

LEGAL NOTICE No. 459

(RSC. 42/6)

KENYA COLONY ORDER IN COUNCIL, 1921

IN EXERCISE of the powers conferred by Article 9 of the Kenya Colony Order in Council, 1921, the Supreme Court, with the approval of the Governor, hereby makes the following Rules:—

**THE RULES OF COURT (COURT FEES) (AMENDMENT)
(No. 2), 1957**

1. These Rules may be cited as the Rules of Court (Court Fees) (Amendment) (No. 2), 1957.

2. Part XI of the Rules of Court relating to Court Fees is amended by adding immediately after the words "mentioned therein", the words "and no portion of any fee which has been properly levied in accordance with the Schedule to this Part upon the filing of a suit or other proceeding shall be refunded because a lesser amount was adjudged to be payable than was assessed as being involved in the suit or proceeding or by reason of any settlement or abandonment of any suit or proceeding". Laws of Kenya, 1948, Vol. V, p. 440.

3. The Rules of Court relating to Court Fees are hereby amended by substituting for Schedule III to Part IX, the Schedule to Part X and the Schedule to Part XI thereof respectively new Schedules as follows— Laws of Kenya, 1948, Vol. V, p. 437; p. 439; and p. 441.

SCHEDULE III TO PART IX

p. 437.

EXAMINER'S FEES

	<i>Sh. cts.</i>
1. On taking evidence on commission—	
(a) For giving an appointment to take an examination	30 00
(b) For each hour or part of an hour occupied in taking the evidence	40 00

Note.—The party prosecuting the order, or his advocate shall also pay interpretation and clerical fees, all reasonable travelling and other expenses, both of the examiner and witnesses called before the examiner, including charges for the room (other than the examiner's chambers) where the examination is taken.

COURT FEES

	<i>Sh. cts.</i>
2. On every request made by a foreign court or tribunal for taking evidence within the Colony—	
(a) On registering letter of request to take evidence ..	15 00
(b) On application under rule 1	15 00
(c) On order thereon	10 00
(d) Other fees the same as those payable under rules for the time being in force relating to fees payable in the Supreme Court.	

No Court fee shall be charged in respect of service when a request is received by the Registrar in any civil or commercial matter pending before a court or tribunal in any foreign country with which a convention in that behalf has been or shall be made and applied to the Colony.

The particulars of charges of the officer or agent employed to effect service shall be submitted to the Registrar of the Supreme Court, who shall certify the amount properly payable in respect thereof.

p. 439.

SCHEDULE TO PART X

COURT FEES

	<i>Sh. cts.</i>
1. On every order or warrant of attachment or sale of property	10 00

ATTACHING OFFICER'S CHARGES

	<i>Per cent</i>
2. On attachment or taking possession of movable property—	
Where the value of the property attached (in accordance with the attaching officer's certificate furnished under the provisions of rule 8) does not exceed Sh. 5,000	5
Where the value exceeds Sh. 5,000—	
from Sh. 5,000 to Sh. 10,000	3
thereafter	2

The above charge includes for keeping possession for fifteen days; for keeping possession after the first fifteen days, $\frac{1}{3}$ per cent for each day up to a maximum fee of Sh. 10 per diem per Sh. 2,000 of property. (This does not include livestock.) In special cases the Court may increase or reduce this charge.

If the attaching officer retains movable property either in a debtor's shop on which a rent is running on in a store belonging to a third party, the attaching officer shall pay such rent or storage charges for the first fifteen days.

If a Court broker takes possession, on the instructions of the Official Receiver, of movable property which has already been attached and is in his possession under an order of a Court he shall only be entitled to a charge for keeping possession over fifteen days which shall be such sum as would cover the rent and insurance of the broker's warehouse or the store belonging to a third party used in storing the property which sum shall be agreed beforehand between the broker and the Official Receiver.

3. In the event of there being no property found, or if property to the value of Sh. 600 and under is found, the attaching officer shall be entitled to a minimum charge of Sh. 40.

