

LEGAL PRACTICE ACT 2003

LEGAL PRACTITIONERS (DISTRICT COURT APPEALS) (CONTENTIOUS BUSINESS) REPORT 2004

Made by the Legal Costs Committee under section 214 of the Act.

PART 1 - PRELIMINARY

Citation

1. (1) This report may be cited as the *Legal Practitioners (District Court Appeals) (Contentious Business) Report 2004*.
- (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 2004*.

PART 2 - NOTICE AND INQUIRIES

Notice under section 213 of the Act

2. The Legal Costs Committee has complied with the notice provisions of section 213 of the Act.

Inquiries and submissions under section 213 of the Act

3. Before making the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2004*, the Legal Costs Committee -
 - (a) reviewed all submissions received as a result of the notice given under section 213 of the Act;
 - (b) reviewed the operation of the time based system of calculating costs; and
 - (c) reviewed the impact of movements in the Consumer Price and Wage Cost Indices for the financial year ending June 2002, and for the September 2003, December 2003 and March 2004 quarters.
4. In addition to the matters described in clause 3, the Committee –
 - (a) collated and reviewed the information gained from an electronic questionnaire distributed to legal practitioners in Western Australia; and
 - (b) distributed a questionnaire amongst a number of users of legal services and made that questionnaire available to the public electronically on the Committee's website.

PART 3 - REPORT OF COMMITTEE'S CONCLUSIONS

5. The Committee received no evidence on which to base any increase in the scale of costs at this time. Therefore the only change recommended to the amounts in the scale is to the hourly rate applicable to Junior Practitioners in order to link this to the Junior Practitioner rate contained in the *Legal Practitioners (Supreme Court) (Contentious Business) Determination 2004*.

6. (1) As a result of the information gained from the inquiries and submissions described in clauses 3 and 4, it is the recommendation of the Legal Costs Committee that the scale of costs as set out in the Table to clause 3 of the *Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2004* be adopted for appeals in the District Court.

(2) The recommendation of the Legal Costs Committee is not intended to override the entitlement of a practitioner to make a written agreement as to costs with a client under the *Legal Practice Act 2003*.

Ted Sharp, Chairman
Michael McPhee, Deputy Chairman
Janine Freeman, Member
Angela Gaffney, Member
Clare Thompson, Member
Marcus Cocker, Member

Schedule

LEGAL PRACTICE ACT 2003

LEGAL PRACTITIONERS DISTRICT COURT APPEALS (CONTENTIOUS BUSINESS) DETERMINATION 2004

Made by the Legal Costs Committee under section 210 of the Act.

Citation

1. This determination may be cited as the *Legal Practitioners District Court Appeals (Contentious Business) Determination 2004*.

Commencement

2. This determination comes into operation on 1 July 2004.

Scale of costs

3. Subject to the provisions of the *Legal Practice Act 2003* permitting a legal practitioner to make a written agreement as to costs with a client, the costs of or in relation to a party to an appeal to the District Court (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 legal practitioner,

shall not exceed the amount set out in the Table to this clause.

TABLE
DISTRICT COURT APPEALS SCALE OF COSTS

ITEM	DESCRIPTION	\$
1.	Notice of appeal	580
2.	Proceedings in Chambers	1,160
3.	Getting up appeal for hearing	1,160
4.	Counsel fee on hearing including preparation (see Notes 1 and 2)	4,060
5.	Counsel fee for second and each successive day of hearing (see Notes 1 and 2)	1,740
6.	Attending on reserved decision	232
7.	Settling and extracting order disposing of appeal	
	(a) With appointment	232
	(b) Without appointment	116
8.	Drawing bills of costs, copies and service	348
9.	Attending taxation (including time spent in preparing for the taxation) - per hour	231
10.	Disbursements In addition to the fees and charges allowed under this determination (a) As between practitioner and client, a practitioner may charge and be allowed disbursements necessarily or reasonably incurred; and (b) As between party and party, a party may be allowed disbursements necessarily or reasonably incurred.	

Note 1 The Judge may in a proper case certify for second counsel.
In cases for which two counsel are certified the allowance for Senior Counsel is the amount shown increased by 50%.

Note 2 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 the Supreme Court of Western Australia.