

**LEGAL PROFESSION ACT 2008**  
**LEGAL PRACTITIONERS (DISTRICT COURT APPEALS)**  
**(CONTENTIOUS BUSINESS) REPORT 2012**

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

**PART 1—PRELIMINARY**

**Citation**

1. (1) This Report may be cited as the *Legal Practitioners (District Court Appeals) (Contentious Business) Report 2012*.
- (2) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2012*.

**PART 2—NOTICE AND INQUIRIES**

**Notice under section 278 of the Act**

2. The Legal Costs Committee has complied with the notice provisions of section 278 of the Act.

**Inquiries and submissions under section 277 of the Act**

3. Before making the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2012*, the Legal Costs Committee—
  - (a) reviewed all submissions received as a result of the notice given under section 278 of the Act including those made by the Law Society of Western Australia (Inc) and the Western Australian Bar Association (Inc);
  - (b) reviewed the impact of movements in the Consumer Price and Labour Price Indices for the financial year ending June 2011, and for the September 2011, December 2011 and March 2012 quarters; and
  - (c) conferred with other legal practitioners.

**PART 3—REPORT OF COMMITTEE'S CONCLUSIONS**

**Maximum hourly and daily rates—scale of costs amended**

4. (a) The information gained as a result of the inquiries and submissions described in clause 3 satisfied the Legal Costs Committee that the manner in which legal services are provided made it appropriate to continue to adopt the hourly and daily rates charged by law practices as the basis for rates used in the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2012*.
- (b) It is the recommendation of the Legal Costs Committee that—
  - (1) as a result of the inquiries and submissions described in clause 3;
  - (2) having considered the impact of relevant Australian Bureau of Statistics data;
  - (3) having considered submissions and data from The Law Society of Western Australia and the Western Australian Bar Association; and
  - (4) taking into account the incidental administrative implications of the calculation of the Goods and Services Tax,  
the hourly and daily rates referred to in sub-clause 4(a) be varied from the hourly and daily rates used in the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2010*<sup>1</sup> as the basis for the recommended scale of costs which have been generally rounded up or down to represent various, increases of between 5.13% and 7.41% inclusive of the Goods and Services Tax and for administrative convenience, divisible by 11. Those rates are set out in Table A of the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2012*.
- (c) As a result of the information gained from the inquiries and submissions described in clause 3 it is the recommendation of the Legal Costs Committee that the scale of costs as set out in Table B of the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2012* be adopted for appeals in the District Court.
- (d) 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 or any successor legislation.

TED SHARP, Chairman.  
ANGELA GAFFNEY, Member.  
CLARE THOMPSON, Member.  
MARCUS COCKER, Member.  
JANICE DUDLEY, Member.  
MATTHEW CURWOOD, Member.

---

<sup>1</sup> Published in *Gazette* 29 June 2010.

*Schedule***LEGAL PROFESSION ACT 2008****LEGAL PRACTITIONERS (DISTRICT COURT APPEALS)  
(CONTENTIOUS BUSINESS) DETERMINATION 2012**

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

**Citation**

1. This Determination may be cited as the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2012*.

**Commencement**

2. This Determination comes into operation on 1 January 2013.

**Application**

3. This Determination applies to the remuneration of law practices in respect of appeals to a Judge of the District Court of Western Australia, whether from a Registrar of that Court or from another Court or Tribunal.

**Maximum hourly and daily rates**

4. (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the dollar amounts in the scale of costs set out in Table B.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 4 of the *Legal Practitioners (District Court Appeals) (Contentious Business) Report 2012*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing or trial day, whether in or out of court, including preparation of written submissions and are not intended to be supplemented in any way by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

**Table A**

| Fee Earner  |             | Maximum allowable hourly and daily rates |
|---|-------------|--|
| Senior Practitioner (admitted for 5 years or more) (SP) <sup>a</sup>                    | hourly rate | \$451                                    |
| Junior Practitioner (admitted for less than 5 years) (JP) <sup>a</sup>                  | hourly rate | \$319                                    |
| Clerk/Paralegal (C/PL)  | hourly rate | \$220                                    |
| Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel— |             |  |
| Counsel (C) <sup>*</sup>  | hourly rate | \$363                                    |
|   | daily rate  | \$3,630                                  |
| Senior Counsel (SC) <sup>†</sup>  | hourly rate | \$638                                    |
|   | daily rate  | \$6,380                                  |

<sup>a</sup> The reference to Junior Practitioner or to Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local 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.

<sup>\*</sup> The reference to Counsel in this Determination means a practitioner acting as a barrister other than as Senior Counsel.

<sup>†</sup> The reference to Senior Counsel in this Determination includes reference to Queens Counsel or Senior Counsel appointed in Western Australia, or appointed in any State or Territory in Australia and whose appointment is afforded recognition by the Chief Justice of Western Australia.

**Costs**

5. Subject to the provisions of the Act permitting a law practice 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 GST and 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 law practice,

shall not exceed the amounts set out in Table B.

**Table B**  
**DISTRICT COURT APPEALS SCALE OF COSTS 2012**

| Item | Description   | Time                                 | Fee Earner | \$ Amount   |
|------|---|--------------------------------------|------------|---|
| 1.   | Notice of appeal or Notice of Contention—   |                                      |            |   |
|      | (a) Appeal notice (pursuant to Rule 15 of <i>District Court Rules 2005</i> )  | 1 hour                               | SP         | 451   |
|      | (b) Other appeals   | 5 hours                              | SP         | 2,255   |
| 2.   | Interlocutory hearings—as required (including preparation)  | per hour                             | SP<br>C    | 451<br>363  |
| 3.   | Preparation of appeal for hearing (including preparation of appeal books)   | 10 hours                             | SP         | 4,510   |
| 4.   | Counsel fee on hearing (including preparation)  | 2 days preparation;<br>1 day hearing | C          | 10,890  |
|      |   |                                      | SC         | 19,140  |
| 5.   | Counsel fee for second and each successive day of hearing   |                                      | C<br>SC    | 3,630<br>6,380                                      |
| 6.   | Attendance at appeal by instructing legal practitioner  | per hour                             | SP         | 451   |
| 7.   | Attending on reserved decision (including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders)   | per hour                             | SP         | 451   |
| 8.   | Settling and extracting order disposing of appeal—  |                                      |            | 583   |
|      |   |                                      |            | 220   |
| 9.   | Other notices and certificates referred to or required by the Rules or procedures of the Court (including practice directions)  |                                      |            | 66  |
| 10.  | Taxing including drawing—   |                                      | SP         | Such amounts as are reasonable in the circumstances |
|      | (a) Drawing bill of costs and service   |                                      |            |   |
|      | (b) Taxation of costs (including time spent preparing for the taxation)   |                                      |            |   |
| 11.  | Copies where reasonably necessary, including of documents for which allowance is otherwise made in this Determination   | per page                             |            | 0.165   |
| 12.  | Disbursements   |                                      |            |   |
|      | In addition to the fees and charges allowed under this Determination—   |                                      |            |   |
|      | (a) As between a law practice and client, a law practice may charge and be allowed disbursements necessarily or reasonably incurred; and  |                                      |            |   |
|      | (b) As between party and party, a party may be allowed disbursements incurred by that party except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, that party is fully reimbursed for its disbursements. |                                      |            |   |

Made by the Legal Costs Committee on 12 December 2012.