

## LEGAL PROFESSION (PUBLIC NOTARIES) REPORT 2015

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

### PART 1 – PRELIMINARY

#### 1. Citation

- (1) This Report may be cited as the *Legal Profession (Public Notaries) Report 2015*.
- (2) The determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Public Notaries) Determination 2015*.
- (3) The citation for this Report (compared to previous Reports) has been amended to be consistent with the title of the Act.

### PART 2 – NOTICE AND INQUIRIES

#### 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 Profession (Public Notaries) Determination 2015* the Legal Costs Committee:

- (a) reviewed all submissions received as a result of the notice given under section 277 of the Act;
- (b) consulted with the Courts, Law Society of Western Australia, Western Australian Bar Association and the Public Notaries Society of Western Australia Incorporated;
- (c) considered the rates payable for similar work in other Australian jurisdictions; and
- (d) has considered the hourly and daily rates applicable under the *Legal Profession (Solicitors Costs) Determination 2015* \*.

### PART 3 – REPORT OF THE LEGAL COSTS COMMITTEE'S CONCLUSIONS

#### 4. Adjustment in fees

- (a) The Legal Costs Committee had regard to submissions made by the Public Notaries Society of Western Australia Incorporated. Having considered and thought them appropriate, the Legal Costs Committee resolved to include new items 1(f), 2(c) and 3(d) in Table A to clause 4 of the *Legal Profession (Public Notaries) Determination 2015*, the terms of which the Legal Costs Committee considers are self explanatory.
- (b) The Legal Costs Committee, for the purposes of administration and accounting convenience, amends all fees in the Scale so that they are divisible by 11 (except photocopying charges).

#### 5. Scale of costs to be adopted

- (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 Table A to clause 4 of the *Legal Profession (Public Notaries) Determination 2015* be adopted for the business of Public Notaries.
- (2) It is the further recommendation of the Legal Costs Committee given that the amendments to the scale of costs in the manner set out in Table A 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.

\*[To be published in the *Government Gazette* on or about the same time as the *Legal Profession (Public Notaries) Determination 2015*]

Ted Sharp, Chairman

Angela Gaffney, Member

Clare Thompson, Member

Marcus Cocker, Member

Janice Dudley, Member

Matthew Curwood, Member

## Schedule

### LEGAL PROFESSION ACT 2008

## LEGAL PROFESSION (PUBLIC NOTARIES) DETERMINATION 2015

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

### 1. Citation

- (a) This Determination may be cited as the *Legal Profession (Public Notaries) Determination 2015*.
- (b) The citation for this Determination (compared to previous Determinations) has been amended to be consistent with the title of the Act.

### 2. Commencement

This Determination comes into operation on 1 July 2015.

### 3. Application

- (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.

### 4. Scale of costs

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

TABLE A

SCALE OF PUBLIC NOTARIES FEES

Item No	Matter	Maximum amount \$
1	<b><i>Affidavits, affirmations and declarations:</i></b>	
	(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	132
	and for each additional deponent, affirmant or declarant swearing, affirming or declaring at the same time	66
	(b) For preparing an affidavit, affirmation or declaration verifying the execution of a document by a company or by a person	132
	(c) For preparing a notarial certificate in respect of an oath, affirmation or declaration and for completing the certificate	132
	(d) For completing a second and third certificate (if required)	66
	(e) For preparing an exhibit to an affidavit, affirmation or declaration and for completing an exhibit	66
	(f) For each page over and above the first 5 pages which requires signing by each deponent or declarant and witnessing by the Public Notary	0.66

2	<p><b><i>Deeds and other documents:</i></b></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>(c) For each page over and above the first 5 pages which requires signing by the party or parties and witnessing by the Public Notary</p>	<p>132</p> <p>66</p> <p>132</p> <p>0.66</p>
3	<p><b><i>Verification of copies of documents:</i></b></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>(d) For each page over and above the first 5 pages which requires signing by the Public Notary</p>	<p>66</p> <p>6.60</p> <p>132</p> <p>132</p> <p>0.33</p>
4	<p><b><i>Certificates under seal not otherwise prescribed by this scale:</i></b></p> <p>For preparing a notarial certificate and for completing the certificate</p>	<p>121</p>
5	<p><b><i>Bills of Exchange:</i></b></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>Legal Profession (Solicitors Costs) Determination 20151*</i> or any subsequent determination made in substitution for that determination</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>209</p> <p>209</p>
6	<p><b><i>Ship's protests:</i></b></p> <p>(a) Preparing and attesting a ship's protest including three copies (if required)</p>	<p>264</p>

	(b) Preparing and attesting extension of ship's protest	264
7	<p><b>Duplicates:</b></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><b>Miscellaneous services:</b></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>Legal Profession (Solicitors Costs) Determination 2015*</i> or any subsequent determination made in substitution for that determination, 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

*\*/To be published in the Government Gazette on or about the date of this Determination/*

Made by the Legal Costs Committee on 15 April 2015.