

(Legislative Supplement No. 17)

LEGAL NOTICE No. 56

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 of Kenya, hereby makes the following Order:—

THE ADVOCATES (REMUNERATION) (AMENDMENT)
ORDER, 1972

1. This Order may be cited as the Advocates (Remuneration) (Amendment) Order, 1972, and shall come into force on the first day of April, 1972.

2. Paragraph 2 of the Advocates (Remuneration) Order (hereinafter called "the Order") is amended by deleting the proviso thereto.

3. Paragraph 10 of the Order is amended by deleting the full stop at the end and by adding the words—

except that in respect of bills under Schedule IV to the Order the taxing officer shall be the registrar of trade marks or any deputy or assistant registrar of trade marks.

4. Paragraph 18 of the Order is amended by adding the following proviso to subparagraph (a) thereof—

Provided that where the advocate acting for a vendor does not prepare a letter of agreement, heads of agreement or agreement for sale the scale fee is reduced by one-third.

5. Paragraph 22 of the Order is repealed and replaced by—

22. (1) In all cases in which any other Schedule to this Order applies, an advocate may, before or contemporaneously with rendering a bill of costs drawn as between advocate and client, signify to the client his election that, instead of charging under such Schedule, his remuneration shall be according to Schedule V, but if no election is made his remuneration shall be according to the scale applicable under the other Schedule.

(2) Subject to paragraph 3, an advocate who makes an election under subparagraph (1) of this paragraph may not by reason of his election charge less than the scale fee under the appropriate Schedule.

6. The Order is amended by inserting immediately after paragraph 23 a new paragraph as follows—

Choice of methods of completion of transaction; fee applicable.

23A. Where a transaction may be completed in more ways than one, the advocate concerned may complete the transaction in any way he chooses but, in the absence of agreement to the contrary, he must charge the fee applicable to the method attracting the lowest fee.

7. Paragraph 24 of the Order is amended by deleting the words "by the advocates concerned".

8. Paragraph 25 of the Order is amended by deleting the words "by the advocates concerned".

9. Paragraph 32 of the Order is amended by adding at the end of subparagraph (1) the words—

but is not subject under this paragraph and any other paragraph to a reduction in excess of one-half of the scale fee.

10. Paragraph 35 of the Order is repealed and replaced by—

35. Where a conveyance and a mortgage of the same property are completed at the same time, the respective advocates acting for the vendor and purchaser shall charge the appropriate scale fee on the conveyance and their commissions for negotiating (if any). For preparing and approving the mortgage, they shall charge one-half of the appropriate scale fee on the first £7,500 of the consideration and one-fourth of the appropriate scale fee on any balance of the consideration.

11. Paragraph 50 of the Order is repealed and replaced by—

Costs in High Court according to Schedule VI. 50. Subject to paragraph 22 and to any order of the court in the particular case, a bill of costs in proceedings in the High Court shall be taxable in accordance with Schedule VI and, unless the court has made an order under paragraph 50A, where Schedule VI provides a higher and a lower scale the costs shall be taxed in accordance with the lower scale.

12. The Order is amended by inserting immediately after paragraph 50 a new paragraph as follows—

Schedule VI Costs on the Higher Scale. 50A. The court may make an order that costs are to be taxed on the higher scale in Schedule VI on special grounds arising out of the nature and importance or the difficulty or urgency of the case. The higher scale may be allowed either generally in any cause or matter or in respect of any particular application made or business done.

13. Paragraph 51 of the Order is repealed and replaced by a new paragraph as follows—

51. Subject to paragraph 22, the scale of costs applicable to proceedings in subordinate courts (other than Kadhi's Courts) is that set out in Schedule VII to this Order.

14. The Order is amended by inserting immediately after paragraph 51 a new paragraph as follows—

Costs under
Schedule
VIII.
Cap. 101. 51A. Subject to paragraph 22, the scale of costs applicable to proceedings in a Tribunal appointed under the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act is that set out in Schedule VIII to this Order.

15. Paragraph 68A of the Order is amended as follows—

- (i) in subparagraph (a) by substituting for the words "Sh. 125" the words "Sh. 150"; by adding after the words "the court fees charged" the words "and affidavit swearing fees", and by substituting for the words "Sh. 27" the words "Sh. 30";
- (ii) in subparagraph (c) by substituting for the words "Sh. 185" the words "Sh. 260";
- (iii) by adding a new subparagraph as follows—
 - (d) where the defendant was served in accordance with an order under Order V, rule 17 of the Civil Procedure (Revised) Rules, 1948, a further Sh. 260 shall be allowed together where appropriate with the costs of any advertisement ordered by the court.

16. The Advocates (Remuneration) Order is amended by substituting for the first seven Schedules thereto the seven Schedules annexed hereto.

Transitional provisions

17. In the application of this Order to work commenced before but not finally completed at the date on which this Order comes into force the following provisions shall have effect in the absence of any agreement to the contrary—

- (a) where the work is being charged for under Schedule I, II, III or IV the provisions of this Order shall apply unless the work could have been completed before it came into force but for unnecessary delay attributable to the advocate;
- (b) where the work is being charged for under Schedule V, VI or VII the provisions of this Order shall apply save that the portions (if any) thereof which were completed on the date it came into force shall be charged for as if the Advocates (Remuneration) Order had not been amended by this Order:

Provided always that in computing the fee for instructions for any such work the work may be apportioned by the taxing officer in his discretion as between the period prior to this Order coming into force and the period after its coming into force.

Made this 18th day of February, 1972.

JAMES WICKS,
Chief Justice.