- | | <i>Sh. cts.</i> |
|---|-----------------|
| 4. Making inventory of movable property—
per folio of 100 words or part thereof | 1 00 |
| 5. Making valuation—
such charges as may be arranged. | |
| 6. On attachment or taking possession of immovable property— | |
| (a) when the property does not exceed Sh. 1,500 in value | 15 00 |
| (b) when the property exceeds Sh. 1,500 | 30 00 |
| 7. In the event of an attachment being raised at any time before sale, the attaching officer shall be entitled to attaching charges in addition to his reasonable out-of-pocket expenses. This will also apply to cases where money is tendered to the attaching officer at any time before sale. If the amount of attachment is tendered to the attaching officer before any property is attached, he shall be entitled to the minimum fee of Sh. 40 and his out-of-pocket expenses, if any. | |

8. On sale of attached property, in addition to the foregoing, to be reckoned on the amount realized (in accordance with the attaching officer's certified return of proceeds of sale)—

(a) For movable property:

	<i>Per cent</i>
Jewellery, ivory and ambergris	1
Livestock	3
All other movable property:	
Where the amount realized does not exceed Sh. 8,000	5
Where the amount realized exceeds Sh. 8,000—	
on the first Sh. 8,000	5
from Sh. 8,001 to Sh. 20,000	3
thereafter	2

(b) For immovable property:

Where the amount realized does not exceed Sh. 4,000	5
Where the amount realized exceeds Sh. 4,000—	
on the first Sh. 4,000	5
from Sh. 4,001 to Sh. 20,000	2½
from Sh. 20,001 to Sh. 40,000	1½
thereafter	1

9. In the event of a sale not realizing the sum to be levied, the attaching officer shall be entitled to the sale commission on the sum actually realized. When the property is sold subject to mortgage or incumbrance, the sale commission shall be on the amount realized over and above the amount of mortgage or incumbrance.

Per cent

10. Travelling expenses by car of the broker may be allowed on the scale applicable to Government officers; also reasonable out-of-pocket expenses.

The cost of transporting the debtor's movable property either to an outside warehouse or to the broker's own premises will be allowed on the actual cost of transport, but not to exceed Sh. 1/50 per mile per ton.

11. Advertisements. Actual cost but not exceeding such sum as may be authorized.

p. 441.

SCHEDULE TO PART XI

COURT FEES

I—Civil

	<i>Sh. cts.</i>
1. (1) Per one form	0 15
(2) Per 50 forms	4 00
(3) Per 100 forms	8 00
2. For taking particulars of plaint	5 00
3. On filing plaint or counter-claim in all suits unless otherwise specified—	
Where the amount involved:	
(a) does not exceed Sh. 100	5 00
(b) exceeds Sh. 100. An additional fee of Sh. 4 for every Sh. 100 or part thereof up to Sh. 2,000, and an additional fee of Sh. 2 for every Sh. 100 in excess of Sh. 2,000 the whole fee not to exceed Sh. 4,000.	
Subject in the Supreme Court to a minimum fee of Sh. 100.	
4. On submission of a special case—	
Where the amount involved cannot be estimated ..	100 00
Where the amount involved can be estimated— fee in accordance with item 3.	
5. On a reference to the Supreme Court other than appeal or review—	
(a) if in Chambers	50 00
(b) if in Court	100 00
6. In every suit where there is a claim for damages of an unspecified amount or where the amount involved in the suit cannot be estimated at a money value and no special fee is prescribed for that class of suit	100 00

Provided that—

(a) where, and as soon as, the amount of the damages or the amount otherwise involved in the suit is ascertained by judgment of the Court or by agreement of the parties or otherwise, an *ad valorem* fee on the amount so

ascertained shall be calculated in accordance with the scale in item 3 of this Schedule and, if such fee exceeds Sh. 100, the excess shall immediately become payable;

(b) where the Court has delivered a judgment which does not specifically state the amount of money involved in the judgment and the parties cannot agree upon such amount, any party to the suit or the Registrar may apply to the Court to assess the amount for purposes of levying a fee under this Schedule and the Court may assess the amount accordingly.

