

LEGAL PROFESSION ACT 2008

LEGAL PROFESSION (SUPREME AND DISTRICT COURTS) (CONTENTIOUS BUSINESS) REPORT 2018

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

PART 1 – PRELIMINARY

1. Citation

- (a) This Report may be cited as the *Legal Profession (Supreme and District Courts) (Contentious Business) Report 2018*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Supreme and District Courts) (Contentious Business) Costs Determination 2018*.
- (c) The change in citation of this Report and the Determination set out in the Schedule to this Report from all previous Reports and Determinations has been undertaken to correct an historical anomaly and is not intended to have any impact on the application of this Report and the Determination.

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 (Supreme and District Courts) (Contentious Business) Determination 2018*, the Legal Costs Committee:

- (a) reviewed the 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), Women Lawyers of WA (Inc.) and Mr Lampropoulos SC;
- (b) considered the impact of section 15L *Civil Liability Act*, as requested by the Attorney General on 24 April 2018; and
- (c) considered the impact of changes in relevant Australian Bureau of Statistics data for the period.

PART 3 – REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS

4. Maximum hourly and daily rates changed – scale of costs amended

- (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 most of the rates used in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2018*.
- (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 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 subclause 4(a) be varied from the hourly and daily rates used in the *Legal Practitioners (Supreme Court) (Contentious Business) Determination 2016*¹ as the basis for the recommended scale of costs which have been generally rounded up or down to represent increases of approximately 2%, inclusive of the Goods and Services Tax and for administrative convenience, are divisible by 11. Those rates are set out in Table A of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2018*.

- (c) It is the recommendation of the Legal Costs Committee, as a result of the inquiries and submissions described in clause 3, the scale of costs be varied in the manner set out in Table B of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2018*.
- (d) The recommendations of the Legal Costs Committee are not intended to override any entitlement of a law practice to make a written agreement as to costs with a client under the Act or any successor legislation.

CLARE THOMPSON, Chair

ANGELA GAFFNEY, Member

MARCUS COCKER, Member

JANICE DUDLEY, Member

MATTHEW CURWOOD, Member

BRENDAN ASHDOWN, Member

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Schedule

LEGAL PROFESSION ACT 2008

LEGAL PROFESSION (SUPREME AND DISTRICT COURTS) (CONTENTIOUS BUSINESS) DETERMINATION 2018

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

1. Citation

This Determination may be cited as the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2018*.

2. Commencement

This Determination comes into operation on 1 July 2018.

3. Application

- (a) This Determination applies to the remuneration of legal practitioners, clerks and paralegals in respect of advice given by legal practitioners in respect of contentious business carried out by legal practitioners in or for the purposes of proceedings before:
- (1) the Supreme Court; and
 - (2) the District Court, other than contentious business to which the *Legal Profession (District Court Appeals) (Contentious Business) Determination 2018* applies.
- (b) This Determination does not apply to the remuneration of law practices based on a written agreement as to costs under the *Legal Profession Act 2008* or any successor legislation.
- (c) This Determination does not apply to the remuneration of law practices for costs incurred before 1 July 2018.

4. Application of 0.66, r11(3), r13, r18, r19, r20(3), r21 and r23 of the *Rules of the Supreme Court*

In the circumstances set out in Order 66, rules 11(3), 13, 18, 19, 20(3), 21 and 23 of the *Rules of the Supreme Court*, the Legal Costs Committee determines that the Court or the Taxing Officer, as the case may be, has the power to make the orders and allowances referred to in those rules.

5. Item 36 for negotiated motor vehicle personal injury claims

- (a) The introduction of item 36, previously item 35, was explained in the *Legal Profession (Supreme Court) (Contentious Business) Determination 2012* and *Legal Profession (Supreme Court) (Contentious Business) Determination 2014*. Whilst those paragraphs are not reproduced here, they continue to apply and express the Legal Costs Committee's views on the operation of item 36.
- (b) The allowance set out in item 36 is intended to apply to claims for personal injury under the *Motor Vehicle (Third Party Insurance) Act 1943* which follow a standard procedural pathway.

