

Schedule

LEGAL PRACTITIONERS ACT 1893

SOLICITORS NON-CONTENTIOUS PROBATE COSTS DETERMINATION 2003

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 2003.

Commencement

2. This determination comes into operation on 3 June 2003.

The Solicitors Non-Contentious Probate Costs Determination 2000

3. The determination cited as the *Solicitors Non-Contentious Probate Costs Determination 2000 published in the Government Gazette on 6 December 2000 p6851 - 6853* 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 published in the Government Gazette on 12 August 1998 p4385 – 4389* 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	Maximum rates
Junior Clerk	\$75 per hour
Senior Clerk	\$174 per hour
Articled Clerk	\$151 per hour
Restricted Year Practitioner	\$203 per hour
Practitioner (less than 5 years)	\$232 per hour
Practitioner (5 years or more)	\$325 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 (the GST Determination)

6. From and including the date of commencement of this determination, the GST Determination insofar as it affects the costs specified in clause 5 will cease to be of any further force or effect.

Made by the Legal Costs Committee on 15 April 2003.