

LEGAL PRACTICE ACT 2003

LEGAL PRACTITIONERS (PETTY SESSIONS) (CONTENTIOUS BUSINESS) REPORT 2005

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 (Petty Sessions) (Contentious Business) Report 2005*.
- (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 2005*.

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 (Petty Sessions) (Contentious Business) Determination 2005* 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 Court;
 - (c) consulted with the Law Society of Western Australia (Inc.);
 - (d) reviewed the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002*¹; and
 - (e) had regard to relevant provisions of the *Magistrates Court Act 2004* which is proclaimed to commence 1 May 2005².

¹ [Published in Gazette 24 Sept 2002 pp. 4749-57].

² [see s. 2 and Gazette 31 Dec 2004 p. 7127].

PART 3 – REPORT OF COMMITTEE’S CONCLUSIONS

Hourly rates

4. (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 and having regard to the impending commencement of the *Magistrates Court Act 2004*, amendment to the rates used in the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2002* is not warranted.
- (4) It is further the recommendation of the Legal Costs Committee 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 2005*.
- (5) The hourly rates referred to in subclause (4) are set out in the Table to clause 4 of the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2005*.
- (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 Practice Act 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 (PETTY SESSIONS) (CONTENTIOUS BUSINESS) DETERMINATION 2005

Made by the Legal Costs Committee under section 210 of the Act.

Citation

1. This determination may be cited as the *Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2005*.

Commencement

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

Application

3. (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 the Court of Petty Sessions.

(2) 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.

Hourly rates

4. 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.

Table

Fee Earner	Maximum allowable hourly rates
Practitioner (admitted for 5 years or more) (SP)	- hourly rate 250
Junior Practitioner (admitted for less than 5 years) (JP)	- hourly rate 175
Clerk/Paralegal (CPL)	- hourly rate 75

Made by the Legal Costs Committee on 15 February 2005.