6. Catastrophic personal injury claims

- (a) The introduction of the items in the determinations relating to catastrophic personal injuries was explained in the *Legal Profession (Supreme Court) (Contentious Business) Determination 2012* and *Legal Profession (Supreme Court) (Contentious Business) Determination 2014*.
- (b) Since the introduction of the provisions for catastrophic personal injuries claims in 2012, the District Court decision in *McGlinn as administrator for Jeffrey Craig McGlinn v Joondalup Hospital Pty Ltd [No 2] [2014] WADC 3* has meant that the stated objective of an early determination that a claim was a catastrophic personal injury claim has been unable to be achieved.
- (c) In light of the decision in *McGlinn as administrator for Jeffrey Craig McGlinn v Joondalup Hospital Pty Ltd [No 2] [2014] WADC 3* the Legal Costs Committee has decided that a determination as to whether a matter is a catastrophic personal injury claim for the purposes of items 18 and 21 will only require an assessment of the nature or extent of the injury or injuries sustained by the plaintiff that are at issue in the proceedings.
- (d) The Legal Costs Committee remains of the view that determination as to whether a matter is a catastrophic personal injury should be made as early as possible in proceedings.

7. Counsel fees

- (a) All appearances allowed for in items 10, 11, 21 and 24 of Table A are intended to be charged at the applicable counsel rate, and not at any higher rate that may be applicable to the actual practitioner by reason of the person undertaking the appearance otherwise being entitled to charge as a Senior Practitioner.
- (b) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for counsel of their seniority in Table A and are not to be charged at rates applicable to a Senior Practitioner.
- (c) The increase in Counsel rates, and no increase in Senior Counsel rates in Table A is designed to narrow the gap between those levels of seniority of counsel and more accurately reflect the market for legal services.
- (d) Recovery of daily fees for counsel on the taxation or assessment of a Bill of Costs is intended to apply only when a full day has been worked, either in Court or in Court and in preparation for a subsequent hearing day.

8. *Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Act 2018* claims

- (a) On 10 April 2018 the Parliament passed the *Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Act 2018* which implemented Part 2A of the *Civil Liability Act 2002*. Division 4 of Part 2A provides for caps on legal fees for work done under Part 2A, after the date of the amendments coming into effect.
- (b) The Committee has considered the request made to it by the Attorney General to incorporate any necessary changes in this Determination as a result of the amendments to the *Civil Liability Act 2002*.
- (c) The Committee has determined that at this time there is no requirement for any special item to be included in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2018* and therefore the limits in this Determination will apply to work undertaken under Part 2A of the *Civil Liability Act 2002*.

9. New item 12 - *Family Provision Act* claims

- (a) This Determination introduces a new item 12 for claims brought under section 7(1) of the *Family Provision Act 1972*.
- (b) Item 12(a) provides a capped maximum allowance for each of the parties. These allowances have been determined without reference to hourly rates and are intended to provide reasonable remuneration for the entirety of the work performed prior to mediation.
- (c) Appropriate reductions in the allowances in item 12(a) should be made for affidavits which include material that goes beyond the requirements of Supreme Court Practice Direction 9.2.2, or any other relevant Practice Direction.
- (d) The maximum allowance provided for the executor or personal representative reflects the limited role executors or personal representatives play in these claims and is based on the premise that the executor or personal representative will only be attending a mediation conference for a limited time at the commencement of the conference and will otherwise be available by telephone. If the executor or personal representative is required, either by the parties or the Court, to attend an entire mediation conference, a separate allowance may be made under item 25 for that purpose.
- (e) Item 12(c) applies to proceedings which do not conclude at mediation.
- (f) The amounts provided for in Items 12(a) and 12(b) are the maximum claimable by each party, unless a special costs order is obtained.
- (g) An additional allowance may be made under Item 12(a) if a second or subsequent mediation conference is held and the parties have been required to undertake additional work for that second or further mediation. Examples of that additional work include obtaining a valuation or obtaining necessary records relating to the deceased or the administration of the estate.
- (h) Items 12(a)(2) and (3) and 12(b)(2) and (3) are not to both be claimed if the executor and beneficiary defendant are represented by the same legal practitioner.
- (i) Subject to (d) above, and any appropriate or necessary other orders as to costs, or when a special costs order is made, parties to *Family Provision Act* claims are not able to recover costs under any items of the Determination other than items 3(a), 7 (where ordered), 16, 19, 25 (where ordered in accordance with clause 9(d) above), 30, 31, 32, 33 (where ordered as between party and party), 34 and 35 (where ordered as between party and party).
- (j) Nothing in item 12 is intended to derogate from the trial Judge's discretion as to the awarding of costs.

