wills Act 1970*.

**4. Costs**

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

- (a) in the case of an application for a Grant of Probate to the Supreme Court of Western Australia or to reseal a Grant of Probate made outside Western Australia within another Australian jurisdiction—\$1749 (inclusive of GST);
- (b) in the case of an Application for Letters of Administration with the Will annexed to the Supreme Court of Western Australia or to reseal Letters of Administration with the Will annexed made outside Western Australia within another Australian jurisdiction—\$2420 being the equivalent of 5 hours of a Senior Practitioner's time at the hourly rate described in sub-paragraph (e)(1) below);
- (c) in the case of an Application for Letters of Administration to the Supreme Court of Western Australia or to reseal Letters of Administration made outside Western Australia within another Australian jurisdiction—\$2904 being the equivalent of 6 hours of a Senior Practitioner's time at the hourly rate described in sub-paragraph (e)(1) below);
- (d) subject to paragraph (e) below, where the law practice for an applicant for a Grant or to reseal a Grant of Probate or Letters of Administration does not carry on practice in the Perth Metropolitan Area and engages a law practice in Perth, to act as its agent, the law practice for the applicant may charge an additional amount up to \$968, being the equivalent of 2 hours of a Senior Practitioner's time at the hourly rate described in sub-paragraph (e)(1) below to cover the actual costs of the agent and limited to the actual costs charged to the law practice by its agent;

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

- (e) in all other cases (including Applications for resealing Grants of Probate and Letters of Administration made outside Western Australia and any other Australian jurisdiction), subject to the qualification in paragraph (b) of clause 4 of the *Legal Profession (Non-Contentious Probate Costs) Report 2015* and the proviso above, such amount as is reasonable in the circumstances calculated on the basis of the time reasonably taken to perform the work described in clause 3 above and charged at an hourly rate (inclusive of GST) which does not exceed the hourly rates set out below—

| (1) <b>General</b>                               | <b>Maximum rates</b> |
|--|----------------------|
| Senior Practitioner (admitted 5 years or more)   | \$484 per hour       |
| Junior Practitioner (admitted less than 5 years) | \$341 per hour       |
| Clerk/Paralegal                                  | \$231 per hour       |

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

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

Where a law practice acts on instructions or performs a service in respect of a matter that is complex or involves a high degree of skill, the law practice is entitled to charge a fee or charge at a rate (as the case requires) that is reasonable in the circumstances, provided that the relevant service is charged at an hourly rate (inclusive of GST) which does not exceed the hourly rates set out in paragraph (e)(1) above.

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

The hourly rates set out above are inclusive of GST.

Made by the Legal Costs Committee on 20 May 2015.

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**LEGAL PROFESSION ACT 2008****LEGAL PROFESSION (SOLICITORS COSTS) REPORT 2015**

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

**PART 1—PRELIMINARY****1. Citation**

- (1) This Report may be cited as the *Legal Profession (Solicitors Costs) Report 2015*.
- (2) The determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Solicitors Costs) Determination 2015*.
- (3) The citation for this Report (compared to previous Reports) has been amended to be consistent with the title of the Act.

**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 (Solicitors Costs) Determination 2015*, the Legal Costs Committee—

- (a) reviewed the submission of the Law Society of Western Australia Inc received as a result of the notice given under section 277 of the Act;
- (b) reviewed the impact of movements in the Consumer Price and Wage Price Indices for the period between 1 July 2013 to 31 March 2015 (inclusive) as being an appropriate period given the time elapsed between the commencement of the previous Review and the commencement of this Review; and
- (c) consulted the Legal Profession Complaints Committee.

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

(1) As a result of its inquiries and the submission described in clause 3, the Legal Costs Committee is satisfied it is appropriate to continue to adopt hourly rates charged by law practices as the basis for the rates used in the *Solicitors Costs Determination 2013*. It is also considered appropriate to retain a system of instruction fees as set out in items 1 to 5 of the Table to clause 6 of the *Solicitors Costs Determination 2013*.

(2) It is the recommendation of the Legal Costs Committee, as a result of the inquiries and submissions described in clause 3, that the hourly rates referred to in subclause 4 (1) are varied from the hourly rates used in the *Solicitors Costs Determination 2013* published in the *Government Gazette* on 18 June 2013 pp 2321-2326. Those rates are set out in Item 7 of Table A of the *Legal Profession (Solicitors Costs) Determination 2015*.