7. In a suit for arrears of rent by a landlord against a tenant where an order for the possession of the property occupied is sought from the tenant. } An *ad valorem* fee of 5 per cent on the yearly rental of the property in addition to the fee leviable for recovery of rent under item 3.

8. Where no rent is claimed, but order for possession only. } An *ad valorem* fee of 5 per cent on the yearly rental value of the property, subject to a minimum of Sh. 100.

Sh. cts.

9. On every interlocutory application, including the filing of an affidavit in support 10 00

10. On the filing of an application for leave to apply for an order of mandamus, prohibition or certiorari .. 400 00

11. On every summons, motion, application or demand taken out, made or filed (not particularly charged) .. 15 00

Provided that no fee shall be chargeable on any application for execution of a decree where the amount, including cost of application, sought to be recovered is less than Sh. 200.

12. On every decree or order (not particularly charged) .. 10 00

13. On order of adjournment of hearing rendered necessary by default of either party (to be paid by that party) or by consent of parties (to be paid by each party in equal shares) 30 00

14. On taking or passing an account by an officer of the Court otherwise than in Court, unless the Judge otherwise orders 30 00

And in addition for every hour or part thereof after the first spent in taking or passing such account 15 00

	<i>Sh. cts.</i>
15. For service of summons, petition, answer, motion paper, notice, warrant, decree, order or other document on a party, witness, assessor or other person—	
(a) within two miles of the Court issuing the same	4 00
(b) beyond that distance up to ten miles	6 00
(c) over ten miles in addition to the cost of transport	10 00
(d) for service of summons, notice or other document within the Colony at the request of the Court or a party outside the Colony, in addition to any expenses incurred by the person serving such summonses, etc.	15 00
<p>Provided that no Court fee shall be charged in respect of the service when a request is received by the Registrar where in any civil or commercial matter pending before a court or tribunal in any foreign country with which a convention in that behalf has been or shall be made and applied to the Colony. The particulars of charges of the officer or agent employed to effect service shall be submitted to the Registrar of the Supreme Court who shall certify the amount properly payable in respect thereof.</p>	
16. On the issue of every witness summons or notice (not particularly charged)	4 00
17. For attending to view, in addition to all other expenses incurred, unless otherwise ordered	30 00
18. On filing a bill of costs for taxation, for every ten folios or part thereof	20 00
19. On deposit of any document	30 00
20. On taking an affidavit or declaration	4 00
21. For every exhibit to an affidavit or declaration	2 00
22. For attending to administer an oath or affirmation or to take a declaration elsewhere than at the offices of the Court, in addition to the ordinary fee thereon	15 00
<p>Provided that where the distance travelled exceeds two miles such further fee as will cover the cost of the journey shall be charged.</p>	
23. On every deposition taken by the Judge before trial	20 00
24. (1) On balances of estate of deceased persons paid into Court. } 2½ per cent on the amount of value up to £100, and 1 per cent above, in no case exceeding a total fee of Sh. 200.	
(2) For superintending or taking an inventory. }	
(3) On deposit of any money or valuables in Court. }	
25. On payment of money into Court in an action. }	2 per cent, not exceeding a maximum fee of Sh. 100.