10. New item 37

Item 37 has been introduced to provide for a specific item to cover work performed in relation to effecting a settlement under section 92(f) *Workers Compensation and Injury Management Act 1981*. Whilst the Committee is of the view that this work is already claimable under other items in the Determination, the introduction of a special item is intended to remove any doubt in that regard.

11. Restricted Practitioner category

The amendments brought in by the *Legal Profession (Supreme Court) (Contentious Business) Determination 2016* remain in effect. Clause 10(e) of that Determination ceases to have effect with the introduction of this Determination.

12. Maximum hourly and daily rates

- (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. Each item in the scale of costs specifies a dollar amount with reference to the practitioner.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 4 of the *Legal Profession (Supreme and District Courts) (Contentious Business) Report 2018*.
- (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.
- (d) The items in Table B are not intended to be calculated on the basis of a minimum 6 minute unit.

Table A

Fee Earner	Maximum allowable hourly and daily rates	
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) [°]	hourly rate	\$495
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) [°]	hourly rate	\$352
Restricted Practitioner (RP) ^{°, #}	hourly rate	\$297
Clerk/Paralegal (C/PL) ^{##}	hourly rate	\$231
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:		
Counsel (C) [*]	hourly rate	\$418
	daily rate	\$4,180
Senior Counsel (SC) ^{**}	hourly rate	\$682
	daily rate	\$6,820

[°] The reference to Restricted Practitioner, Junior Practitioner or 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 practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.

[#] The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in section 50 of the Act and does

not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical or other reasons.

- ## The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
- * The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel, including, for the purposes of items 10, 11, 21 and 24, a practitioner appearing in court who does not practise in accordance with Supreme Court Practice Direction 10.5.
- ** The reference to Senior Counsel in this Determination means a person within the meaning of item 11 or item 12 of Regulation 5(2) of the *Legal Profession Regulations 2009 (WA)*.

13. Costs

- (a) 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):
- (1) recoverable by one party from another party; or
 - (2) payable by a party to that party's own law practice,
- shall not exceed the amounts set out in Table B (except as otherwise provided in item 33 of Table B).
- (b) Allowances made under item 33 of Table B are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and not between party and party, unless the Court otherwise orders.
- (c) Allowances made under item 35(b) of Table B are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and not between party and party, unless the Court otherwise orders.

14. Fixed amounts

Based upon the Legal Costs Committee's enquiries it has determined that items 1(b), 3(a), 7(a), 15, 16(c), 16(f), 24(a), 26(b), 29(a) and 36 in Table B should be fixed amounts.

Table B
Supreme Court Scale of Costs 2018

Item		Time	Fee earner	\$
1.	Writ:			
	(a) Writ of summons, whether specially or generally endorsed, including instructions, but excluding Statement of Claim	1.5 hours	SP	742
	(b) For each additional defendant			77
	(c) Statement of Claim	10 hours	SP	4,950
2.	Next friend or guardian <i>ad litem</i>	3 hours	RP	891

Item		Time	Fee earner	\$
3.	Defence: (a) Memorandum of appearance (b) Defence (c) Counterclaim	10 hours 10 hours	SP SP	99 4,950 4,950
4.	Reply and other pleadings: Reply (if necessary), defence to counterclaim, or any other pleading	10 hours	SP	4,950
5.	(a) Third party notice (b) Pleadings in third party proceedings	2 hours 6 hours	SP SP	990 2,970
6.	(a) Requesting particulars of a pleading (where and to the extent necessary) (b) Giving particulars of a pleading	3 hours 5 hours	JP JP	1,056 1,760
7.	Discovery: (a) Notice requiring discovery (b) Giving discovery of documents	10 hours	SP	66 4,950
8.	Inspection: Inspection and giving inspection of discovered documents whether by personal attendance or otherwise	per hour	SP	495
9.	Interrogatories: (a) Delivery of interrogatories (b) Answers to interrogatories	5 hours 10 hours	SP SP	2,475 4,950
10.	Chambers: (a) Proceedings in Chambers other than proceedings to which item 11 applies (b) Attending on a reserved judgment in Chambers (including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders) (c) Consent Orders including conferral but excluding extraction	2 days preparation, 1 day hearing; per hour 1.5 hours	SC C JP	20,460 12,540 495 528
11.	Motions and originating process: (a) Originating motion, originating summons or originating	2 days preparation;	SC	

