

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022
LEGAL PROFESSION (SUPREME AND DISTRICT COURTS) (CONTENTIOUS BUSINESS)
REPORT 2026

Made by the Legal Costs Committee under Division 1 of Part 6 of the *Legal Profession Uniform Law Application Act 2022* ('the Act').

PART 1 – PRELIMINARY

1 Citation

- (a) This Report may be cited as the *Legal Profession (Supreme and District Courts) (Contentious Business) Report 2026*.
- (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) Determination 2026*.

PART 2 – NOTICE AND INQUIRIES

2 Notice under section 139 of the Act

The Legal Costs Committee has complied with the notice provisions of section 139 of the Act.

3 Inquiries and submissions under section 138 of the Act

Before making the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026*, the Legal Costs Committee:

- (a) reviewed submissions received as a result of the notice given under section 139 of the Act, including submissions made by The Law Society of Western Australia (Inc), the Australian Lawyers Alliance, the Bar Association of Western Australia, private practitioners and costs consultants;
- (b) considered the comments and suggestions made at a Law Society seminar with members of the legal profession and other attendees held on 24 March 2026;
- (c) considered the impact of changes in relevant Australian Bureau of Statistics data for the period, specifically consumer price index and wage price index data for the period since 1 July 2024;
- (d) considered the potential impact of the amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, which now imposes a regulatory framework on sectors of legal services, with the aim of protecting the integrity of the Australian financial system;
- (e) undertook a review of all cost regimes in other Australian jurisdictions dealing with contentious business;
- (f) met with Registrars of the District Court and Supreme Court of Western Australia, and considered observations concerning taxation practice and the practical operation of the scale of costs;
- (g) met with a representative of the Bar Association of Western Australia;
- (h) met with Parliamentary Draftspersons and a representative of the Department of Justice responsible for legislative services concerning the proposed drafting and structure of the Determination;
- (i) held meetings on eleven separate occasions since the commencement of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024* on 1 July 2024; and
- (j) noted the following changes in the membership and offices of the Committee since the publication of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024*:

- (1) Mr Craig McKie ceased acting as Chair of the Committee and was succeeded as Chair by Mr David Bayly SC from 15 July 2024;
- (2) Mr Craig McKie continued as Deputy Chair; and
- (3) Dr Anne Peachey was appointed as a member of the Committee from 1 January 2025 to fill a vacant member position.

PART 3 – REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS

4 Structural review of the Determination

- (a) In undertaking the 2026 review, the Legal Costs Committee considered that it was appropriate to undertake a broader review of the structure and operation of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024*, rather than confining the review to an adjustment of rates by reference to economic indicators and other factors.
- (b) The inquiries and submissions described in clause 3 identified practical difficulties in the interpretation and application of a number of provisions of the existing Determination. Particular consideration was given to items 10 (Chambers), 11 (Motions) and 22 (Trial) of the scale of costs. The Committee also considered the operation of items 1 (Writ), 2 (Next Friend or Guardian *Ad Litem*), 3 (Defence), 5 (Third party proceedings), 6 (Particulars), 9 (Interrogatories), 16 (Offers of compromise), and 25(f) (Preparation of appeal).
- (c) The Committee considered that aspects of the existing structure gave rise to uncertainty as to:
 - (1) the practitioner categories applicable to particular work;
 - (2) the operation of hour and dollar limits specified in particular items;
 - (3) the relationship between different categories of work included within a single scale item;
 - (4) whether components of a composite scale item were intended to operate as separate maximum allowances;
 - (5) the methodology to be applied when calculating the maximum amount recoverable under an item; and
 - (6) the work intended to fall within item 19 (preparation) and item 38 (other work).
- (d) The Committee was satisfied that restructuring and clarifying the relevant items will improve certainty, promote consistency in taxation practice, reduce disputes concerning the application of the scale and better reflect contemporary litigation practice.
- (e) The amendments made in the 2026 Determination are intended to achieve these aims while preserving the discretion of the Court and taxing officers to determine reasonable allowances in the circumstances of each case with reference in some items to maxima.

5 Maximum hourly and daily rates changed

- (a) The information gained as a result of the inquiries and submissions described in clause 3 satisfied the Legal Costs Committee that it remained appropriate to adopt hourly and daily rates charged by law practices as the basis for most of the rates used in this Determination.
- (b) The Committee noted the increasing divergence between the maximum rates recoverable under the scale and the rates commonly charged by law practices. The Committee considers that the scale should continue to provide a meaningful basis for the recovery of party to party costs.

