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LEGAL PRACTITIONERS ACT 1893

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**LEGAL PRACTITIONERS (WORKERS'  
COMPENSATION) (CONCILIATION  
PROCEEDINGS, REVIEW PROCEEDINGS  
AND COMPENSATION MAGISTRATE'S  
COURT) REPORT 2000**

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**LEGAL PRACTITIONERS (WORKERS'  
COMPENSATION) (CONCILIATION  
PROCEEDINGS, REVIEW PROCEEDINGS  
AND COMPENSATION MAGISTRATE'S  
COURT) DETERMINATION 2000**



**LEGAL PRACTITIONERS ACT 1893****LEGAL PRACTITIONERS (WORKERS' COMPENSATION) (CONCILIATION PROCEEDINGS, REVIEW PROCEEDINGS AND COMPENSATION MAGISTRATE'S COURT) REPORT 2000**

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

**PART 1—PRELIMINARY****Citation**

1. (1) This report may be cited as the *Legal Practitioners (Workers' Compensation) (Conciliation Proceedings, Review Proceedings and Compensation Magistrate's Court) Report 2000*.

(2) The determination set out in the Schedule to this report is referred to in this report as the *Legal Practitioners (Workers' Compensation) (Conciliation Proceedings, Review Proceedings and Compensation Magistrate's Court) Determination 2000*.

**PART 2—NOTICE AND INQUIRIES****Notice under section 58Y of the Act**

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

**Review under section 58X of the Act**

3. The Legal Costs Committee has reviewed the previous determination<sup>1</sup> made on 10 June 1997.

<sup>1</sup> [Published in the Government Gazette on 23 June 1997 at pp.2963-69]

**Inquiries and submissions under section 58Y of the Act**

4. (1) Before making the *Legal Practitioners (Workers' Compensation) (Conciliation Proceedings, Review Proceedings and Compensation Magistrate's Court) Determination 2000* the Legal Costs Committee—

- (a) reviewed all submissions received as a result of the notices given under section 58Y of the Act;
- (b) consulted with the Conciliation and Review Directorate, established in accordance with Division 1A of Part V of the *Workers' Compensation and Rehabilitation Act 1981*;
- (c) consulted with the Law Society of Western Australia (Inc.);
- (d) considered the amendments to section 84X of the *Workers' Compensation and Rehabilitation Act 1981* effected by the *Workers' Compensation and Rehabilitation Amendment Act 1999*; and
- (e) reviewed the *Legal Practitioners (Local Court) (Contentious Business) Determination 2000*<sup>2</sup> including the operation of—
  - (i) the time based system of calculating costs; and
  - (ii) the use of routine and non routine scales.

<sup>2</sup> [Published in the Government Gazette on 14 April 2000 at pp.1905-13]

**PART 3—REPORT OF COMMITTEE'S CONCLUSIONS****Hourly and daily rates unchanged—scale of costs amended**

5. (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 4, that the hourly rates charged by practitioners under the *Legal Practitioners (Local Court) (Contentious Business) Determination 2000* should be adopted as the basis for costs for the supply of legal services covered under the *Legal Practitioners (Workers' Compensation) (Conciliation Proceedings, Review Proceedings and Compensation Magistrate's Court) Determination 2000*.

(2) The hourly rates referred to in subclause (1) are set out in the Table to clause 4 of the *Legal Practitioners (Workers' Compensation) (Conciliation Proceedings, Review Proceedings and Compensation Magistrate's Court) Determination 2000*.

(3) It is the recommendation of the Legal Costs Committee as a result of inquiries and submissions described in clause 4 that the scale of costs be as set out in the Table to clause 4 of the *Legal Practitioners (Workers' Compensation) (Conciliation Proceedings, Review Proceedings and Compensation Magistrate's Court) Determination 2000*.

TED SHARP, Chairman.  
CHRIS PULLIN QC, Deputy Chairman.  
ANGELA GAFFNEY, Member.  
JILL VANDER WAL, Member.  
PATRICK COWARD, Member.  
JANET DAVIDSON, Member.