Item		Time	Fee earner	\$
	<p>application and applications for Judicial Review under Order 56</p> <p>(1) if senior counsel is briefed without second counsel</p> <p>(2) if senior counsel is briefed with second counsel</p> <p>(3) if counsel alone is briefed</p> <p>(b) For 2nd and each successive day of hearing</p> <p>(c) Attendance at hearing by instructing legal practitioner</p> <p>(d) Attendance at directions hearings, strategic conferences, status conferences or other case management hearings where required by order of the Court, by the <i>Rules of the Supreme Court</i> or by practice direction</p> <p>Note: an allowance under item 11(a)(2) should only be made where in the opinion of the Court it was reasonable to brief two counsel.</p>	<p>1 day hearing and preparation of case – 50 hours</p> <p>per hour</p> <p>per hour</p>	<p>C SP</p> <p>SC C</p> <p>SP</p> <p>SP</p>	<p>44,660</p> <p>57,960</p> <p>37,290</p> <p>6,820</p> <p>4,180</p>
12.	<p>Proceedings under section 7(1) of the <i>Family Provision Act 1972</i>:</p> <p>(a) All work done by legal practitioners prior to mediation including:</p> <ul style="list-style-type: none"> • originating summons and supporting affidavit, provided it complies with any relevant practice directions; • attendance at directions hearings; • compliance with Order 75 rule 3; • advising on merits of the application; <p>(1) plaintiff</p> <p>(2) executor or personal representative</p> <p>(3) beneficiary defendants</p> <p>(b) Attendance at mediation and informal conferences where necessary and reasonably held prior to or after the commencement of proceedings;</p> <p>(1) plaintiff</p> <p>(2) executor or personal representative</p>			<p>7,250</p> <p>2,200</p> <p>4,500</p> <p>4,000</p> <p>1,000</p>

Item		Time	Fee earner	\$
	<p>(3) beneficiary defendants</p> <p>(c) All work done following mediation, up to and including judgment, and which is not included in items 12(a) & (b)</p> <p>PROVIDED THAT:</p> <p>Unless the Court otherwise orders, the amount of the costs awarded to a successful claimant shall not exceed an amount equal to the award that the claimant receives.</p>			<p>4,000</p> <p>An amount calculated in accordance with item 11(a), modified so that the reference to 50 hours should read 40 hours</p>
13.	Proceedings in Court not otherwise provided for, including appeals from a Registrar	2 days preparation; ½ day hearing	C	10,450
14.	<p>Listing Conference:</p> <p>Attending at a Listing Conference (convened pursuant to Order 29 Rule 8 of the Rules of the Supreme Court or Rule 43 of the District Court Rules) and all necessary preparation</p>	per hour	SP	
15.	Entry of judgment without trial			297
16.	<p>Offers of compromise, notices, practice directions, etc:</p> <p>(a) Payment into or out of Court</p> <p>(b) Offer of compromise under O.24A</p> <p>(c) Acknowledgment of offer under O.24A</p> <p>(d) Acceptance of offer of compromise under O.24A</p> <p>(e) Notice of offer to consent to judgment</p> <p>(f) Other notices and certificates referred to or required by the Rules or procedures of the court (including practice directions)</p>	<p>2 hours</p> <p>4 hours</p> <p></p> <p>4 hours</p> <p>2 hours</p> <p></p>	<p>JP</p> <p>SP</p> <p></p> <p>SP</p> <p>SP</p> <p></p>	<p>704</p> <p>1,980</p> <p>66</p> <p>1,980</p> <p>990</p> <p>77</p>
17.	<p>Entry for trial/Entry for hearing:</p> <p>(a) Advising on, and preparing, documents required to be filed by the Rules of the Supreme Court or the Rules of the District Court</p>	2 hours	SP	990