- (c) The Committee was conscious that the level of recoverable costs may affect litigants in different ways. The Committee wishes to balance the competing interests of litigants the subject of costs orders.
- (d) The Committee considers it appropriate that the maximum hourly and daily rates be varied from the rates used in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024*. The revised rates are set out in Table A of the 2026 Determination.
- (e) In calculating the revised rates, the Committee has taken into account the incidental administrative implications of the calculation of the Goods and Services Tax and has adopted the Committee's established rounding methodology.

6 Alignment of Counsel (other than Senior Counsel) and Senior Practitioner rates

- (a) The Committee considered the distinction between the maximum hourly rate applicable to Counsel and the maximum hourly rate applicable to a Senior Practitioner.
- (b) Contemporary litigation practice requires Counsel to undertake work of substantial complexity and responsibility.
- (c) The Committee considers it appropriate that the maximum hourly rate for Counsel be aligned with the maximum hourly rate for a Senior Practitioner, with a corresponding adjustment to the applicable daily rate for Counsel.
- (d) The Committee considered that the alignment of those rates would simplify the operation of the scale and more accurately reflect contemporary litigation practice.

7 Increase in hour allocations for certain scale items

- (a) As part of the structural review, the Committee considered whether the time allowances specified in particular items continued to provide a realistic allowance for work reasonably undertaken in contemporary litigation.
- (b) The inquiries and submissions described in clause 3 indicated that some existing allowances significantly understated the time reasonably required to complete the work covered by the relevant item.
- (c) In particular, the Committee considered the items listed in clause 4(b). The complexity and volume of work associated with those items can be greater than is reflected in the existing maximum allowances.
- (d) The Committee considered that appropriate allowances in scale items can assist the efficient conduct of litigation. In particular, properly prepared pleadings and particulars can narrow issues in dispute, reduce uncertainty and assist the parties and the Court to identify the matters requiring resolution.
- (e) The Committee considers it appropriate to increase the allowable hours for the relevant items where the existing allowances do not adequately reflect the work reasonably required. The revised allowances are set out in Table B of the 2026 Determination.

8 Written submissions

- (a) During consultation it became apparent that in contemporary litigation practice, law practices and Counsel are increasingly required to prepare written submissions at various stages in litigation.
- (b) The Committee considers it appropriate that the scale requires a separate item for written submissions required by the Court (or otherwise reasonably necessary) to accurately reflect contemporary litigation practice.

9 Fee earner roles – Items 7 and 8

- (a) The Committee reviewed provisions of the existing scale that identify a particular class of practitioner for work associated with discovery and inspection.
- (b) Contemporary litigation practice commonly involves collaboration between any one or combination of Senior Practitioners, Junior Practitioners, Restricted Practitioners, possibly with the assistance of Clerks and Paralegals, in performing that work. The allocation of work can vary according to the nature of the proceedings, the volume and complexity of the material and the level of supervision required.
- (c) The Committee considers it appropriate that all classes of fee earners be referenced in items 7 and 8.

10 Composite scale items

- (a) The Committee also considered the interpretation and application of composite scale items, including items 10, 11 and 22.
- (b) The Committee had regard to the approach taken by the Court in *Commonwealth Bank of Australia v Pankaj Oswal in his own capacity and as trustee for the Burrup Trust [No 2] [2012] WASC 180* (Oswal).
- (c) The Committee recognises that composite scale items can involve a combination of preparation, appearances, submissions, conferences and related work. Where an item is expressed as a composite allowance, it should be applied as a composite item.

11 Lost Counsel fees

- (a) As a result of the inquiries set out in clause 3, the Committee is aware that, on occasion, litigation is settled (or compromised) proximate to trial in circumstances where Counsel has prepared for trial.
- (b) The scale does not presently allow a costs order for the payment of those Counsel fees (or a portion thereof) on a party to party basis.
- (c) The Committee is aware that parties to litigation can unreasonably delay the resolution of litigation without costs consequences (on a party to party basis) for cancelled Counsel fees.
- (d) The Committee considers it appropriate that a scale item be included to permit the payment of cancellation of Counsel fees as determined by a Court when it is proper and reasonable for an order to be made.