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Schedule**LEGAL PRACTITIONERS ACT 1893****LEGAL PRACTITIONERS (WORKERS' COMPENSATION) (CONCILIATION  
PROCEEDINGS, REVIEW PROCEEDINGS AND COMPENSATION  
MAGISTRATE'S COURT) DETERMINATION 2000**

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

**PART 1—PRELIMINARY****Citation**

1. This determination may be cited as the *Legal Practitioners (Workers' Compensation) (Conciliation Proceedings, Review Proceedings and Compensation Magistrate's Court) Determination 2000*.

**Commencement**

2. This determination comes into operation on 1 July 2000.

**Application**

3. (1) Subject to subclause (2) this determination applies to contentious business carried out by practitioners in or for the purposes of proceedings before—

- (a) a conciliation officer; or
- (b) a review officer; or
- (c) a compensation magistrate's court,

within the meaning of the Workers' Compensation and Rehabilitation Act 1981.

(2) This determination does not apply to costs incurred with respect to the matters referred to in subclause (1) before 1 July 2000.

**PART 2—DETERMINATION BY COMMITTEE****Hourly rates**

4. (1) The Committee reviewed the information referred to in clause 4 of the *Legal Practitioners (Workers' Compensation) (Conciliation Proceedings, Review Proceedings and Compensation Magistrate's Court) Report 2000* and determined that—

- (a) in view of the flexibility afforded by the estimated times described in the Schedules; and
- (b) the provision in each Schedule allowing a practitioner to charge costs which exceed the maximum amounts set out in the Scales,

the appropriate hourly rates were comparable with those of the Local Court.

(2) The rates set out in the Table to this subclause are identical to those set out in the *Legal Practitioners (Local Court) (Contentious Business) Determination 2000*.

**Table to Clause 4**

Practitioner (admitted for more than 5 years) ("SP")	\$215 per hour
Junior Practitioner (admitted for less than 5 years) ("JP")	\$150 per hour
Clerk or para legal (supervised by a solicitor) ("CPL")	\$65 per hour

**Time based Scales of Costs**

5. (1) In 1997 the Committee determined that time based Scales of Costs should continue to be adopted with respect to proceedings before—

- (a) a review officer; and
- (b) a compensation magistrate's court.

(2) The Committee determines that the Scales of Costs for the above proceedings and those before a conciliation officer shall continue to be time based.

**The Schedules****Schedule 1**

6. Schedule 1 has effect with respect to proceedings before a conciliation officer.

**Schedule 2**

7. Schedule 2 has effect with respect to proceedings before a review officer.

**Schedule 3**

8. Schedule 3 has effect with respect to proceedings before a compensation magistrate's court.

**Schedule 1****CONCILIATION PROCEEDINGS COSTS SCALE****Maximum amounts**

1. Subject to clause 2 of this Schedule 1, the costs payable to a practitioner for each item described in column 2 of the Schedule must not exceed the maximum amount opposite and corresponding to that item set out in column 5 of the Schedule.

**Provision for complex matters**

2. Where any matter in relation to which remuneration is prescribed under items 1-6 of the Schedule is unusually complex, a practitioner is entitled to charge the remuneration which is reasonable in the circumstances.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>TIME HOURS</b>	<b>FEE EARNER</b>	<b>\$</b>
1	Preparing and lodging application for conciliation (Form 1) including instructions.	0.5-1	JP—SP	75-215
2	Preparing for conference which includes getting up case for conference and consists of all aspects not otherwise specified associated with preparing for the conference.	1-2	CPL—SP	65-430
3	Attendance at conciliation conference by solicitor, clerk or paralegal—per hour:		SP JP CPL	215 150 65
4	Any other time necessarily spent not including in any item in this scale—per hour:		SP JP CPL	215 150 65
5	Electronic communications and copying: (a) For each communication electronically transmitted or received— irrespective of number of pages: (b) For each photocopy—per page:			5.00 0.50
6	Disbursements: The amount which is reasonable in the circumstances.			

**Schedule 2****REVIEW PROCEEDINGS COSTS SCALE****Maximum amounts**

1. Subject to clause 2 of this Schedule 2, the costs payable to a practitioner for each item described in column 2 of the Schedule must not exceed the maximum amount opposite and corresponding to that item set out in column 5 of the Schedule.