SCHEDULE I

FIRST SCALE

Scale of Charges on Sales, Purchases and Mortgages Affecting Land Registered in the Government Lands Registry or the Land Titles Registry

	(1) On the first £1,000	(2) From £1,000 to £2,000	(3) From £2,000 to £4,500	(4) From £4,500 to £15,000	(5) Over £15,000
<i>A</i> Minimum Charge <i>Sh. cts.</i>		<i>Per £100 Sh. cts.</i>	<i>Per £100 Sh. cts.</i>	<i>Per £100 Sh. cts.</i>	<i>Per £100 Sh. cts.</i>
(a) VENDOR'S ADVOCATE—					
For preparing and completing contract, answering any preliminary inquiries, deducing title (including any necessary abstraction) to freehold or leasehold property, answering any requisitions on title, perusing and completing conveyance or assignment	450 00	45 00	30 00	15 00	7 50
(b) PURCHASER'S ADVOCATE—					
For investigating title to freehold or leasehold property and preparing and completing conveyance (including perusal and completion of contract, if any)	450 00	45 00	30 00	15 00	7 50
(c) MORTGAGOR'S ADVOCATE—					
(i) For deducing title (including any necessary abstraction) to freehold or leasehold property, answering any requisitions on title, perusing and completing mortgage					
			One-half the fee payable	under (b)	above
(ii) For preparing and completing reconveyance or reassignment of mortgage, a fixed charge of Sh. 250.					
(d) MORTGAGEE'S ADVOCATE—					
(i) For investigating title to freehold or leasehold property and preparing and completing mortgage	450 00	45 00	30 00	15 00	7 50
(ii) For perusing and completing reconveyance or reassignment of mortgage, a fixed charge of Sh. 120.					

SECOND SCALE

Scale of Charges on Sales, Purchases and Charges Affecting Land Registered in the Inland Registry or the Coast Registry or Registered under the Registered Land Act

	(1) On the first £1,000	(2) From £1,000 to £2,000	(3) From £2,000 to £4,500	(4) From £4,500 to £15,000	(5) Over £15,000
<i>A</i> Minimum Charge Sh. cts.		Per £100 Sh. cts.	Per £100 Sh. cts.	Per £100 Sh. cts.	Per £100 Sh. cts.
(a) VENDOR'S ADVOCATE—					
For preparing and completing contract for sale or conditions (if any), answering any preliminary inquiries, deducing title (including any necessary abstraction) to freehold or leasehold property, answering any requisitions on title, perusing and completing transfer	420 00	35 00	23 50	11 50	6 75
(b) PURCHASER'S ADVOCATE—					
For investigating title to freehold or leasehold property and preparing and completing transfer (including perusal and completion of contract, if any)	420 00	35 00	23 50	11 50	6 75
(c) CHARGOR'S ADVOCATE—					
(i) For deducing title (including any necessary abstraction to freehold or leasehold property, answering any requisitions on title, perusing and completing charge	One-half the fee payable under (b) above				
(ii) For preparing and completing discharge of charge, a fixed charge of Sh. 210.					
(d) CHARGEЕ'S ADVOCATE—					
(i) For investigating title to freehold or leasehold property and preparing and completing charge	420 00	35 00	23 50	11 50	6 75
(ii) For perusing and completing discharge of charge, a fixed charge of Sh. 100.					

THIRD SCALE

Scale of Charges relating to Memoranda of Equitable Mortgage by Deposit of Documents or Charges by Deposit of Title

(a) For investigating title of a freehold or leasehold property, preparing, completing and registering memorandum of equitable mortgage by deposit of documents in respect thereof:—

(i) Where the title has been investigated or deduced by the advocate concerned within the preceding twelve months or where no report on title or certificate of title is required by the mortgagee, a fixed charge of Sh. 210 for the first title comprised in such memorandum and Sh. 105 for each subsequent title comprised therein.

(ii) In any other case, a fixed charge of Sh. 315 for the first title and Sh. 210 for each subsequent title.

(b) For investigating title to freehold or leasehold property, preparing, completing and registering a memorandum of charge by deposit of title in respect thereof:—

(i) Where the title has been investigated or deduced by the advocate concerned within the preceding twelve months or where no report on title or certificate of title is required by the mortgagee, a fixed charge of Sh. 168 for the first title comprised in such memorandum and Sh. 105 for each subsequent title comprised therein.

(ii) In any other case, a fixed charge of Sh. 252 for the first title and Sh. 168 for each subsequent title.

(c) For preparing, completing and registering a memorandum of discharge of equitable mortgage by deposit of documents or a memorandum of discharge of charge by deposit of title: the sum of Sh. 105 for the first title comprised therein plus Sh. 63 for each additional title.

NOTES

(1) In calculating fees payable under any of the above Scales, a fraction of £100 up to and including £50 shall be accounted as one-half, but over £50 shall be accounted as a whole unit of calculation.

(2) Irrespective of the number of parties for whom the advocate may be acting the minimum charge for preparing and completing a conveyance, assignment or transfer, or a mortgage or charge is the minimum charge payable under column (1) of the relevant Scale.

(3) In the above Scales, "mortgage" includes any conveyance, assignment or other assurance or any agreement to convey, assign or otherwise assure any immovable property or any estate, interest or other right therein to secure the payment of any moneys, and the word "charge" includes any agreement to charge any immovable property or any estate, interest or other right therein to secure the payment of any moneys, but neither word includes a memorandum of equitable mortgage by deposit of documents or a memorandum of charge by deposit of title or any agreement exclusively collateral thereto unless such collateral agreement contains an agreement or covenant to execute a mortgage or charge at some future time or when called upon.

(4) Notwithstanding the minimum fee prescribed in the first column of the Second Scale above, where the consideration for any transaction affecting land outside any municipality and registered under the Registered Land Act is £600 or less the minimum fee is Sh. 300.