12 Future review considerations

- (a) The Committee identified additional matters that warrant further consideration as litigation practice continues to evolve.
- (b) The Committee notes that future reviews may examine the treatment of specialised electronic document management and other technology-assisted processes in litigation.
- (c) The Committee will continue to consult to ensure that the Determinations are consistent with contemporary litigation practice.

DAVID BAYLY SC	Chair of the Committee
CRAIG MCKIE	Deputy Chair
GREG RICKIE	Member
ANNETTE MORGAN	Member
CAROLYN MEIGHAN	Member
ANNE PEACHEY	Member

Schedule

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022 LEGAL PROFESSION (SUPREME AND DISTRICT COURTS) (CONTENTIOUS BUSINESS) DETERMINATION 2026

Made by the Legal Costs Committee under section 133 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

1 Citation

This Determination may be cited as the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026*.

2 Commencement

This Determination comes into operation on 21 September 2026.

3 Application

- (a) This Determination applies to the remuneration of fee earners regarding advice given by legal practitioners in respect of contentious business carried out by legal practitioners in or for the purposes of proceedings before the Supreme Court of Western Australia and the District Court of Western Australia.
- (b) This Determination applies to all contentious business previously covered by the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024* and its predecessor Determinations.
- (c) 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*, the Act or any successor legislation, to the extent that a law practice is entitled to charge other than in accordance with this Determination.
- (d) This Determination does not apply to costs incurred before 21 September 2026.

4 Application of O.66, r 11(3), r 13, r 18, r 19, r 20(3), r 21 and r 23 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 Catastrophic personal injury claims

The reference to catastrophic personal injury claims in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024* remains relevant to this Determination.

6 Historical child sexual abuse claims

The maximum limits in items 18, 19 and 22 were removed as from 1 July 2022 in cases brought as a result of the 2018 amendments to Part 2A of the *Civil Liability Act*, which removed the limitation period for the bringing of personal injuries claims for historical child sexual abuse claims. The rationale for the removal of those item limits was explained in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2022* and remains relevant to this Determination.

7 Item 12 – Family Provision Act claims

- (a) Item 12 applies to claims brought under the *Family Provision Act 1972* (WA).

- (b) Item 12(a) provides a capped maximum allowance for each of the parties up to mediation. As a result of its inquiries in the making of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026*, the Committee holds concerns as to the varied amounts being charged by law practices on a solicitor and own client basis up to and including mediation in proceedings under the *Family Provision Act*. The Committee will continue to monitor data and submissions concerning the costs of proceedings under the *Family Provision Act*.
- (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 Committee considers it appropriate that, in line with the changes made in the 2024 Determination, item 12 (b) of this Determination for attendances at mediation reflects hourly rates for senior counsel, counsel and senior practitioners to take into account the significant variation in cases (factually, legally and as to value of estates) which comprise the cases brought under the *Family Provision Act* and a general desirability to have independent counsel involved in the conduct of such cases at mediation.
- (e) Item 12(c) applies to proceedings which do not conclude at mediation and is to be calculated in accordance with item 11(a) to (f), save that item 11(d) is modified so that the reference to 50 hours is to be read as 40 hours.
- (f) 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.
- (g) A legal practitioner acting for more than one executor or beneficiary defendant may only claim the amounts set out in items 12(a)(2) and (3) and 12(b)(2) and (3) once, and may not claim an amount for each individual executor or beneficiary defendant who they represent.
- (h) A legal practitioner acting for a beneficiary defendant who is also a claimant under the *Family Provision Act* may claim their costs as if they were acting as a plaintiff from the time the relevant beneficiary defendant commences his or her claim.
- (i) Subject to 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 this Determination other than items 3(a), 7 (where ordered), 16, 20, 28 (where ordered), 33, 34, 35 and 38 (where ordered as between party and party), 36 and 37 (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.

8 Item 26 – District Court appeals and single Judge appeals in the Supreme Court

Clause 12 of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2022* continues to apply to this Determination. The amendments made to item 26 in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024* remain in effect.

9 Discovery and inspection

- (a) Items 7 and 8 are intended to recognise that discovery and inspection work may reasonably be undertaken by different fee earner categories according to the nature of the work, the volume and complexity of the documents and the level of supervision required.
- (b) The fee earner categories permitted for items 7 and 8 are specified in Table B.