**Provision for complex matters**

2. Where any matter in relation to which remuneration is prescribed under items 1-9 of the Schedule is unusually complex, a practitioner is entitled to charge the remuneration which is reasonable in the circumstances.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>TIME HOURS</b>	<b>FEE EARNER</b>	<b>\$</b>
1	Preparing and lodging application (Form 3) including instructions.	1-2	JP—SP	150-430
2	Preliminary hearing in review including preparation for hearing.	1-3	CPL—SP	65-645
3	Particulars and discovery: (a) Providing particulars (where ordered). (b) Giving discovery of documents (where ordered).	0.5-2 0.5-2	JP—SP JP—SP	75-430 75-430
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	CPL—SP	130-2580

5	Review hearing:			
	(a) Counsel fee on review hearing (includes preparation and first day of trial).	3-12	JP—SP	450-2580
	(b) Counsel fee for second and each successive day of review hearing.	2-8	JP—SP	300-1720
	Note: In relation to item (a) and item (b) if the review hearing— (1) lasts less than 2 hours; or (2) does not commence and is settled or adjourned on the day of the hearing, then the amount which is applicable under items (a) and (b) will be the amount which is reasonable in the circumstances.			
	(c) Paralegal, clerk or solicitor attending review hearing—per hour.		CPL JP	65 150
6	Any other time necessarily spent not included in any item in this Scale—per hour.		CPL JP SP	65 150 215
7	Taxation and costs:			
	(a) Preparing bill of costs, including filing, service and copies.	0.5-1	CPL—JP	32.50-150
	(b) Attending taxation—per hour.		JP	150
8	Electronic communications and copying:			
	(a) For each communication electronically transmitted or received—irrespective of number of pages:			5.00
	(b) For each photocopy—per page			0.50
9	Disbursements: The amount which is reasonable in the circumstances.			



**Schedule 3****COMPENSATION MAGISTRATE'S COURT COSTS SCALE****Maximum amounts**

1. Subject to clause 2 of this Schedule 3, the costs payable to a practitioner for each item described in column 2 of the Schedule must not exceed the maximum amount opposite and corresponding to that item set out in column 5 of the Schedule.

**Provision for complex matters**

2. Where any matter in relation to which remuneration is prescribed under items 1-10 of the Schedule is unusually complex, a practitioner is entitled to charge the remuneration which is reasonable in the circumstances.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>TIME HOURS</b>	<b>FEE EARNER</b>	<b>\$</b>
1	Initial attendance to take instructions including, where applicable, reviewing transcripts and preparation and lodgement of any Notice of Appeal	2-8	JP—SP	300-1720
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	CPL—SP	65-645
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.	0.5-2 0.5-2 1-2	JP—SP JP—SP JP—SP	75-430 75-430 150-430
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	CPL—SP	130-2150

5	Trial or hearing			
	(a) Counsel fee on trial or hearing (includes preparation and first day of trial) or hearing.	3-12	JP—SP	450-2580
	(b) Counsel fee for second and each successive day of trial or hearing.	2-8	JP—SP	300-1720
	(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.			
	Note: In relation to items (a), (b) and (c) if the trial or hearing— (1) lasts less than 2 hours; or (2) does not commence and is settled or adjourned on the day of trial, then the amount which is applicable under items (a), (b) and (c) will be the amount which is reasonable in the circumstances.			
(d) Paralegal, clerk or solicitor attending trial per hour.		CPL—JP	65-150	
(e) Attending on a reserved judgment.	1-2	JP	150-300	
6	Any other time necessarily spent not included in any item in this Scale—per hour.		CPL JP SP	65 150 215
7	Issuing and arranging service of witness summons including copies.	0.5-1	CPL	32.50-65
8	Taxation and costs:			
	(a) Preparing bill of costs, including filing, service and copies.	0.5-1	CPL—JP	32.50-150
	(b) Attending on taxation—per hour.		JP	150
9	Electronic communications and copying:			
	(a) For each communication electronically transmitted or received—irrespective of number of pages.			5.00
	(b) For each photocopy—per page.			0.50

10	Disbursements: The amount which is reasonable in the circumstances.			
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Dated at Perth 13 June 2000.

TED SHARP, Chairman.  
CHRIS PULLIN QC, Deputy Chairman.  
ANGELA GAFFNEY, Member.  
JILL VANDER WAL, Member.  
PATRICK COWARD, Member.  
JANET DAVIDSON, Member.

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