FOURTH SCALE

Scale of negotiating commission on Sales and Mortgages

	(1)	(2)	(3)
	On the first £4,500	From £4,500 to £15,000	Over £15,000
	Per £100 Sh. cts.	Per £100 Sh. cts.	Per £100 Sh. cts.
For negotiating a sale of property by private treaty or a loan secured by mortgage	30 00	15 00	7 50

SCHEDULE II

FIRST SCALE

Scale of Charges for the preparation of Leases, Agreements for Lease and Tenancy Agreements at a rack Rent

(1) To the advocate preparing, settling and completing lease or agreement and counterpart—	
(a) Where the annual rent does not exceed £200.	Ten per cent of the annual rent or Sh. 210 whichever is the greater.
(b) Where the annual rent exceeds £200 and does not exceed £750.	Ten per cent on the first £200 of the annual rent, and three per cent on the excess over £200.
(c) Where the annual rent exceeds £750.	Ten per cent on the first £200 of the annual rent, three per cent on the next £550 and one per cent on the excess over £750.
(2) To the advocate perusing, amending and completing lease or agreement and counterpart.	One-half of the amount payable to the advocate preparing, settling and completing or Sh. 105 whichever is the greater.

Provided that—

- (i) where a varying rent is payable, the amount of annual rent means the amount of the largest annual rent payable under the lease or agreement for lease or tenancy agreement;

- (ii) in the case of a lease, agreement for lease or tenancy agreement of a dwelling-house or flat for a term exceeding one year but not exceeding three years and not containing an option for renewal or extension capable of making the entire term one in excess of three years an advocate may in his discretion reduce the above stated charges by a sum not exceeding fifty per cent thereof;
- (iii) in the case of a lease, agreement for lease or tenancy agreement of a dwelling-house or flat for a term not exceeding one year and not containing an option for renewal or extension capable of making the entire term one in excess of one year there shall be charged by each advocate concerned a fee equal to three per cent of the total rent reserved or Sh. 100 whichever is the greater; but so that the fee so chargeable may not exceed that chargeable under paragraph (1) of this Scale.
- (iv) in the case of an extension of the term of a lease, agreement for lease or tenancy agreement capable of being effected by way of an endorsement on or annexure to the original instrument the charge shall be calculated under Schedule V.

SECOND SCALE

Scale of Charges as to Conveyance in fee, or for any other Freehold Estate, reserving Rent, or Building Leases reserving Rent or other long Leases not at a rack Rent, or Agreements for the same respectively

<p>(1) Vendor's or lessor's advocate for preparing, settling and completing conveyance and duplicate or lease and counterpart.</p> <p>(a) Where the annual rent does not exceed £7 10s.</p> <p>(b) Where it exceeds £7 10s. and does not exceed £75.</p> <p>(c) Where it exceeds £75 and does not exceed £225.</p> <p>(d) Where it exceeds £225 ..</p> <p>(2) Purchaser's or lessee's advocate, for perusing draft and completing</p>	<p>Sh. 225</p> <p>Sh. 225 plus thirty per cent on the excess of rent over £7 10s.</p> <p>The same charge as on a rent of £75 plus ten per cent on the excess of rent over £75.</p> <p>The same charge as on a rent of £225 plus five per cent on the excess of rent over £225.</p> <p>One-half of the amount payable to the vendor's or lessor's advocate.</p>
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Provided that—

where a varying rent is payable, the amount of annual rent is to mean the amount of the largest annual rent payable under the lease or agreement for lease.

SCHEDULE III

1. *Formation and Incorporation of Companies with Share Capital*

(a) In the case of a private company with Articles of Association adopting Table "A" by reference in whole or in part: where the nominal capital of the company to be formed—

- (i) does not exceed £7,000: Sh. 1,000 to Sh. 4,000, according to time, complexity and responsibility;
- (ii) exceeds £7,000: 3 per cent on the first £7,000, $\frac{1}{2}$ per cent from £7,000 up to £15,000, and $\frac{1}{4}$ per cent on any excess over £15,000 up to £100,000 (maximum).

(b) In the case of a private company with full Articles of Association not adopting Table "A" by reference where the nominal capital of the company to be formed:

- (i) does not exceed £5,000: Sh. 4,000;
- (ii) exceeds £5,000: a further $\frac{1}{4}$ per cent on the balance from £5,000 to £10,000; a further $\frac{1}{2}$ per cent on the balance from £10,000 to £20,000; a further $\frac{1}{4}$ per cent on the balance from £20,000 to £50,000; and $\frac{1}{8}$ per cent on the balance over £50,000.

(c) In the case of a public company:

Where the nominal capital of the company on incorporation or within six months thereafter (*see note (b)*)—

- (i) does not exceed £5,000: Sh. 5,000.
- (ii) exceeds £5,000: a further 1 per cent on the balance from £5,000 to £10,000; a further $\frac{1}{2}$ per cent on the balance from £10,000 to £20,000; a further $\frac{1}{4}$ per cent on the balance from £20,000 to £50,000; and a further $\frac{1}{8}$ per cent on the balance over £50,000.

NOTES

(a) The above fees cover taking instructions to incorporate the company, drawing Memorandum of Association and Articles of Association (if any), preparing and lodging all documents necessary for incorporation, procuring certificate of incorporation and seal (excluding cost thereof) and all attendances, correspondence and work up to and including appointment of first directors.

(b) The period of six months referred to at paragraph 1 (c) above may be extended marginally to prevent avoidance of payment of proper fees by delaying for a short period an increase of capital.

Where the fee for the formation and incorporation of the company has been based on the authorized capital at incorporation (as shall be the case unless the client has intimated his intention to increase within the prescribed period or marginally outside that period) no further fee shall be charged, except under Schedule V to this Order, for work carried out, unless and until the amount or aggregate amount of additional capital exceeds 50 per cent of the original capital.