- (c) An allowance under items 7 and 8 is only to be made for work reasonably undertaken. The same work is not to be allowed more than once merely because more than one practitioner or fee earner was involved.

10 Written submissions

- (a) Item 27 applies to the preparation of written submissions required by the Court, the Rules, a practice direction, or otherwise reasonably necessary.
- (b) Without limiting subclause (a), item 27 may apply to written submissions in relation to:
 - (i) proceedings in Chambers;
 - (ii) motions;
 - (iii) interlocutory applications;
 - (iv) trial (closing and opening); or
 - (v) any other hearing, application or proceeding in which written submissions are required (or otherwise reasonably necessary) and for which Table B does not otherwise provide a specific allowance.
- (c) Item 27 does not apply where another item in Table B expressly provides a specific allowance for the relevant written submissions.

11 Composite scale items

- (a) This clause applies where a single item in Table B encompasses more than one category of work, including preparation, appearances, submissions, conferences or other related work.
- (b) Unless Table B expressly provides otherwise, the maximum monetary allowance specified for a composite item applies to the item as a whole. The categories of work included within the item are not separate items with separate maxima.
- (c) In determining an appropriate allowance under a composite item, the taxing officer is to have regard to the work reasonably undertaken within each relevant category and the total amount claimed.
- (d) The fact that one category of work does not occur, or occurs for a shorter period than contemplated by the item, does not of itself require a proportionate reduction of the maximum amount that may be allowed under the item.

12 Items 10 and 11 – Chambers, motions and originating process

- (a) Items 10(a), 11(a) and 22(a) and (b) are composite scale items for the purposes of clause 11.
- (b) Items 10 and 11 are intended to identify more clearly the applicable practitioner categories, the work included within each item and the calculation of the maximum allowance.
- (c) Where a matter is determined on the papers, the absence of an oral hearing does not of itself preclude an allowance for preparation reasonably undertaken.

13 Items 19 and 38 – Preparation of case and other work

- (a) Item 19 is intended to apply to work reasonably and necessarily undertaken in preparation of a case for trial, including work undertaken before the commencement of proceedings, to the extent that the work is not otherwise covered by another item in Table B.

- (b) Item 38 is intended to apply to work requiring the skill of a legal practitioner, or work otherwise described in that item, which is reasonably undertaken but not covered by another item in Table B.
- (c) The same work is not to be claimed under both item 19 and item 38, or under either of those items and another item in Table B.

14 Item 22 – Trial

- (a) Item 22 is a composite scale item for the purposes of clause 11 to the extent that a fee on brief includes preparation and the first day of trial.
- (b) A fee on brief is only to be allowed where preparation has been reasonably undertaken and the allowance is reasonable in the circumstances, having regard to the work done and the stage reached by the proceeding.
- (c) Item 22(e) introduced a new cancellation fee item for counsel. The item is intended to permit an allowance where a matter is resolved or otherwise does not proceed to trial after counsel has reasonably undertaken preparation, and where the making of such an allowance is proper in the circumstances as described in clause 11 of the Report.

15 Increase generally

- (a) The Committee is of the view that increases in the cost of practice over the past several years have justified an increase in the rates in Table A and the corresponding amounts in Table B.
- (b) Given the inquiries made by the Committee as set out in Clause 3 of the Report, the Committee determined that it was appropriate to include a general increase.
- (c) In making its decision, the Committee is particularly cognisant of the increased costs to law practices occasioned by inflationary pressures, subscriptions for legal resources, investment in technology and cyber security, investments made by law practices in staff skills and initiatives, and increasing costs of regulatory and compliance systems, including integrity obligations affecting sectors of legal services from 1 July 2026.
- (d) The increases in the rates in this Determination are not uniform but have been calculated generally in the range of 14% to 16%, with rounding so that each amount is divisible by 11 in accordance with the long-standing policy of the Committee.

16 Counsel fees

- (a) 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 or Senior Counsel, as applicable, in Table A.
- (b) 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.
- (c) The maximum hourly rate for Counsel, other than Senior Counsel, is aligned with the maximum hourly rate for a Senior Practitioner. The applicable rates are set out in Table A.
- (d) Nothing in this clause prevents the Court or taxing officer from disallowing, reducing or otherwise adjusting Counsel fees that are not reasonable in the circumstances.