Item		Time	Fee earner	\$
	(b) Preparation of Schedules (if any) required by District Court Rules 45C and 45D (c) Advice on evidence Note: In relation to particulars of damages under District Court Rule 45C, if the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner in preparation of case for trial, shall not be limited to 8 hours but shall be an amount which is reasonable in the circumstances.	8 hours per hour	SP C/SC	3,960
18.	Preparation of case: Preparation of case for trial (includes work reasonably and necessarily undertaken prior to commencement of proceedings) Note: If the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner in preparation of case for trial shall not be limited to 120 hours but shall be an amount which is reasonable in the circumstances.	120 hours	SP	59,400
19.	Examination of witness before trial, pursuant to order			An allowance in accordance with item 21(c) or (d)
20.	Application for and striking jury	1 hour	JP	352
21.	Trial: Counsel fees (a) Fee on brief, i.e. first day of trial and preparation (including submissions) (b) Fee on brief for Senior Counsel, i.e. first day of trial and preparation (including submissions) (c) Counsel fee for the second and each successive day of hearing	3.5 days preparation; 1st day of trial 3.5 days preparation; 1st day of trial	C SC C	18,810 30,690 4,180

Item		Time	Fee earner	\$
	<p>(d) Counsel fee for Senior Counsel for second and each successive day of hearing</p> <p>(e) Instructing legal practitioner attending trial</p> <p>(f) Clerk or Restricted Practitioner attending trial</p> <p>(g) Preparation of written closing submissions:</p> <p>(1) when required for trial; and</p> <p>(2) for provision to the court and the opposing party prior to any oral addresses; and</p> <p>(3) when the work was undertaken on a day on which the trial was not otherwise sitting;</p> <p>or</p> <p>(4) when required to be filed and served following the court having reserved its decision.</p> <p>(h) Attending on reserved judgment (including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders)</p> <p>(i) for each five hearing days after the first five, additional fee on brief</p> <p>Note: If the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by Counsel or Senior Counsel in preparation of case for trial shall not be limited to 3.5 days but shall be an amount which is reasonable in the circumstances.</p>	<p>per hour</p> <p>per hour</p> <p>per hour</p> <p>per hour</p> <p>per hour</p> <p>1 day</p>	<p>SC</p> <p>SP</p> <p>C/PL RP</p> <p>SC/C</p> <p>SP</p> <p>SC/C</p>	<p>6,820</p> <p>An amount which is reasonable in the circumstances</p>
22.	<p>Re-trial or Re-hearing</p> <p>(a) Preparation of case for re-trial or re-hearing</p> <p>(b) Re-trial or re-hearing</p>			An amount which is reasonable in the circumstances

Item		Time	Fee earner	\$
23.	(a) Special case, case stated (otherwise than by way of appeal) or trial of an issue (b) For the second and each successive day of the trial or hearing			An amount which is reasonable in the circumstances
24.	Appeals to the Court of Appeal and Single Judge appeals (including appeals by way of case stated) and applications for leave to appeal (a) Appeal Notice, Service Certificate, Notice of Respondent's Intention (b) Appellant's Case, Respondent's Answer including relevant forms and all annexures (c) Appellant's Reply to Notice of Contention, when required (d) Settling appeal book indexes (including drafting and settling appeal book index) (e) An application in an appeal, an interlocutory or directions hearing before a single Judge or Registrar (f) Preparation of case appeal for hearing (g) Counsel fee on hearing (including preparation) (h) Counsel fee for Senior Counsel (including preparation) (i) Counsel fee for the second and each successive day of hearing (j) Counsel fee for Senior Counsel for the second and each successive day of hearing (k) Instructing legal practitioner attending appeal	40 hours 10 hours 8 hours 10 hours 10 hours 2 days preparation; 1 day hearing 2 days preparation; 1 day hearing per hour	SC SC SP C SP C SC C SC SP/JP	495 27,280 6,820 3,872 4,180 4,950 12,540 20,460 4,180 6,820