2. Formation and Incorporation of Companies without Share Capital

(1) Without Articles of Association or adopting Table "A" with or without modification: Sh. 1,200 to Sh. 2,500.

(2) With full Articles of Association: Sh. 3,000 to Sh. 6,000.

In either case according to time, complexity and responsibility.

3. Registration of Foreign Companies

Sh. 200 and, in addition, the fees prescribed in Schedule V to this Order, for work specified in paragraphs (2) to (6) inclusive of that Schedule.

4. Debentures

(1) Single debenture:—

- | | |
|--|---|
| (a) Unsecured | The scale fee on the amount secured. |
| (b) Creating a floating charge only. | Double the scale fee on the amount secured. |
| (c) Creating or accompanied by the creation of security over immovable property by way of a legal mortgage or charge in addition to or instead of a floating charge. | The fee prescribed in Schedule I First and Second Scales to this Order in respect of the creation of the security over immovable property and, in addition, the scale fee on the amount secured. |
| (b) Creating or accompanied by the creation of security over immovable property by way of equitable mortgage or charge in addition to or instead of a floating charge. | The fee prescribed in Schedule I Third Scale paragraph (a) to this Order in respect of the creation of the security over immovable property and, in addition, double the scale fee on the amount secured. |

(2) Series of debentures or debenture stock:—

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|----------------------------------|---|
| (a) Where there is no trust deed | As for single debenture with the addition of fees under Schedule V to this Order (other than paragraph (1) thereof) in respect of preparation, completion and registration of all debentures after the first. |
|----------------------------------|---|

(h) Where there is a trust deed:

- | | |
|---|---|
| (i) Creating a floating charge only. | Treble the scale fee on the amount secured and, in addition, the fees prescribed by Schedule V to this Order (other than paragraph (1) thereof) in respect of preparation, completion and registration of debenture certificates, issue of debentures or debenture stock and other supplementary instruments and matters. |
| (ii) Creating or accompanied by the creation of security over immovable property. | As for a single debenture where security is created over immovable property with the addition of charges for supplementary instruments and matters as in subparagraph (1) of this paragraph. |

NOTES

(c) References in this Schedule to "the scale fee" are to the fees set out in the scale at the end of the Schedule.

(d) Where the grantee of the security and the company creating it are separately represented the company's advocate shall be entitled to charge one-half of the fees chargeable by the grantee's advocate. Where one advocate represents both parties he shall be entitled to increase the prescribed fees by one-quarter. Unless otherwise agreed by the parties in writing the company creating the security shall pay the fees of the grantee's advocate as well as those of its own advocate.

5. *Other Work.*—All other non-litigious work relating to company matters shall be charged under Schedule V to this Order.

Scale of Fees

<i>Capital involved</i>	<i>Fee</i>
Sh. 20,000 or less	Sh. 500
Next Sh. 30,000 or part thereof	$\frac{1}{2}\%$
Next Sh. 100,000 or part thereof	$\frac{1}{4}\%$
Next Sh. 2,000,000 or part thereof	$\frac{1}{10}\%$
	(Sh. 1 per
	Sh. 1,000.)
Thereafter	$\frac{1}{20}\%$
	(Sh. 1 per
	Sh. 2,000)

SCHEDULE IV
TRADE MARKS AND PATENTS
A—Trade Marks

	<i>Sh.</i>
1. APPLICATIONS—	
(a) Instructions to register one trade mark in one class and drawing form of authorization	150
(b) Instructions to register second and further trade marks in the name of the same proprietor simultaneously per trade mark in one class	90
(c) Drawing application for registration and four copies of representation of mark	45
2. REGISTERED USERS—	
(a) Instructions to file an application to enter one Registered User of one registered trade mark or more than one registered trade mark of same proprietor incorporated in the same set of documents and subject to the same conditions and restrictions in each case:—	
(1) For the first or single registered trade mark	165
(2) For the second registered trade mark	75
(3) For the third registered trade mark	50
(4) For the fourth and each subsequent registered trade mark, applications being filed simultaneously	20
(b) Drawing statement of case, statutory declaration in support and application, depending on the amount of work involved but not less than	150
(c) Drawing registered user agreement depending on the amount of work involved but not less than	225
(d) Instructions to file an Application under s. 31 (8) (b) for cancellation of a registered user in respect of one registered trade mark or more than one registered trade mark of same proprietor:—	
(1) For the first or single registered trade mark	135
(2) For the second registered trade mark	90
(3) For the third registered trade mark	60
(4) For the fourth and each subsequent trade mark, applications being filed simultaneously	30
(e) Drawing application and statement of grounds depending on amount of work involved but not less than	75
(f) And for subsequent registered trade mark the grounds for cancellation being the same	25
(g) Instructions to file an application for variation of terms of appointment of a registered user including drawing application ..	150
3. ASSIGNMENTS—	
(a) Instructions to file an application to register a subsequent proprietor of one registered trade mark (or more than one registered trade mark standing in the same name under the same devolution of title and filed simultaneously) with or without goodwill:—	
(1) For the first registered trade mark	95
(2) For the second registered trade mark	45
(3) For each subsequent registered trade mark	30
(b) Instruction to file application for directions by the Registrar for advertisement of the assignment of marks in use without goodwill and attending to the advertisement thereof:—	
(1) For one registered trade mark assigned	90
(2) For every other registered trade mark assigned under the same devolution of title filed simultaneously	25

SCHEDULE IV—(Contd.)