(3) The Legal Costs Committee has resolved that the base amounts in Item 5 of Table A should be increased by an amount of 5% or thereabouts to account for movements in the CPI Indices and to be divisible by 11 for GST purposes.

(4) The recommendations of the Legal Costs Committee are not intended to override the entitlement of a law practice to make a written agreement as to costs with a client under the Act.

TED SHARP, Chairman.

ANGELA GAFFNEY, Member.

CLARE THOMPSON, Member.

MARCUS COCKER, Member.

JANICE DUDLEY, Member.

MATTHEW CURWOOD, Member.

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Schedule

**LEGAL PROFESSION ACT 2008****LEGAL PROFESSION (SOLICITORS COSTS) DETERMINATION 2015**

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

**1. Citation**

- (a) This Determination may be cited as the *Legal Profession (Solicitors Costs) Determination 2015*.
- (b) The citation for this Determination (compared to previous Determinations) has been amended to be consistent with the title of the Act.

**2. Commencement**

This Determination comes into operation on 1 July 2015.

### 3. The Solicitors Costs Determination 2013

The determination cited as the *Solicitors Costs Determination 2013* published in the *Government Gazette* on 18 June 2013 pp 2321-2326 does not apply to business carried out by law practices after the commencement of this Determination.

### 4. Interpretation

In this Determination—

“**clause**” means a clause in this Determination;

“**document**” includes a document in electronic form;

“**instruction fee**” means the fee set out in the column headed ‘Amount’ in Table A, in relation to the matter specified next to that fee in Table A;

“**instructions**” in relation to items 1 to 5 includes the initial attendance when instructions are taken, and all subsequent attendances at which instructions are taken which ought properly to have been taken at the initial attendance;

“**item**” means an item in the Table A and “**items**” has a corresponding meaning;

“**mortgagee**” includes the grantee of a security and, in relation to a hire-purchase agreement, means the owner;

“**mortgagor**” includes the grantor of a security and, in relation to a hire-purchase agreement, means the hirer;

“**prepare**” includes considering searches, researching matters of law, negotiating, settling and drafting the provisions of and producing a document;

“**security**” includes a mortgage, hire-purchase agreement, debenture or charge or a bill of sale or assignment by way of security, or any other form of security granted by a person;

“**sheet**” means one side of a single A4 page, with no less than 25 lines of print with a minimum of a 10 point font;

“**Table A**” means Table A to this Determination.

### 5. Application

(1) This Determination applies to the maximum remuneration of law practices in respect of any work carried out by a law practice not being of a contentious nature and which is not governed by any other determination of the Legal Costs Committee under section 275 of the Act.

(2) This Determination does not apply to the remuneration of law practices based on a written agreement as to costs with a client under the Act.

(3) This Determination does not apply to the remuneration of law practices based on costs incurred before the commencement of this Determination.

### 6. Costs

Unless a law practice has made a written agreement as to costs with a client under the provisions of the Act, the costs payable by the client to the client’s law practice shall not exceed an amount that is reasonable in the circumstances, that amount to be calculated on the basis of—

- (a) the instruction fees and other fees for specific items set out in items 1 to 6; and
- (b) the time reasonably taken to perform the work referred to in item 7, charged at an hourly rate that does not exceed the hourly rates set out in that item; or
- (c) where clause 14 applies, the skill, urgency or complexity required to perform the work, together with the time reasonably taken to do so.

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

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

### 8. Instruction fees for related transactions

(1) Subject to this clause, where a law practice acts for either a buyer-mortgagor or for a seller-mortgagee, the law practice may charge either the instruction fee fixed in relation to the sale or the instruction fee fixed in relation to the security, but not both.

(2) Where a law practice acts for a seller in circumstances to which item 5 applies, and the consideration or part thereof is secured by a security prepared by the same law practice and executed by the buyer in favour of the seller, the law practice shall be entitled to charge in respect of the sale the fee set out in item 5 reduced by 20%, and for instructions in respect of the security the instruction fee calculated in accordance with item 3 on the basis of the sum secured.

