

LEGAL PRACTITIONERS (PUBLIC NOTARIES) 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 (Public Notaries) Report 2004*.
- (2) The determination set out in the Schedule to this report is referred to in this report as the *Legal Practitioners (Public Notaries) 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 (Public Notaries) 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) consulted with the Courts, practising Public Notaries, and the Law Society of Western Australia;
 - (c) had regard to the fees chargeable by Public Notaries in comparable jurisdictions; and
 - (d) had regard to the hourly and daily rates applicable under the *Solicitors Costs Determination 2003**.

PART 3 – REPORT OF COMMITTEE'S CONCLUSIONS

Increase in fees

4. Having had regard to the public service nature of the duties of Public Notaries, considered input from practising Public Notaries about the time taken in the performance of their services, and having given consideration to the fees and charges applicable by Public Notaries in other comparable jurisdictions, the Legal Costs Committee concluded that the scale of Public Notaries fees that is applicable in Western Australia is inappropriate.

Scale of costs to be adopted

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 3, that the scale of costs set out in the Table to clause 4 of the *Legal Practitioners (Public Notaries) Determination 2004* be adopted for the business of Public Notaries.

(2) It is the further recommendation of the Committee that given the amendments to the scale of costs in the manner set out in the Table to clause 4 of the *Legal Practitioners (Public Notaries) Determination 2002* were inclusive of any provision for the Goods and Services Tax (GST), the scale of Public Notaries fees continues to be inclusive of GST.

**[Published in the Gazette 28 May 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 (PUBLIC NOTARIES) 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 (Public Notaries) Determination 2004*.

Commencement

2. This determination comes into operation on 1 January 2005.

Application

3. (1) This determination applies to the remuneration of a Public Notary for the provision of notarial services.

(2) This determination does not apply to the remuneration of a Public Notary based on costs incurred in respect of instructions taken before the commencement of this determination.

Scale of costs

4. The fee charged by a Public Notary for providing notarial services shall not exceed the fee for those services set out in the Table to this clause (inclusive of GST).

TABLE

SCALE OF PUBLIC NOTARIES FEES

| Item No | Matter | Maximum amount \$ |
|---------|--|----------------------|
| 1 | <i>Affidavits, affirmations and declarations:</i> | |
| | (a) For administering an oath or affirmation or taking a declaration and for signing the jurat or its equivalent – where there is one deponent or declarant | 70 |
| | and for each additional deponent, affirmant or declarant swearing, affirming or declaring at the same time | 20 |
| | (b) For preparing an affidavit, affirmation or declaration verifying the execution of a document by a company or by a person | 75 |
| | (c) For preparing a notarial certificate in respect of an oath, affirmation or declaration and for completing the certificate | 75 |
| | (d) For completing a second and third certificate (if required) | 25 |
| | (e) For preparing an exhibit to an affidavit, affirmation or declaration and for completing an exhibit | 20 |

| | | |
|-----------------|--|--|
| <p>2</p> | <p><i>Deeds and other documents:</i></p> <p>(a) Witnessing and attesting the execution or signing of a deed or other document –</p> <p style="padding-left: 40px;">where there is one party</p> <p style="padding-left: 40px;">and for each additional party signing at the same time</p> <p>(b) For preparing a notarial certificate in respect of the attestation and for completing the certificate</p> | <p>70</p> <p>20</p> <p>75</p> |
| <p>3</p> | <p><i>Verification of copies of documents:</i></p> <p>(a) For examining with the original a photocopy of the document</p> <p style="padding-left: 40px;">for each page exceeding one</p> <p>(b) For examining with the original a copy of a document other than a photocopy</p> <p>(c) For preparing a notarial certificate verifying a copy of a document and for completing the certificate</p> | <p>25</p> <p>5</p> <p>50</p> <p>75</p> |
| <p>4</p> | <p><i>Certificates under seal not otherwise prescribed by this scale:</i></p> <p style="padding-left: 40px;">For preparing a notarial certificate and for completing the certificate</p> | <p>75</p> |
| <p>5</p> | <p><i>Bills of Exchange:</i></p> <p>(a) For noting a bill of exchange, entering in the register and supplying one copy of note</p> <p>(b) For presenting bill – a fee for the time so occupied calculated in accordance with the <i>Solicitors Costs Determination 2003*</i></p> <p>(c) For preparing, issuing and entering a protest of a bill of exchange and supplying one copy of protest</p> <p>together with the reasonable disbursements necessarily incurred in connection with any of those services</p> | <p>150</p> <p>150</p> |
| <p>6</p> | <p><i>Ship's protests:</i></p> <p>(a) Preparing and attesting a ship's protest including three copies (if required)</p> <p>(b) Preparing and attesting extension of ship's protest</p> | <p>200</p> <p>200</p> |

| | | |
|---|---|---------------|
| 7 | <p>Duplicates:</p> <p>Except where otherwise provided, for more than one copy of any of the above notarial documents completed at the same time –</p> <p>for each copy (after the first) up to ten - one half of the prescribed fee</p> <p>for each copy (after the tenth) - one quarter of the prescribed fee</p> | |
| 8 | <p>Miscellaneous services:</p> <p>For instructions, attendances, correspondence, drawing, engrossing, travel and all other services not covered by this scale, or, if so covered, for matters involving unusual work or difficulty –</p> <p>a fee calculated in accordance with the <i>Solicitors Costs Determination 2003*</i> having regard to the time skill and responsibility involved</p> <p>For photocopies where necessary, including of documents for which allowance is otherwise made in this Determination</p> | 1.00 per page |

**[Published in the Gazette 28 May 2003]*

Made by the Legal Costs Committee on 16 November 2004.