	<i>Sh.</i>
(e) Instructions to apply for extensions of time in which to apply for directions to advertise, from	65
4. RENEWALS—	
(a) Instructions to renew the registration of one trade mark in one class including drawing the prescribed form and form of authorization	90
(b) Instructions to renew the registration of second and further trade marks in the name of the same proprietor simultaneously including drawing the prescribed form and form of authorization per mark in one class	65
(c) Instructions to renew the registration of one trade mark in one class under the provisions of rule 68 of the Trade Marks Rules, including drawing the prescribed forms and form of authorization	90
5. CHANGE OF NAME—	
(a) Instructions to register change of name of the registered proprietor in respect of one trade mark in one class including drawing the prescribed form and form of authorization	90
(b) Instructions to register change of name of the registered proprietor in respect of second and further trade marks simultaneously, including drawing the prescribed form and form of authorization for each change of name per trade mark in one class	40
6. CHANGE OF ADDRESS—	
(a) Instructions to register change of address of the registered proprietor in respect of one trade mark in one class including drawing the prescribed form and form of authorization	90
(b) Instructions to register change of address of the registered proprietor in respect of second and further trade marks simultaneously, including the drawing of the prescribed form and form of authorization, for each change of address per trade mark in one class	40
7. ALTERATIONS OR AMENDMENTS—	
(a) Instructions to amend or alter one registered trade mark in one class including the drawing of the prescribed form and form of authorization	90
(b) Instructions to amend or alter second and further registered trade marks simultaneously in one class, including the drawing of the prescribed form and form of authorization for amendment or alteration per trade mark per class	40
8. SEARCHES—	
(a) Instructions to search the Registry and advise as to the registrability of a proposed trade mark in one class including attendances at the Registry and all correspondence per mark per class	65
(b) Instructions to obtain Registrar's preliminary advice on Form TM. 27 or TM. 28 including drawing the prescribed form and all correspondence in connexion therewith	50
(c) Instructions to search a trade mark file for particulars thereof per trade mark in one class	30

SCHEDULE IV—(Contd.)

	<i>Sh.</i>
9. OPPOSITION AND RECTIFICATION PROCEEDINGS—	
(a) Instructions to enter opposition or to defend opposition proceedings or to apply for rectification or to defend rectification proceedings where such opposition or proceedings are conducted before the Registrar—such fee as the taxing officer in the exercise of his discretion and taking into consideration the nature and importance of the opposition or rectification, the value of the trade mark to the parties concerned, the amount of evidence filed and the time required for the preparation thereof, the general conduct of the proceedings and all other relevant circumstances shall decide but not less than	500
	<i>Sh. cts.</i>
(b) Attendances before the Registrar conducting opposition or rectification proceedings every whole day	630 00
(c) Every half-day or part thereof	315 00
(d) On interlocutory matters, taking judgments, etc., for every 15 minutes or part thereof	30 00
10. MISCELLANEOUS MATTERS—	
(a) Attendances on the Registrar for every 15 minutes or part thereof	30 00
(b) Correspondence, letters re infringement, opposition, etc., but not concerned with applications, renewals, etc., per letter	12 50
<i>or per folio</i>	7 50
(c) Receiving and perusing letter	5 50
<i>or per folio</i>	2 00
(d) Drawing all other necessary documents (notices of opposition, statutory declarations, counter-statements, etc.) per folio	10 00
File copies, per folio	1 50
(e) Perusing documents, pleadings, statutory declarations, etc., to be charged for as for perusals at Item (7) (a) of Schedule VI.	
<i>Note.</i> —The fee for instructions in each case enumerated other than that for oppositions or rectification, includes the drawing and lodging of all forms of disclaimer, request for correction of clerical error or for amendment of an application, the payment of association fees, stamping of documents and all other correspondence.	

B—Patents

	<i>Sh.</i>
(a) Instructions to register a patent including drawing form of authorization and stamping it, drawing and lodging application and all correspondence	135
(b) Instructions to register an assignment of a patent including drawing form of authorization and stamping it and assignment, drawing and lodging application and all correspondence	105
(c) Instructions to register an extension of a patent including drawing form of authorization and stamping it and making application for extension	105
(d) Attending at the Registry searching Register of Patents—for every 15 minutes	30
<i>Note.</i> —All instruction fees prescribed in paragraphs "A" and "B" of this Schedule may in any case be increased by the Registrar in his discretion.	

SCHEDULE V

SCALE OF FEES IN RESPECT OF BUSINESS THE REMUNERATION FOR WHICH IS NOT OTHERWISE PRESCRIBED OR WHICH HAS BEEN THE SUBJECT OF AN ELECTION UNDER PARAGRAPH 22

(1) INSTRUCTIONS—		
Such fee for instructions as, having regard to the care and labour required, the number and length of the papers to be perused, the nature or importance of the matter, the amount or value of the subject matter involved, the interests of the parties, complexity of the matter and all other circumstances of the case, may be fair and reasonable.		
(2) DRAWING AND PERUSING, ETC.		Per Folio Sh. cts.
For drawing		10 00
For engrossing		2 00
For fair copying		1 50
For perusing		3 00
(3) ATTENDANCES		
In ordinary cases, per 15 minutes		30 00
On telephone calls for 3 minutes or part thereof		7 50
In other cases the taxing officer may increase or diminish the above charges if for any special reason he sees fit.		
(4) JOURNEYS FROM HOME		
In ordinary cases, for every day of not less than seven hours employed on business or in travelling		700 00
Where a lesser time than seven hours is so employed, per hour		90 00
In other cases the taxing officer may increase or diminish the above allowances if for any special reason he sees fit.		
(5) TIME ENGAGED where charge is so based, in lieu of charges per item of work done, per hour		120 00 (or proportionately)
(6) CORRESPONDENCE—		
Letters		12 00
or per folio		7 50
Receiving and perusing letters		5 50
or per folio		2 00
(7) OPINIONS—		
For formal written opinion such fee as may be reasonable in the circumstances, having regard to the same considerations as set out above for the assessment of instructions, but not less than Sh. 42.		
(8) DEBT COLLECTION—		
In respect of non-contentious debt collection matters an advocate may enter into a general agreement with a client to charge therefor upon the following inclusive scale in lieu of charging per item for work done		
(a) where the amount of debt claimed is not more than Sh. 250		21 00
where the amount of debt claimed is not more than Sh. 500		55 00
where the amount of debt claimed is not more than Sh. 1,000		100 00
where the amount of debt claimed is not more than Sh. 2,500		165 00
where the amount of debt claimed is not less than Sh. 5,000		300 00
where the amount of debt claimed is not more than Sh. 7,500		420 00
where the amount of debt claimed is not more than Sh. 10,000		530 00

