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LEGAL PROFESSION ACT 2008

LEGAL PRACTITIONERS (NON-CONTENTIOUS PROBATE COSTS) REPORT 2010

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

PART 1—PRELIMINARY

1 Citation

This Report may be cited as the *Legal Practitioners (Non-Contentious Probate Costs) Report 2010*.

The Determination set out in the Schedule to this Report is referred to in this report as the *Legal Practitioners (Non-Contentious Probate Costs) Determination 2010*.

PART 2—NOTICE AND ENQUIRIES

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 Practitioners (Non-Contentious Probate Costs) Determination 2010*, the Legal Costs Committee—

- (a) considered comments by the Chief Justice of Western Australia;
- (b) reviewed submissions of the Law Society of Western Australia Inc received as a result of the notice given under section 278 of the Act;
- (c) met with Principal Registrar K. Chapman and Registrar C. Boyle of the Supreme Court of Western Australia; and
- (d) received comment from members of the Legal Profession.

PART 3—REPORT OF COMMITTEE'S CONCLUSIONS

4 Maximum hourly rates changed—scale of costs amended

- (a) As a consequence of its enquiries and the submissions described in clause 3, the Committee is satisfied that with respect to Applications to the Supreme Court of Western Australia for—

- (1) Grants of Probate;
- (2) Letters of Administration with the Will annexed;
- (3) Letters of Administration; and
- (4) Resealing of a Grant of Probate or Letters of Administration made outside Western Australia, either within another Australian jurisdiction or outside any Australian jurisdiction,

it is reasonable to expect law practices to be able to take instructions and to apply for the Grants of the nature outlined above, within a reasonable timeframe and certain costs parameters.

Therefore, the Committee has determined that in respect of the various items detailed in paragraphs (a) to (d) inclusive in clause 5 of the Determination, it is appropriate to adopt the maximum rates set out in those paragraphs.

The Committee notes that as at the date of completing this Report, law practices undertaking the work at the cost set out in paragraph (a) of clause 5 of the Determination will pursuant to section 263(2)(a) of the Act, be exempt from the cost disclosure provisions in the Act.

- (b) The Committee recognises that there can be degrees of complexity associated with the Applications described in paragraph (a) of this clause 4.

In those cases, law practices should be entitled to charge the hourly rates described in sub-paragraphs (e)(1) or (2) (as the case requires) of clause 5 of the Determination.