Item		Time	Fee earner	\$
	(l) Attending on reserved decision (including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders)	per hour	SP	
25.	<p>Pretrial, mediation, conferrals, or other conferences</p> <p>(a) Where required by order of the Court, by the <i>Rules of the Supreme Court</i> or by practice direction</p> <p>(b) including informal conferences where reasonably held before or after commencement of proceedings</p> <p>(c) attendances by Counsel and instructing legal practitioners at the conferrals and conferences set out in paragraphs (a) and (b) of this item</p> <p>(d) preparation reasonably undertaken for the conferrals and conferences described in paragraphs (a), (b) and (c) of this item</p> <p>(e) conferences between Counsel and own instructing legal practitioner where reasonably necessary</p>	per hour	SP/SC/C	
26.	<p>Orders:</p> <p>Settling and extracting judgment or order</p> <p>(a) With appointment</p> <p>(b) Without appointment</p>	2 hours	RP	594 297
27.	Arbitration proceedings where costs are to be assessed under section 33B(5) of the <i>Commercial Arbitration Act 2012 (WA)</i>			The same costs as in an action
28.	Proceedings, whether by action or otherwise, for the recovery of compensation for the taking or resumption of land or any other property by the Crown in right of the State or of the Commonwealth or by any other person, body or			An amount which is reasonable in the circumstances

Item		Time	Fee earner	\$
	instrumentality pursuant to any statutory power			
29.	(a) Execution (b) If against land, an additional	3 hours	RP	352 891
30.	Taxing including drawing: (a) Drawing bill of costs and service; and (b) Taxation of costs (including the time spent in preparing for the taxation)		SP	An amount which is reasonable in the circumstances
31.	Copying: Copies where reasonably necessary, including of documents for which allowance is otherwise made in this Determination. This item covers all forms of electronic reproduction and copying.	per page		0.165
32.	Accounts and inquiries: Taking accounts, inquiries		SP	An amount which is reasonable in the circumstances
33.	Other work: (a) Time reasonably spent by a legal practitioner on work requiring the skill of a legal practitioner (of the standing indicated) but not covered by any other item; or (b) Time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, on work not covered by any other item or by paragraph (a) Note: Allowances under item 33 are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and <i>not</i> between party and party unless the Court otherwise orders.	per hour per hour	SC SP C JP RP C/PL	

Item		Time	Fee earner	\$
34.	<p>Disbursements:</p> <p>In addition to the fees and charges allowed under this Determination:</p> <p>(a) As between a law practice and client, a law practice may charge and be allowed disbursements necessarily or reasonably incurred; and</p> <p>(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.</p>			
35.	<p>Travel:</p> <p>(a) As between party and party, minor travel as defined in the <i>Legal Profession (Supreme Court) (Contentious Business) Determination 2016</i>, is to be allowed as part of the costs awarded for an attendance at chambers or court within the existing item, without further order.</p> <p>(b) As between party and party, time spent travelling by a law practice which is not minor travel and which is required by reason of an order of the Court requiring the parties to attend at a location other than the location at which the proceedings is case managed, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day, without further order.</p> <p>(c) As between a law practice and its own client, time spent travelling by a law practice, other than minor travel, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day.</p> <p>Note: Allowances under item 35(c) are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and <i>not</i> between party and party unless the Court otherwise orders.</p>			
36.	<p>Claims under the <i>Motor Vehicle (Third Party Insurance) Act 1943 (WA)</i> including:</p> <p>(a) Writ of Summons;</p> <p>(b) Statement of Claim;</p> <p>(c) Giving discovery (whether formally or informally);</p> <p>(d) Inspection and giving inspection of discovered documents;</p> <p>(e) Preparation of Entry for Trial, Papers, including Schedules of Damages;</p> <p>(f) Applications for Subpoena to produce documents prior to pre-trial conference;</p> <p>(g) Preparation for and attendance at pre-trial conference or, if appropriate, pre-trial conferences; and</p> <p>(h) Copying.</p>			16,775

Item		Time	Fee earner	\$
	If Counsel is engaged for and attends pre-trial conference, an additional		C	4,180
37.	Settlement of a claim pursuant to section 92(f) <i>Workers Compensation and Injury Management Act</i>	10 hours	SP	4,950

Made by the Legal Costs Committee on 13 June 2018.