

**Legal Practitioners (Petty Sessions)  
(Contentious Business) Determination  
2002**

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**THE TEXT OF THE LEGISLATION FOLLOWS**



# Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002

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**Legal Practitioners (Petty Sessions) (Contentious Business) Determination  
2002**

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Western Australia

Legal Practitioners Act 1893

## **Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002**

### **LEGAL PRACTITIONERS ACT 1893 Legal Practitioners (Petty Sessions) (Contentious Business) Report 2002**

Made by the Legal Costs Committee under section 58ZA of the Act.

### **Part 1 — Preliminary**

#### **1. Citation**

- (1) This report may be cited as the *Legal Practitioners (Petty Sessions) (Contentious Business) Report 2002*.
- (2) The determination set out in the Schedule to this report is referred to in this report as the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002*.

## **Part 2 — Notice And Inquiries**

### **2. Notice under section 58Y of the Act**

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

### **3. Inquiries and submissions under section 58Y of the Act**

Before making the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002* the Legal Costs Committee—

- (a) reviewed all submissions received as a result of the notice given under section 58Y of the Act;
- (b) consulted with the Court;
- (c) consulted with the Law Society of Western Australia (Inc.);
- (d) reviewed the impact of movements in the Consumer Price Index for the financial years ending 30 June 2000 to 30 June 2002 (inclusive); and
- (e) had regard to the impact of the Goods and Services Tax on the level of fees charged by Practitioners.

### **Part 3—Report of Committee’s Conclusions**

#### **4. Hourly rates**

- (1) The Legal Costs Committee noted that the jurisdiction of the Court of Petty Sessions covers a wide range of civil and criminal matters from the consideration of dividing fence disputes between land owners to offences against the provisions of Acts of Parliament, by-laws and regulations made pursuant to them.
- (2) As a consequence of this position stated in sub-clause (1), the Legal Costs Committee considers it remains appropriate for a general scale of fees based on hourly rates to be applied to the time reasonably taken to perform the services provided by a practitioner in, or for the purposes of contentious business in the Court of Petty Sessions.
- (3) 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 hourly rates charged by practitioners under the *Legal Practitioners (Local Court) (Contentious Business) Determination 2002* should be adopted as the basis for costs for the supply of legal services covered under the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002*.
- (4) 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 5 of the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002* are inclusive of any provision for the Goods and Services Tax, that from and including the date of that determination coming into operation, the *Legal Practitioners (Effect on Costs of a New Tax System) (Goods and Services Tax) Determination 2000* as published in the *Gazette* on 15 September 2000 p5411 will no longer apply to the Petty Sessions (Contentious Business) scale of costs from that date.

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- (5) The hourly rates referred to in subclause (3) are set out in the Table to clause 5 of the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002*.
- (6) The recommendations of the Legal Costs Committee are not intended to override the entitlements of a practitioner to make a written agreement as to costs with a client under the *Legal Practitioners Act 1893*.

## **Schedule**

### **LEGAL PRACTITIONERS ACT 1893**

Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002

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

**1. Citation**

This determination may be cited as the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002*.

**2. Commencement**

This determination comes into operation on 1 November 2002.

**3. Application**

- (1) This determination applies to the remuneration of practitioners in respect of contentious business carried out by practitioners in or for the purposes of proceedings in a Court of Petty Sessions.
- (2) This determination does not apply to the remuneration of practitioners based on costs incurred in respect of instructions taken before the commencement of this determination.

**4. *Legal Practitioners (Effect on Costs of a New Tax System) (Goods and Services Tax) Determination 2000 (GST Determination)***

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

**5. Hourly rates**

The hourly rates set out in the Table to this clause are the maximum hourly rates which the Legal Costs Committee determines shall be used to calculate the remuneration of practitioners in respect of time reasonably taken to perform services in or for the purposes of contentious business carried out by practitioners in or for the purposes of proceedings before a Court of Petty Sessions.

**Schedule**

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**Table**

<b>Fee Earner</b>		<b>Maximum allowable hourly rates</b>
Practitioner (admitted for more than 5 years )		
(SP)	—hourly rate	\$250
Junior Practitioner (admitted for less than 5 years)		
(JP)	—hourly rate	\$175
Clerk/Paralegal		
(CPL)	—hourly rate	\$75

**Notes**

<sup>1</sup> This is a compilation of the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002* as set out in the following Table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002</i>	24 Sep 2002 p. 4758-60	1 Nov 2002 (see cl. 2)