17 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 or fee earner.

- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 5 of the *Legal Profession (Supreme and District Courts) (Contentious Business) Report 2026*.
- (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 by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

Table A

Fee earner	Rate type	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ¹	hourly rate	\$660
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ¹	hourly rate	\$484
Restricted Practitioner (RP) ^{1, 2}	hourly rate	\$407
Clerk/Paralegal (C/PL) ³	hourly rate	\$308
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:		
Counsel (C) ⁴	hourly rate	\$660
	daily rate	\$6,600
Senior Counsel (SC) ⁵	hourly rate	\$902
	daily rate	\$9,020

Notes:

1. 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.
2. 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 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.
3. The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
4. 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, 17, 22, 25 and 26, a practitioner appearing in court who does not practise in accordance with Supreme Court Practice Direction 10.5.
5. The reference to Senior Counsel in this Determination means a person within the meaning of item 5 or item 6 of rule 9 of the Legal Profession Uniform General Rules 2015 (WA).

18 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 38 of Table B.

- (b) Allowances made under item 38 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, unless the Court otherwise orders.
- (c) Allowances made under item 37(c) 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, unless the Court otherwise orders.

19 Fixed amounts

Based upon the Legal Costs Committee's inquiries, it has determined that items 1(b), 3(a), 7(a), 16(c), 16(f), 25(a), 26(i), 29(b), 32(a) and 34 in Table B should be fixed amounts.

Table B**Supreme Court and District Court Scale of Costs 2026**

Item	Description	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	990
	(b) For each additional defendant named in the Writ			99
	(c) Statement of Claim	20 hours	SP	13,200
	(d) For each additional defendant against whom a separate case is pleaded and relief claimed in the Statement of Claim	6 hours	SP	3,960
2. Next friend or guardian ad litem				
	Allowance	6 hours	SP	3,960
3. Defence				
	(a) Memorandum of appearance			121
	(b) Defence	20 hours	SP	13,200
	(c) Counterclaim	20 hours	SP	13,200
4. Reply and other pleadings				
	Reply (if necessary), defence to counterclaim, or any other pleading	12 hours	SP	7,920
5. Third party proceedings				
	(a) Third party notice	4 hours	SP	2,640
	(b) Pleadings in third party proceedings	12 hours	SP	7,920
6. Particulars				
	(a) Requesting particulars of a pleading (where and to the extent necessary)	10 hours	SP	6,600
	(b) Giving particulars of a pleading	12 hours	SP	7,920
7. Discovery				
	(a) Notice requiring discovery			88
	(b) Giving discovery of documents		SP / JP / RP / C/PL	An amount which is reasonable in the circumstances
8. Inspection				
	Inspection and giving inspection of discovered documents whether by personal attendance or otherwise		SP / JP / RP / C/PL	An amount which is reasonable in the circumstances
9. Interrogatories				
	(a) Delivery of interrogatories	15 hours	SP	9,900
	(b) Answers to interrogatories	20 hours	SP	13,200
10. Chambers				
	(a) Proceedings in Chambers other than proceedings to which item 11 applies, including preparation and any determination on the papers			
	(a)(1) if Senior Counsel is briefed without second counsel	2 days preparation; 1 day hearing	SC	27,060
	(a)(2) if Senior Counsel is briefed with second counsel	2 days preparation; 1 day hearing	SC and C/SP	46,860

