

LEGAL NOTICE No. 121

THE ADVOCATES ACT

(Cap. 16)

IN EXERCISE of the powers conferred by section 48 of the Advocates Act, the Chief Justice, on the recommendation of the Council of the Law Society, makes the following Order:—

THE ADVOCATES (REMUNERATION) (AMENDMENT)
ORDER, 1984

1. This Order may be cited as the Advocates (Remuneration) (Amendment) Order, 1984 and shall be deemed to have come into force on 1st August, 1984.

2. The Advocates (Remuneration) Order, in this Order called the principal Order, is amended in Schedule VI by deleting the scale in paragraph 1 (a) and inserting—

Sub. Leg.

That value exceeds *But does not exceed*

<i>Sh.</i>	<i>Sh.</i>	<i>Sh.</i>
—	50,000	2,000
50,000	100,000	3,500
100,000	200,000	4,500
200,000	500,000	5,750
500,000	750,000	6,750
Over 750,000	—	6,750

(plus $\frac{1}{4}\%$ on the amount over Sh. 750,000).

3. The principal Order is amended in paragraph 1 of Schedule VII by deleting the scale and inserting—

<i>Exceeds</i>	<i>Does not exceed</i>	<i>Lower scale</i>	<i>Higher scale</i>
<i>Sh.</i>	<i>Sh.</i>	<i>Sh.</i>	<i>Sh.</i>
—	300	100	150
300	500	130	260
500	750	170	340
750	1,000	220	400
1,000	1,500	300	575
1,500	2,000	360	700
2,000	2,750	425	850
2,750	3,500	525	900
3,500	5,000	600	1,400
5,000	7,500	800	1,800
7,500	10,000	1,250	2,500
10,000	20,000	1,500	3,000
20,000	50,000	1,575	3,300
Over 50,000	—	a fee as for Sh. 50,000 plus an additional 5% on the lower scale or 10% on the higher scale in respect of the excess.	

4. The principal Order is amended in paragraph 2 of Schedule VII by deleting "Sh. 650" and "Sh. 4,000" and inserting "Sh. 1,200" and "Sh. 6,000" respectively.

5. The principal Order is amended by deleting Schedules VIII and IX and inserting the new Schedules VIII and IX annexed hereto.

6. The principal Order is amended in Schedule X by deleting "instruction" in paragraph (a) of Part B.

7. Where this Order is applied to work commenced before, but completed after 1st August, 1984, those parts thereof which were completed before 1st August, 1984, shall be charged for as if this Order had not been made, but in computing the instruction fee the taxing officer may apportion the charge between the instruction fee chargeable before 1st August, 1984, and thereafter.

SCHEDULE VIII

COSTS OF PROCEEDINGS IN TRIBUNALS UNDER THE LANDLORD AND TENANT (SHOPS, HOTELS AND CATERING ESTABLISHMENTS) ACT

A—PARTY AND PARTY COSTS

1. When an Order has been made for payment of costs by either party and an advocate has been employed, those costs, in addition to the Tribunal fees, may be allowed to the successful party under paragraphs 6 and 7.

2. Costs exceeding the scale in this Schedule may be allowed for special grounds arising out of the nature and importance or the difficulty or the urgency of the case.

3. Except for good reason, to be recorded, costs shall be awarded to the party who substantially succeeds upon the reference or other proceeding.

4. The value of the subject matter shall be determined as follows—

- (a) in a case where the amount of the annual rent is disputed, the difference between the amount proposed by the landlord and the amount offered by the tenant; or
- (b) in a case where possession is claimed, one year's rent or one year's mesne profits, plus the amount of any arrears of rent or mesne profits awarded, which total shall be determined by the Tribunal; or
- (c) in a case concerning authority to carry out repairs, the amount claimed or awarded as the cost of the repairs, whichever is less; or
- (d) in proceedings under section 13 of the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act, the amount of compensation awarded; or where no compensation is awarded, the amount of compensation claimed.

5. The "Lower Scale" in paragraph 6 shall be applied where the matter is disposed of *ex-parte*, by consent or by a decision on a preliminary question of law not dependent on fact and the "Higher Scale" shall be applied in all other cases.

6. (1) The instruction fee, which shall include taking instructions, drawing or perusing pleadings or similar documents, engrossing and filing the same, may be computed in accordance with subparagraph (2).

(2) (a) Where the value of the subject matter—

<i>Exceeds</i>	<i>But does not exceed</i>	<i>Lower scale</i>	<i>Higher scale</i>
<i>Sh.</i>	<i>Sh.</i>	<i>Sh.</i>	<i>Sh.</i>
—	300	60	100
300	500	130	160
500	900	130	260
900	1,200	175	340
1,200	1,880	225	420
1,800	2,400	300	600
2,400	3,000	375	750
3,000	3,600	400	850
3,600	4,200	475	1,000
4,200	4,800	530	1,600
4,800	6,000	900	2,000
6,000	9,000	1,100	2,700
9,000	12,000	1,300	2,900
12,000	18,000	1,500	3,100
18,000	—	a fee as for Sh. 18,000 plus an additional $\frac{1}{2}$ per cent on the lower scale or 1 per cent on the higher scale in respect of the excess.	

(b) On a complaint where non-pecuniary relief other than possession is sought, such costs as the Tribunal in its discretion awards; but not less than Sh. 500 if undefended or unopposed, and if opposed, a reasonable amount not exceeding Sh. 4,000.