SCHEDULE V—(Contd.)

(b) where the amount of debt exceeds Sh. 10,000	<i>Sh.</i> <i>cts.</i> 560 00
<p>Provided that in any case where not more than one letter of demand has been written the above scale shall be reduced to one-third thereof, subject to a minimum fee of Sh. 21, and provided further that where the letter of demand is followed by the institution of proceedings at the instance of the same advocate the above scale does not apply and the letter shall be charged for under Scale (6) of this Schedule or under Schedule VI as may be appropriate.</p>	
(9) ADMINISTRATION OF ESTATES—	
<p>Fee for actual administration of a testamentary or other estate: such annual fee as may be reasonable in the circumstances having regard to the same considerations as set out above for the assessment of instruction fees: Provided that an advocate may elect to charge in lieu of an inclusive fee an annual commission of such amount as the taxing officer shall consider reasonable having regard to all the circumstances but not exceeding in the aggregate the following rates—</p>	
(a) on the estimated capital value of the estate: one per centum; and	
(b) on the amount of the yearly income of the estate: two per centum; and	
(c) on the capital value of any portion of the estate which is realized or invested during the year—one-half per centum.	
<p><i>Note.</i>—Any advocate may elect at any time prior to rendering his bill of costs to base his charges exclusively upon the remaining scales of this Schedule instead of upon scale (9).</p>	

SCHEDULE VI

COSTS OF PROCEEDINGS IN THE HIGH COURT

(1) <i>Instructions fees.</i> —The fee for instructions in suits shall be as follows unless the taxing officer in his discretion shall increase the same—		
(a) To sue or defend in a suit on a bill of exchange, promissory note or cheque, for goods sold and delivered, or for work done and materials supplied, or for the recovery of money lent or advanced with or without security, or on a guarantee, or for the recovery of money on an account stated, or for the recovery of rent of premises without possession, or for salary due, or for fees for services rendered or to defend proceedings against a second or subsequent mortgagee where the defendant substantially adopts the defence of the first defendant—		
Where the claim exceeds	But does not exceed	<i>Sh.</i>
Sh. 1,500	Sh. 3,000	250
Sh. 3,000	Sh. 5,000	300
Sh. 5,000	Sh. 10,000	400
Sh. 10,000	Sh. 20,000	500
Sh. 20,000	Sh. 50,000	750
Sh. 50,000	Sh. 100,000	1,000
Sh. 100,000	Sh. 200,000	1,500
Sh. 200,000	—	1,750

SCHEDULE VI—(Contd.)

	<i>Sh.</i>	
(b) To present or oppose a petition for winding up a company ..	750	
(c) To support a petition for winding up a company	200	
(d) To present a petition in any matrimonial cause where the proceedings are not defended	1,400	
(e) To sue in an undefended mortgage suit commenced by plaintiff: a fee between the appropriate amounts shown at items (a) and (g).		
(f) To sue in an undefended mortgage suit commenced by originating summons	750	
(g) To sue or defend any other proceedings commenced by plaintiff or originating notice of motion, summons or petition or to have an issue determined arising out of interpleader or other proceedings before or after suit or to present or oppose an appeal, where the value of the subject matter can be determined from the pleadings, judgment or settlement between the parties; and		
Such value exceeds	But does not exceed	
Sh. 1,000	Sh. 3,000	300
Sh. 3,000	Sh. 5,000	500
Sh. 5,000	Sh. 10,000	750
Sh. 10,000	Sh. 20,000	1,000
Sh. 20,000	Sh. 50,000	2,000
Sh. 50,000	Sh. 100,000	3,000
Sh. 100,000	Sh. 200,000	4,000
Sh. 200,000	—	5,000
plus a fee at the rate of 1 per cent of the value of sums exceeding Sh. 200,000 and not exceeding Sh. 500,000, and a fee of $\frac{1}{2}$ per cent of the value of sums exceeding Sh. 500,000 and not exceeding Sh. 1,000,000.		
(h) To institute and conduct or to defend garnishee proceedings: such sum as the taxing officer in his discretion shall consider proper, not less than		50
(i) To prepare interrogatories for examination of a witness		75
(j) To prepare an affidavit		30
(k) To prepare objections to an award under the Arbitration Act ..		750
(l) To prepare objection proceedings against an attachment otherwise than by way of originating summons		200
(m) To present or oppose an election petition		2,000
(n) To present or oppose an application for an order under Order LIII of the Civil Procedure (Revised) Rules, 1948 (including instructions to apply for leave)		1,000
(o) To sue or defend in any case not provided for above		750
(p) To present or oppose an appeal in any case not provided for above		750

SCHEDULE VI—(Contd.)