Item	Description	Time	Fee earner	\$
	(a)(3) if Counsel alone is briefed	2 days preparation; 1 day hearing	C/SP	19,800
	(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	per hour	SP	At applicable Table A rate
	(c) Consent Orders including conferral but excluding extraction	1.5 hours	JP	726
11.	Motions and originating process			
	(a) Originating motion, originating summons or originating application and applications for Judicial Review under Order 56, including preparation and any determination on the papers			
	(a)(1) if Senior Counsel is briefed without second counsel	2 days preparation; 1 day hearing	SC	27,060
	(a)(2) if Senior Counsel is briefed with second counsel	2 days preparation; 1 day hearing	SC and C/SP	46,860
	(a)(3) if Counsel alone is briefed	2 days preparation; 1 day hearing	C/SP	19,800
	(b)(1) For the second and each successive day of hearing (Senior Counsel)	per day	SC	9,020
	(b)(2) For the second and each successive day of hearing (Counsel)	per day	C/SP	6,600
	(c) Attendance at hearing by instructing legal practitioner	per hour	SP/JP	At applicable Table A rate
	(d) Preparation of case for hearing	up to 50 hours	SP	33,000
	(e) Preparation for, and attendance at directions hearings, strategic conferences, status conferences or other case management hearings where required by order of the Court, by the Rules of the Supreme Court or by practice direction	per hour	SP/JP	At applicable Table A rate
	(f) Attending on a reserved decision, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP/JP	At applicable Table A rate
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.				
12.	Proceedings under the Family Provision Act 1972			
Note: Refer to clause 7 of the Determination above.				
	(a) All work done by legal practitioners prior to mediation including: - originating summons and supporting affidavit, provided it complies with any relevant practice directions; - attendance at directions hearings; - compliance with Order 75 rule 3; and - advising on merits of the application.			
	(a)(1) plaintiff			9,801
	(a)(2) executor or personal representative			2,970
	(a)(3) beneficiary defendants			6,094
	(b) Preparation for, and attendance at mediation and informal conferences where necessary and reasonably held prior to or after the commencement of proceedings			
	(b)(1) plaintiff	per hour	SC/C/SP	At applicable Table A rate
	(b)(2) executor or personal representative	per hour	SC/C/SP	At applicable Table A rate
	(b)(3) beneficiary defendants	per hour	SC/C/SP	At applicable Table A rate
	(c) All work done following mediation, up to and including judgment, and which is not included in items 12(a) and (b)			An amount calculated in accordance with item 11(a)-(f), save that item 11(d) is modified so that the reference to 50

Item	Description	Time	Fee earner	\$
				hours is to be read as 40 hours
PROVIDED THAT: 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.				
13.	Proceedings in Court not otherwise provided for, including appeals from a Registrar			
	Allowance	2 days preparation; 1/2 day hearing	C/SP	16,500
14.	Listing Conference			
	Attending at a Listing Conference convened pursuant to Order 4A rule 20 of the Rules of the Supreme Court or rule 43 of the District Court Rules, and all necessary preparation	per hour	SP/JP	At applicable Table A rate
15.	Entry of judgment without trial			
	Allowance	per hour	RP	At applicable Table A rate
16.	Offers of compromise, notices, practice directions, etc			
	(a) Payment into or out of Court	2 hours	JP	968
	(b) Offer of compromise under O.24A or by Calderbank letter	6 hours	SP	3,960
	(c) Acknowledgment of offer under O.24A			99
	(d) Acceptance of offer of compromise under O.24A or by Calderbank letter	6 hours	SP	3,960
	(e) Notice of offer to consent to judgment	2 hours	SP	1,320
	(f) Other notices and certificates referred to or required by the Rules or procedures of the court, including practice directions			110
"Calderbank" is used in accordance with the principles of Calderbank v Calderbank [1975] 3 All ER 333.				
17.	Application for compromise under O.70			
	(a) Application for compromise including chamber summons, affidavit in support and all necessary preparation	per hour	SP/JP	At applicable Table A rate
	(b) If Counsel's opinion is required, preparation of the brief to Counsel, if not otherwise briefed as Counsel in the proceedings	10 hours	SP	6,600
	(c) Counsel's opinion		SC/C	An amount which is reasonable in the circumstances
	(d) Counsel fee on hearing, including preparation and submissions, if any	per hour	SC/C/SP	At applicable Table A rate
	(e) Attendance at hearing by instructing legal practitioner	per hour	SP/JP	At applicable Table A rate
Note: An allowance under item 17(c) for Senior Counsel should only be made where, in the opinion of the Court, it was reasonable to brief Senior Counsel to provide the opinion.				
18.	Entry for trial/Entry for hearing			
	(a) Advising on, and preparing, documents required to be filed by the Rules of the Supreme Court or the Rules of the District Court	2 hours	SP	1,320
	(b) Preparation of Schedules (if any) required by District Court Rules 45C and 45D	12 hours	SP	7,920
	(c) Advice on evidence	per hour	SC/C	At applicable Table A rate
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, on Schedules required by District Court Rules 45C and 45D shall not be limited to 12 hours but shall be an amount which is reasonable in the circumstances.				
Note: In relation to particulars of damages under District Court Rule 45C, if the claim is for damages as a result of an allegation of historical child sexual abuse brought under the amendments to Part 2A of the Civil Liability Act which came into effect on 1 July 2018, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, on Schedules required by District Court Rules 45C and 45D shall not be limited to 12 hours but shall be an amount which is reasonable in the circumstances.				
19.	Preparation of case			