(3) Where, in respect of one and the same transaction, a law practice lawfully acts for both a buyer-mortgagor and a seller-mortgagee—

- (a) if all the costs are to be paid by only one of the parties, the law practice is entitled to charge the instruction fee in relation to the sale, calculated on the basis that the law practice was acting for the buyer, but is not entitled to charge an instruction fee in relation to the security;
- (b) if each party is to pay their own instruction fee, the law practice is entitled to charge each party such an amount so that the aggregate of the amounts payable by each is no greater than the instruction fee in relation to the sale, calculated on the basis that the law practice was acting for the buyer.

(4) Where, in one and the same transaction, a law practice lawfully acts for both the seller and the buyer or for both the mortgagor and the mortgagee, the law practice is not entitled to charge in respect of the instructions any amount which is greater in the aggregate than the instruction fee in relation to the sale or the security, calculated on the basis that the law practice was acting for the buyer or the mortgagor, as the case may be.

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

### 9. Instruction fees for leases

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

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

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

and for this purpose the term “rent”—

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

### 10. Limitations on instruction fee in item 3

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

- (a) any amount secured by an existing collateral security prepared by the same law practice 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.

### 11. Uncompleted business

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

### 12. Services related to item 5

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

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

but the remuneration does not include the fees for—

- (f) any service performed or rendered in respect of an amendment to the contract of sale;
- (g) the perusal of any document other than the contract of sale;
- (h) the preparation of any document other than the transfer;
- (i) requisitions on title or answers thereto;
- (j) correspondence or attendances as may be rendered necessary by the amendment to, or the preparation of, any document other than the transfer;
- (k) correspondence or attendances not usually involved in respect of completion of the contract of sale including interpretation of or enforcement of the contract of sale; or
- (l) any costs or expenses lawfully incurred due to the distance of the law practice from the place of settlement or from an office of the Western Australian Land Information Authority, established under the Western Australian Land Authority Act 1992 (WA).

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

### 13. Preparing documents and copies for execution, photocopying, facsimile and electronic transmissions (item 6)

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

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

### 14. Complex matters, and matters involving a high degree of skill or urgency

Where a law practice acts on instructions or performs a service in respect of a matter—

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

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

### 15. Travel

The Legal Costs Committee has given further consideration to the fees charged by law practices for travel, including time spent travelling by law practices in regional and remote regions of Western Australia.

As a result of its inquiries described in clause 3 of the Legal Profession (Solicitors Costs) Report 2015, the Legal Costs Committee has resolved to change the maximum hourly rates for travelling time under item 704.

In reaching its decision the Legal Costs Committee has considered amendments made to 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.

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.

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.

The Legal Costs Committee notes that, having regard to the above—

- (a) 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
- (b) 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 that time relates to the client for whom the travel is being undertaken) and the amount allowed under item 704.

### 16. Effect on costs of Goods and Services Tax (GST)

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

**Table A**

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

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

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

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

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

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

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

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

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

| Ref | Party   | Consideration (\$) | Maximum Amount or %  |
|-----|---------|--------------------|--|
| 501 | Buyer*  | 1—150,000          | \$ 990   |
|     |         | 150,001—500,000    | \$990 plus 0.22% of any amount in excess of \$150,000        |
|     |         | 500,001—1,000,000  | \$1760 plus 0.165% of any amount in excess of \$500,000      |
|     |         | 1,000,001 or more  | \$2585 plus 0.11% of any amount in excess of \$1,000,000     |
| 502 | Seller* | 1—150,000          | \$671  |
|     |         | 150,001—500,000    | \$671 plus 0.143% of any amount in excess of \$150,000       |
|     |         | 500,001—1,000,000  | \$1171.50 plus 0.11% of any amount in excess of \$500,000    |
|     |         | 1,000,001 or more  | \$1721.50 plus 0.077% of any amount in excess of \$1,000,000 |

\*If the contract for sale is for a Strata Title, add \$77.00 if acting for the Seller, and \$132.00 if acting for the Buyer.

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

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

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

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| Ref | Practitioner                              | Maximum Rate   |
|-----|---|----------------|
| 701 | Practitioner (admitted 5 years or more)   | \$484 per hour |
| 702 | Practitioner (admitted less than 5 years) | \$341 per hour |
| 703 | Clerk/Paralegal                           | \$231 per hour |

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

**Travel**

704 Time spent travelling by a law practice is to be charged at no more than one half of the rates contained in items 701 to 703, with a maximum of 8 hours in any one day.

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Made by the Legal Costs Committee on 20 May 2015.

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