(q) To make a counter-claim: a fee between the appropriate amounts shown at item (n) and either item (a) or item (g) (whichever is appropriate).	Sh.
(r) For applications, notices of motion or chamber applications, (including appeals from taxation)	75

Provided that—

- (i) the taxing officer, in the exercise of his discretion, shall take into consideration the other fees and allowances to the advocate (if any) in respect of the work to which any such allowances applies, the nature and importance of the cause or matter, the amount involved, the interest of the parties, the general conduct of the proceedings, and all other relevant circumstances;
 - (ii) in any case in which a certificate for more than one advocate shall have been given by the judge, the instructions fee allowed on taxation as between party and party shall be increased by one-third and other charges shall be doubled where requisite;
 - (iii) in any case in which a certificate for Queen's Counsel shall have been given by the judge, the instructions fee allowed on taxation as between party and party shall be increased by one-half and other charges shall be doubled where requisite, the allowance for attendances of Queen's Counsel in Court conducting or leading cause being on the higher scale; and
 - (iv) as between advocate and client the instruction fee to be allowed on taxation shall be the actual instructions fee allowed as between party and party increased by such amount as the taxing officer shall think fit, such increased amount to include all proper attendances by the advocate on the client and all necessary correspondence; and
 - (v) for the purpose of assessing an instructions fee in a suit for the possession of premises with or without a claim for arrears of rent or mesne profits the value of the subject matter shall be taken to be one year's rent of the premises (or, where no rent has been shown but mesne profits have been assessed, one year's mesne profits) together with the arrears of rent or mesne profits (if any) so found due.
- (2) *Fee for getting up or preparing for trial.*—In any case in which a defence denying liability is filed or in which issues for trial are joined by the pleadings, a fee for getting up and preparing the case for trial shall be allowed in addition to the instructions fee and shall be not less than one-quarter of the instructions fee allowed on taxation, provided that this fee may be increased as the taxing officer considers reasonable but this fee does not include any work comprised in the instructions fee.

No fee under this paragraph is chargeable until the case has been confirmed for hearing.

In every case which has not actually gone for hearing the taxing officer must be satisfied that the case has in fact been got up for hearing.

SCHEDULE VI—(Contd.)

	<i>Sh.</i>	<i>cts.</i>
<p>This fee does not apply where the instructions fee is calculable under paragraph 1 (<i>d</i>) nor in respect of appeals where the instructions fee is calculable under either paragraph 1 (<i>g</i>) or 1 (<i>p</i>), but notwithstanding the foregoing, provided that the other requirements of this paragraph are met, this fee applies to appeals under the Income Tax (Appeals to the Kenya High Court) Rules, 1959.</p>		
(3) Drawing—		
(a) Concise statement, plaint, written statement of defence, interlocutory application, notice of motion or chamber application, originating summons, affidavit, petition of appeal, interrogatories, agreement for compromise, adjustment or satisfaction or suit, or for reference to arbitration or any other pleading not otherwise provided for (two folios or less)	21	00
(b) The line, in excess of two folios: additional per folio after the first two folios	10	00
(c) Drawing the creditor's or debtor's petition that debtor be adjudicated insolvent: per folio Sh. 10 but not less than	45	00
(d) Drawing notice of objections by debtor to creditor's petition where court allows costs to the debtor on dismissal of creditor's petition: per folio Sh. 10 but not less than	45	00
(e) All other documents (including proofs of witnesses' evidence) so far as necessary: per folio Sh. 7/50 but not less than	10	00
(f) Every agreement raising question of law or fact for the decision of the court (unless certified by the judge to be allowed at a higher rate): per folio Sh. 7/50, but not less than	100	00
(g) Bill of costs: per folio	5	00
(h) Affidavit of service, inclusive of annexures	10	00
(4) Copies—		
(a) Of plaint, written statement of defence, affidavit, petition of appeal, cross objections to petition, interrogatories, replies to interrogatories, agreement in satisfaction of suit, or for reference to arbitration, exhibit, bill of costs and every other document (whether for court or opposing party): per folio	1	50
(b) The actual cost of copies of judge's notes bespoken from day to day as a case proceeds may be allowed if certified for by the trial judge.		
(c) Printing: actual costs, supported by vouchers, shall be allowed (subject to paragraph 16 of this Order).		
(d) In special cases, in addition to preparing and making copies of any account or other document, not being notes or observations relating to the evidence of witnesses only, which may be necessary for the judge's or advocate's use at the trial: such sum as may be reasonable, not exceeding per folio	6	00
(e) Copies: per folio	1	50

SCHEDULE VI—(Contd.)

		<i>Sh. cts.</i>	
(5) Letters—			
(a) Letters before action or other necessary letters		12 50	
or per folio		7 50	
(b) Telephone calls: each necessary telephone call allowed per 3 minutes or part thereof		7 50	
		Ordinary Scale	Higher Scale
		<i>Sh. cts.</i>	<i>Sh. cts.</i>
(6) Attendances—			
(a) On any necessary application to or formal attendance on the registrar or deputy registrar		30 00	60 00
(b) At offices of court or registrar on routine matters		15 00	—
(c) At court or in chambers on any matters on a date fixed by the court for hearing, when the case cannot be taken or for calling over lists		45 00	—
(d) At court or in chambers before judge not otherwise provided for—			
(i) half hour or less		55 00	70 00
(ii) one hour		110 00	140 00
(iii) half day		220 00	280 00
(iv) every whole day		440 00	560 00
(e) With judge on a view, if in court hours, the same fees as for attendance in court conducting case; if out of court hours; per hour including travelling time, in addition to all expenses properly incurred in getting to and from the place viewed		110 00	—
(f) In a "party and party" bill for all necessary attendances (including attendances to take minutes of evidence of witnesses other than the party for whom the advocate is appearing) of any nature whatsoever not otherwise provided for.		At the rate of Sh. 30 per quarter hour.	
(7) Perusals—			
		<i>Sh. cts.</i>	
(a) Of pleadings, memorandum of appeal, interrogatories and answers thereto, notices to admit, petition to wind-up company, petition in insolvency, notice of motion in court, originating summons, or other necessary document not specifically provided for		21 00	
or per folio		2 00	
(b) Of affidavits: per folio Sh. 2 but not less than		7 50	
(c) Of notices and other routine documents		5 00	
(d) Of necessary letters		5 00	
or per folio		2 00	
(e) For reading and correcting proofs of printed matter per folio		3 00	
(8) Service—			
(a) Within three miles of the High Court or district registry of the High Court		7 50	
(b) Every additional mile over three: such amount as is reasonable, not exceeding, per mile		1 50	
(c) By post, if authorized		5 00	

SCHEDULE VI—(Contd.)