Item	Description	Time	Fee earner	\$
	Preparation of case for trial, including work reasonably and necessarily undertaken prior to commencement of proceedings	130 hours	SP	85,800
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 130 hours but shall be an amount which is reasonable in the circumstances.				
Note: If the claim is for damages as a result of an allegation of historical child sexual abuse brought under the amendments to Part 2A of the Civil Liability Act which came into effect on 1 July 2018, 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 130 hours but shall be an amount which is reasonable in the circumstances.				
20.	Examination of witness before trial, pursuant to an order			
	Allowance			An allowance in accordance with item 22(c) or (d)
21.	Application for and striking jury			
	Allowance	1 hour	JP	484
22.	Trial			
	(a) Fee on brief, i.e. first day of trial and preparation	3.5 days preparation; 1st day of trial	C	29,700
	(b) Fee on brief for Senior Counsel, i.e. first day of trial and preparation	3.5 days preparation; 1st day of trial	SC	40,590
	(c) Counsel fee for the second and each successive day of hearing	per day	C	6,600
	(d) Counsel fee for Senior Counsel for the second and each successive day of hearing	per day	SC	9,020
	(e) Cancellation fees, where ordered or allowed by the Court upon application supported by affidavit evidence		SC/C	An amount which is reasonable in the circumstances
	(f) Instructing legal practitioner attending trial	per hour	SP	At applicable Table A rate
	(g) Clerk or Restricted Practitioner attending trial	per hour	RP / C/PL	At applicable Table A rate
	(h) Refresher fee for Counsel: (1) where a matter is part heard, with 20 business days or more between the conclusion of one part of the hearing and the commencement of a subsequent part; and (2) the Court is of the view that a refresher fee is reasonable in all the circumstances.	per hour	SC/C	An amount which is reasonable in the circumstances
Note: A refresher fee is not payable in circumstances where an allowance is made for written closing submissions.				
	(i) Attending on reserved judgment, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP	At applicable Table A rate
	(j) For each five hearing days after the first five, an additional fee on brief	1 day	SC/C	At applicable daily Table A rate
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.				
Note: If the claim is for damages as a result of an allegation of historical child sexual abuse brought under the amendments to Part 2A of the Civil Liability Act which came into effect on 1 July 2018, 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.				
23.	Re-trial or Re-hearing			
	(a) Preparation of case for re-trial or re-hearing			An amount which is reasonable in the circumstances
	(b) Re-trial or re-hearing			An amount which is reasonable in the circumstances
24.	Special case, case stated (otherwise than by way of appeal) or trial of an issue			