(c) On proceedings for leave to levy distress one-half the fee under (a).

(d) In any proceedings not otherwise provided for, such fees as the Tribunal may assess but not less than Sh. 500.

7. (a) On any necessary attendance on the Tribunal other than at the hearing	<i>Sh.</i> 75
(b) On any necessary attendance at the offices of the Tribunal	50
(c) Attendances at the hearing—	
(i) after the first day	700
(ii) for each half day or part of the day after the first day	350
(d) Where costs of adjournment of the case are awarded	150
(e) Service—	
(i) within three kilometres of the Tribunal	25
(ii) every additional kilometre over three; such amount as is reasonable, not exceeding per kilometre	4

(iii) by post, authorized	15
(f) Drawing and filing affidavit or return of service, to include swearing fee	15
(g) Drawing and filing any other affidavits; (for first four folios)	75
(thereafter per folio)	10

B—ADVOCATE AND CLIENT COSTS

As between advocate and client the costs shall be—

- (a) the costs prescribed in A above, increased by one-third;
- (b) the costs ordered by the Tribunal, increased by one-third; or
- (c) the costs agreed by the parties under paragraph 57 of this Order, increased by one-third,

as the case may be, such increase to include all proper attendances on the client and all necessary correspondence.

SCHEDULE IX

COSTS OF PROCEEDINGS IN TRIBUNAL UNDER RENT RESTRICTION ACT OR ANY LEGISLATION AMENDING OR REPLACING THE SAME

A—PARTY AND PARTY COSTS

1. When an Order has been made for payment of costs by either party and an advocate has been employed, those costs in addition to the Tribunal fees, may be allowed to the successful party under paragraphs 6 and 7.

2. Costs exceeding the scale in this Schedule may be allowed for special grounds arising out of the nature and importance or the difficulty or the urgency of the case.

3. Except for good reason, to be recorded, costs shall be awarded to the party who substantially succeeds upon the reference or other proceeding.

4. The value of the subject matter shall be determined as follows—

- (i) in a case where the amount of the annual rent is disputed, the difference between the amount proposed by the landlord and the amount offered by the tenant; or
- (ii) in a case where possession is claimed, one year's rent or one year's mesne profits, plus the amount of any arrears of rent or mesne profits awarded, which total shall be determined by the Tribunal; or
- (iii) in a case concerning authority to carry out repairs, the amount claimed or awarded as the cost of the repairs, whichever is less; or

- (iv) in proceedings for compensation under section 15 of the Rent Restriction Act, the amount of compensation awarded; or where no compensation is awarded, the amount of compensation claimed.

5. The "Lower Scale" in paragraph 6 shall be applied where the matter is disposed of *ex-parte*, by consent or by a decision on a preliminary question of law not dependent on fact and the "Higher Scale" shall be applied in all other cases.

6. (1) The instruction fee, which shall include taking instructions, drawing or perusing pleadings or similar documents, engrossing and filing the same, may be computed in accordance with subparagraph (2).

(2) (a) Where the value of the subject matter—

<i>Exceeds</i>	<i>But does not exceed</i>	<i>Lower scale</i>	<i>Higher scale</i>
<i>Sh.</i>	<i>Sh.</i>	<i>Sh.</i>	<i>Sh.</i>
—	300	100	150
300	500	130	260
500	750	170	340
750	1,000	220	400
1,000	1,500	300	575
1,500	2,000	360	700
2,000	2,750	425	850
2,750	3,500	525	900
3,500	5,000	600	1,200
5,000	7,500	800	1,600
7,500	10,000	1,250	2,500
10,000	15,000	1,500	3,000
15,000	—	a fee for Sh. 15,000 plus an additional 5 per cent on the lower scale or 10 per cent on the higher scale in respect of the excess.	

(b) On a complaint where non-pecuniary relief other than possession is sought, such costs as the Tribunal in its discretion awards; but not less than Sh. 500 if undefended or unopposed, and if opposed, a reasonable amount not exceeding Sh. 4,000.

(c) On proceedings for leave to levy distress, one-half the fee under (a).

(d) In any proceedings not otherwise provided for, such fees as the Tribunal may assess but not less than Sh. 500.

	<i>Sh.</i>
7. (a) On any necessary attendance on the Tribunal other than at the hearing	75
(b) On any necessary attendance by an advocate at the offices of the Tribunal other than (a) above	50
(c) Attendances at the hearing—	
(i) for each half day after the first day	700

(ii) for each part of the day	350
(d) Where costs of adjournment of the case are awarded	150
(e) Service—	
(i) within three kilometres of the Tribunal	25
(ii) every additional kilometre over three; such amount as is reasonable, not exceeding per kilometre	4
(iii) by post, authorized	15
(f) Drawing and filing affidavit or return of service, to include swearing fee	15
(g) Drawing and filing any other affidavits; (for first four folios)	75
(thereafter per folio)	10

B—ADVOCATE AND CLIENT COSTS

As between advocate and client the costs shall be—

- (a) the costs prescribed in A above, increased by one-third; or
- (b) the costs ordered by the Tribunal, increased by one-third; or
- (c) the costs agreed by the parties under paragraph 57 of this Order, increased by one-third as the case may be, such increase to include all proper attendances on the client and all necessary correspondence.

Made on the 23 July, 1984.

A. H. SIMPSON,
Chief Justice.