	<i>Sh. cts.</i>
26. On filing in the Supreme Court any document for the filing whereof no special fee is prescribed under this Schedule	4 00
27. On filing in any Court, other than the Supreme Court, any document for the filing whereof no special fee is prescribed under this Schedule	3 00
28. (1) For certifying signature or seal	6 00
(2) For attesting a signature on a document	4 00
29. For attendance of an officer of the Court at a sale— for each hour or part of an hour	30 00
30. On reference to the archives	6 00
31. For making and certifying copy of any document in the archives or certifying copy not prepared by Court—	
(a) for first folio or part thereof	5 00 —
(b) for each subsequent folio or part thereof	2 50
32. For making uncertified copy of any document in the archives—	
(a) for first four folios or part thereof	3 00
(b) for each subsequent folio or part thereof	— 75
Provided that if such uncertified copy shall later require to be certified, the certifying fee will be the difference between these fees and fee under item 31.	
33. Making copy by photostat process	Actual cost
34. All certificates not otherwise provided for	6 00
35. For an official certified translation of any document—	
(a) for first folio of 100 words or part thereof	20 00
(b) for each subsequent folio or part thereof	10 00
36. For certifying translation tendered by a party—	
(a) for first folio of 100 words or part thereof	10 00
(b) for each subsequent folio or part thereof	5 00
37. For communication with another court or tribunal outside the Colony	16 00
Provided that no communication fee shall be chargeable for sending or returning any summons, decree or notice to any other court or tribunal outside the Colony where the fee under item 15 (d) has been charged.	
38. For communication with another court or tribunal within the Colony, including communication relating to the transfer of cases from one registry to another	6 00
Provided that no communication fee shall be chargeable for sending or returning any summons, decree or notice to any other court or tribunal in the Colony where a service fee has been charged.	
39. On filing of every recognizance, bail bond or surety	4 00

	<i>Sh. cts.</i>
40. (1) For taking a shorthand note in evidence in Court or in Chambers there shall be payable by the party requesting the note unless the Court shall direct otherwise a fee per hour or part thereof	10 00
(2) For an uncertified copy of a transcript of the shorthand note—	
for the first copy, per folio	2 00
for each additional copy, per folio	— 50
Provided that if such uncertified copy shall later require to be certified, the certifying fee will be the difference between this fee and fee under item 34.	
41. (1) For execution of any warrant or service of any process of court issuing from any civil court by the police, in addition to the ordinary fees of Court chargeable under the foregoing items—	
(a) For service in the ordinary course of police patrol duty when no special journey is made:	
No fee other than the fee under item 15.	
(b) For service of any process of court by a police officer when a special journey is made at the request of the party on whose behalf such document is to be served or of the advocate representing such party:	
(i) when the distance such officer has to travel does not exceed two miles from the police station where he is stationed	4 00
(ii) when the distance exceeds two miles—	
At the rate laid down from time to time for Government officers using their own motor vehicle in the public service.	
(2) For execution of civil warrants of arrest if such duty necessitates the absence of a police officer from his station for a longer period than six hours—	
For such first six hours and for each day or part of a day thereafter:	
(a) For a superior officer	30 00
(b) For a subordinate officer of or above the rank of an Assistant Inspector	15 00
(c) For any other subordinate officer	5 00
(3) In addition to the Court fees prescribed by the foregoing items, there shall be paid by the party requiring the services of a police officer, railway fares; if the duty necessitates journey by rail, or motor travelling allowance at the rate laid down from time to time for Government officers using their own motor vehicles in the public service when such vehicle is used, which fares or allowances shall be paid to the police officer executing the service; and there shall be paid by such person to such police officer, subsistence allowance to be fixed by the Court.	

	<i>Sh. cts.</i>
42. On the estate of wards of court, minors and lunatics managed by the Court or a trustee appointed by the Court, the charge for such management shall be—	
if the capital value of the estate does not exceed Sh. 1,000	20 00
if the capital value of the estate exceeds Sh. 1,000 but does not exceed Sh. 5,000	100 00
	<i>Per cent</i>
if the capital value of the estate exceeds Sh. 5,000 on the capital value of the estate at	2
and, in any case on the net annual income of the estate	3
This item shall not apply to the Public Trustee.	