Item	Description	Time	Fee earner	\$
	(a) Special case, case stated (otherwise than by way of appeal) or trial of an issue			An amount which is reasonable in the circumstances
	(b) For the second and each successive day of the trial or hearing			An amount which is reasonable in the circumstances
25.	Appeals to the Court of Appeal including applications for leave to appeal			
	(a) Appeal Notice, Service Certificate, Notice of Respondent's Intention			660
	(b) Appellant's Case, Respondent's Answer including relevant forms and all annexures	40 hours	SC	36,080
	(c) Appellant's Reply to Notice of Contention, when required	10 hours	SC	9,020
	(d) Settling appeal book indexes, including drafting and settling appeal book index	8 hours	SP	5,280
	(e) An application in an appeal, an interlocutory or directions hearing before a single Judge or Registrar	10 hours	C	6,600
	(f) Preparation of appeal for hearing	15 hours	SP	9,900
	(g) Counsel fee on hearing, including preparation	2 days preparation; 1 day hearing	C	19,800
	(h) Senior Counsel fee on hearing, including preparation	2 days preparation; 1 day hearing	SC	27,060
	(i) Counsel fee for the second and each successive day of hearing	per day	C	6,600
	(j) Senior Counsel fee for the second and each successive day of hearing	per day	SC	9,020
	(k) Instructing legal practitioner attending appeal	per hour	SP/JP	At applicable Table A rate
	(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	At applicable Table A rate
26.	Single Judge Appeals in the Supreme Court and Appeals in the District Court (including leave to appeal)			
	(a) Notice of Appeal or Notice of Contention pursuant to rule 15 of the District Court Rules 2005	1 hour	SP	660
	(b) Notice of Appeal or Notice of Contention in other appeals	5 hours	SP	3,300
	(c) Interlocutory hearings - as required, including preparation	per hour	C	At applicable Table A rate
	(d) Preparation of appeal for hearing, including preparation of appeal documents	10 hours	SP	6,600
	(e)(1) Counsel fee on hearing, including preparation	2 days preparation; 1 day hearing	C	19,800
	(e)(2) Senior Counsel fee on hearing, including preparation	2 days preparation; 1 day hearing	SC	27,060
	(f)(1) Counsel fee for second and each successive day of hearing	per day	C	6,600
	(f)(2) Senior Counsel fee for second and each successive day of hearing	per day	SC	9,020
	(g) Attendance at appeal by instructing legal practitioner	per hour	SP	At applicable Table A rate
	(h) Attending on reserved decision, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP	At applicable Table A rate
	(i) Other notices and certificates referred to or required by the Rules or procedures of the Court, including the practice directions			99
27.	Written Submissions			
	Preparation of written submissions	per hour	SC / C / SP / JP / RP / C/PL	An amount which is reasonable in the circumstances

Item	Description	Time	Fee earner	\$
<i>Note: Under clause 10(c), Item 27 does not apply where another item expressly provides a specific allowance for the relevant written submissions.</i>				
28.	Pretrial, mediation, conferrals, or other conferences			
	(a) Where required by order of the Court, by the Rules of the Supreme Court or by practice direction	per hour	SC/C/SP	At applicable Table A rate
	(b) Informal conferences where reasonably held before or after commencement of proceedings	per hour	SC/C/SP	At applicable Table A rate
	(c) Preparation reasonably undertaken for the conferrals and conferences described in paragraphs (a) and (b) of this item	per hour	SC/C/SP	At applicable Table A rate
	(d) Conferences between Counsel and own instructing legal practitioner where reasonably necessary	per hour	SC/C/SP	At applicable Table A rate
29.	Orders			
	(a) Settling and extracting judgment or order - with appointment	2 hours	RP	814
	(b) Settling and extracting judgment or order - without appointment			407
30.	Arbitration			
	Proceedings where costs are to be assessed under section 33B(5) of the Commercial Arbitration Act 2012 (WA)			The same costs as in an action
31.	Resumption proceeding - property			
	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 instrumentality pursuant to any statutory power			An amount which is reasonable in the circumstances
32.	Process			
	(a) Execution			484
	(b) If against land, an additional allowance	3 hours	RP	1,221
33.	Taxing including drawing			
	(a) Drawing bill of costs and service; and (b) Taxation of costs, including the time spent in preparing for the taxation and time required to be spent attending any mediation or conference convened by the Court or attending to any matter required by the Rules or a practice direction		SP	An amount which is reasonable in the circumstances
34.	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		0.22
35.	Accounts and inquiries			
	Taking accounts and inquiries		SP	An amount which is reasonable in the circumstances
36.	Disbursements			
	In addition to the fees and charges allowed under this Determination: (a) As between a law practice and client, a law practice may charge and be allowed disbursements incurred by the law practice except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, the law practice is fully reimbursed for its disbursements; and (b) As between party and party, a party may be allowed disbursements that are necessarily or reasonably incurred by that party, so that that party is fully reimbursed for its disbursements.			
37.	Travel			
	(a) As between party and party, minor travel as defined in the Legal Profession (Supreme Court) (Contentious Business) Determination 2016 is to be allowed as part of the costs awarded for an attendance at chambers or court within the existing item, without further order. (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			

Item	Description	Time	Fee earner	\$
	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. (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. Note: Allowances under item 37(c) are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis, unless the Court otherwise orders.			
38.	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	per hour	SC / C / SP / JP / RP	At applicable Table A rate
	(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)	per hour	SC / C / SP / JP / RP / C/PL	At applicable Table A rate
Note: Allowances under item 38 are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis, unless the Court otherwise orders.				

Made by the Legal Costs Committee on 31 August 2026.