

LEGAL PRACTITIONERS ACT 1893

LEGAL PRACTITIONERS (SOLICITORS NON-CONTENTIOUS PROBATE COSTS) REPORT 2000

PART 1 – PRELIMINARY

Citation

1. (1) This report may be cited as the *Legal Practitioners (Solicitors Non-Contentious Probate Costs) Report 2000*.
- (2) The determination set out in the Schedule to this report is referred to in this report as the *Solicitors Non-Contentious Probate Costs Determination 2000*.

PART 2 – NOTICE AND ENQUIRIES

Notice under section 58Y of the Act

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

Enquiries and submission under section 58Y of the Act

3. Before making the *Solicitors Non-Contentious Probate Costs Determination 2000*, the Legal Costs Committee reviewed all submissions received as a result of the notice given under section 58Y of the Act.

PART 3 – REPORT OF COMMITTEE'S CONCLUSIONS

Basis for fixing costs

4. (1) The information obtained as a result of:
 - (a) notice given under section 58Y of the Act;
 - (b) submissions described in clause 3; and
 - (c) having regard to the provisions of the Legal Practitioners (Effect on Costs of a New Tax System (Goods and Services Tax)) Determination 2000 published in the *Gazette* 15 September 2000 pp 5411-5415;

has satisfied the Legal Costs Committee that in respect of the *Solicitors Non-Contentious Probate Costs Determination 2000*, there is no need to amend the rates used in the Legal Practitioners Solicitors Non-Contentious Probate Costs Determination 1998.

- (2) It is the recommendation of the Legal Costs Committee that the basis used for fixing costs in the manner set out in the *Solicitors Non-Contentious Probate Costs Determination 1998* be adopted as the basis for fixing costs in the *Solicitors Non-Contentious Probate Costs Determination 2000*.
- (3) 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 Practitioners Act 1893*.

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

Schedule

LEGAL PRACTITIONERS ACT 1893

SOLICITORS NON-CONTENTIOUS PROBATE COSTS DETERMINATION 2000

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

Citation

1. This determination may be cited as the Solicitors Non-Contentious Probate Costs Determination 2000.

Commencement

2. This determination comes into operation on 1 January 2001.

The Solicitors Non-Contentious Probate Costs Determination 1998

3. The determination cited as the *Solicitors Non-Contentious Probate Costs Determination 1998* published in the *Government Gazette* on 12 August 1998 p.4384 does not apply to business carried out by practitioners after the commencement of this determination.

Application

4. (1) This determination applies to the remuneration of practitioners in respect of –
 - (a) applications for grants of probate and letters of administration within Western Australia or reseals of grants and letters of administration made outside Western Australia; and
 - (b) agency allowances where the solicitor 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 employs a practitioner in Perth as agent in connection with the application.
- (2) This determination does not apply to the remuneration of practitioners based on a written agreement as to costs under section 59 of the *Legal Practitioners Act 1893*.
- (3) This determination does not apply to the remuneration of practitioners based on costs incurred in respect of business carried out before the commencement of this determination.
- (4) This determination does not apply to those areas of business performed by practitioners in connection with the administration and winding up of deceased persons' estates which can be properly chargeable under the provisions of the Solicitors Costs Determination 1998 or any subsequent determination in substitution for or by way of variation to the same.

Costs

5. Unless a practitioner has made a written agreement as to costs with a client under the provisions of section 59 of the *Legal Practitioners Act 1893*, the costs payable by the client to the client's solicitor shall be such amount as is reasonable in the circumstances calculated on the basis of the time reasonably taken to perform the work described in clause 4 above and charged at an hourly rate which does not exceed the hourly rates set out below.

(a) General

Junior Clerk	\$65.00 per hour
Senior Clerk	\$150.00 per hour
Articled Clerk	\$130.00 per hour
Restricted Year Practitioner	\$175.00 per hour
Practitioner (less than 5 years)	\$200.00 per hour
Practitioner (5 years or more)	\$280.00 per hour

Travel is to be calculated in the same manner as above, with a maximum of 8 hours in any one day.

(b) Specific

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

Where a practitioner acts on instructions or performs a service in respect of a matter that is complex, or involves a high degree of skill or urgency, the practitioner is entitled to charge a fee or charge (as the case requires) that is reasonable in the circumstances.

Legal Practitioners (Effect on Costs of a New Tax System (Goods and Services Tax)) Determination 2000 *Gazette* 15 September 2000 pp 5411-5415

6. For the avoidance of doubt, the Committee confirms that the Legal Practitioners (Effect on Costs of a New Tax System (Goods and Services Tax)) Determination 2000 *Gazette* 15 September 2000 pp 5411-5415 applies to the Solicitors Non-Contentious Probate Costs Determination 2000.

Made by the Legal Costs Committee on 21 November 2000.