II—Company Matters

	<i>Sh. cts.</i>
43. On presenting a petition—	
(a) to confirm an alteration in a memorandum	150 00
(b) to confirm the substitution of a memorandum, and articles for a deed of settlement	150 00
(c) to sanction a reorganization of capital	150 00
(d) to confirm a reduction of capital	150 00
(e) to sanction a compromise or scheme of arrangement	150 00
(f) of such a nature as is not herein provided for ..	150 00
Provided that when a petition is presented under more than one of the above items, a fee of Sh. 30 only shall be paid in respect of each additional item.	
44. On presenting a petition to restore a name to the register of companies	60 00
45. On an application for extension of time, for registration or for rectification of register of mortgages, or for the registration of allotment of shares	60 00

III—Probate and Administration

46. On application for probate or administration	45 00
47. On every declaration or oath by an executor or administrator	20 00
48. On every surety or security bond	30 00
49. On filing any account	20 00
50. On passing any account for each hour or part thereof	30 00
Provided that the sum levied in respect of items 43 to 47 shall not in the aggregate exceed 5 per cent of the net value of the estate, but not less than Sh. 45 in any event.	
51. On filing a caveat	50 00
52. Probate engrossment and administration forms (each) ..	— 50
53. On application for administration <i>de bonis non</i> or other limited grants	45 00

Other fees the same as those payable under rules for the time being in force relating to fees payable in the Supreme Court.

	<i>Sh. cts.</i>
<i>IV—Criminal</i>	
54. (1) On every summons or warrant issued at the instance of a private prosecutor unless especially directed by the Court to be issued free of charge	10 00
(2) Service fee in accordance with item 15.	
55. On the filing of an application for leave to apply for an order of mandamus, prohibition or certiorari	200 00
56. On hearing of a private prosecution, unless directed by the Court otherwise	20 00
57. On warrant of commitment	4 00

In any proceedings taken at the instance of private individuals in respect of criminal offences, the same fees shall be charged as far as possible as in a civil action for damages, unless otherwise ordered.

V—Review of Judgment

58. On filing an application for review of judgment, half the fee payable on the original plaint.	
59. On an application to the Supreme Court for revision, per person	20 00

VI—Appeals

(A) Save as otherwise provided, on appeals from any court or tribunal within the Colony to any other court or tribunal within the Colony—

(i) Civil Matters

60. On filing a memorandum of appeal	150 00
61. In appeals from orders in all interlocutory matters and motions	100 00
62. On filing every security for costs	20 00

(ii) Criminal Matters

From any subordinate court to the Supreme Court—

63. On filing a memorandum of appeal	40 00
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Provided that the Judge may reduce this fee at his discretion.

(B) MISCELLANEOUS APPEALS

Appeal from Principal Registrar of Crown Lands

64. On filing an appeal under the Appeals from the Principal Registrar of Crown Lands Rules	100 00
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Sh. cts.

Appeal from Land Registration Court

65. (1) On lodging an appeal, a fee reckoned at 2 per cent on the value of the immovable property or the interest claimed therein, and if the interest claimed be a lease for a term of years, the value thereof shall be taken as three times the amount of the net annual rent reserved. If it be a lease from year to year the fee shall be reckoned on the amount of the yearly rent. The minimum fee under this item shall be 100 00
- (2) Where the appeal is against the decision of the Recorder of Titles on a question of valuation 100 00
- (3) All other fees shall be payable in accordance with the scale of fees for the time being in force in the Supreme Court.

Appeal from the Transport Licensing Board

66. (1) On lodging an appeal from the decision of the Licensing Authority to the Supreme Court 100 00
- (2) The scale of fees usually payable in the Supreme Court shall apply to all subsequent acts, applications or proceedings.

Appeals under the Public Roads and Roads of Access Ordinance Cap. 229.

67. (1) On lodging an appeal from the decision of a District Road Board to a subordinate court 100 00
- (2) The scale of fees usually payable in subordinate courts shall apply to all subsequent acts, applications or proceedings.

Appeal from the Rent Control Board under the Increase of Rent (Restriction) Ordinance, 1949 Rev. Ed., 1954.

68. (1) On lodging an appeal to the Supreme Court from the determination or order of the Board 100 00
- (2) The scale of fees usually payable in the Supreme Court shall apply to all subsequent acts, applications or proceedings.

Made this 24th day of September, 1957.

By Order of the Supreme Court.

D. M. HORNBY,
Registrar of the Supreme Court.

Approved this 25th day of September, 1957.

By Command of the Governor.

D. W. CONROY,
Minister for Legal Affairs.