	<i>Sh. cts.</i>
(9) <i>Plans, Models, etc.</i> — Plans, charts, photographs or models for use of judge at trial: such sum as may be reasonable.	
(10) <i>Translation</i> — Such sum as is reasonable but not less than per folio	7 50
(11) <i>Costs in unopposed execution proceedings</i> — Costs in execution proceedings which are not opposed except on the grounds of the judgment debtor's inability to pay or grounds analogous thereto—	
(a) Instructions to executive decree and drawing necessary application	45 00
(b) Attendance at court filing application	10 00
(c) Attending court to peruse order	15 00
(12) <i>Probate proceedings</i> (not including the administration of estates)—	
(a) Perusing will: per folio, Sh. 5 but not less than	30 00
(b) Instructions to apply for grant of probate or letters of administration with or without will annexed, the proceedings not being contested—	
(i) Where the gross capital value of the property comprised in such grant or letters does not exceed Sh. 3,000	375 00
(ii) Where such value exceeds Sh. 3,000 but does not exceed Sh. 5,000	450 00
(iii) Where such value exceeds Sh. 5,000 but does not exceed Sh. 10,000	600 00
(iv) Where such value exceeds Sh. 10,000 but does not exceed Sh. 50,000	750 00
(v) Where such value exceeds Sh. 50,000 but does not exceed Sh. 200,000	1,025 00
(vi) Where such value exceeds Sh. 200,000 but does not exceed Sh. 500,000	1,500 00
(vii) Where such value exceeds Sh. 500,000 but does not exceed Sh. 1,000,000	One-half per cent of such value.
(viii) Where such value exceeds Sh. 1,000,000	One-half per cent of such value on the first Sh.1,000,000 thereof and thereafter one-quarter per cent thereof.
(c) Instructions to apply for resealing a grant the proceedings not being contested—	
(i) Where the gross capital value of the property comprised in such grant or letters does not exceed Sh. 3,000	250 00
(ii) Where such value exceeds Sh. 3,000 but does not exceed Sh. 5,000	300 00
(iii) Where such value exceeds Sh. 5,000 but does not exceed Sh. 10,000	400 00
(iv) Where such value exceeds Sh. 10,000 but does not exceed Sh. 50,000	500 00

SCHEDULE VI—(Contd.)

	<i>Sh. cts.</i>
(v) Where such value exceeds Sh. 50,000 but does not exceed Sh. 200,000	750 00
(vi) Where such value exceeds Sh. 200,000 but does not exceed Sh. 500,000	1,000 00
(vii) Where such value exceeds Sh. 500,000 but does not exceed Sh. 1,000,000	One-quarter per cent of such value.
(viii) Where such value exceeds Sh. 1,000,000	One-quarter per cent of such value on the first Sh. 1,000,000 thereof and thereafter one-eighth per cent thereof.
(d) If contested: an instruction fee in accordance with Scale (1) (g) of this Schedule.	
(e) Instructions to lodge or oppose a caveat in probate proceedings ..	105 00
(f) Drawing application for letters of administration or probate, oath of executor or bond	21 00
(g) Instructions to prepare inventory or account, per £1,000 of net estate: Sh. 5 but not less than	45 00
(h) Drawing inventory or account: per folio, Sh. 6 but not less than ..	30 00
(i) Copies of inventory and account and other necessary documents: per folio	1 50
(j) Drawing affidavits of due execution of will or any other necessary documents: per folio	7 50
(k) Necessary attendance at the registrar's office in connexion with taking out letters	30 00
(l) Attendance registering will	30 00
(m) Other necessary attendances: as in Schedule V.	
(13) Bankruptcy proceedings—	
(a) (i) Instructions to present or oppose a petition in summary cases ..	135 00
(ii) Instructions to apply for discharge	70 00
(b) (i) Instructions to present or oppose a petition in non-summary cases—	
(a) Where the assets are not likely to exceed £1,000: not less than	225 00
(b) Where the assets are likely to exceed £1,000 but not to exceed £5,000: not less than	375 00
(c) Where the assets are likely to exceed £5,000	375 00
	to be increased by Sh. 15 for every £1,000 or part thereof beyond the first £5,000.
Provided that—	
(i) A certificate of the receiver as to the value which the assets are likely to realize shall be produced to the taxing officer and the allowance for instructions made accordingly.	

SCHEDULE VI—(Contd.)

	<i>Sh.</i>	<i>cts.</i>
(ii) Where there is no certificate of the receiver the value of such assets shall be determined by the taxing officer upon such evidence by affidavit as he may think appropriate.		
(iii) In cases where a composition is accepted and confirmed by the court, the value of the assets shall be taken at the amount required for the purposes of composition.		
(iv) Instructions to apply for discharge	90	00
(14) Costs in unopposed garnishee proceedings, where no dispute is raised over the liability of the garnishee to the judgement-debtor—		
(a) Instructions to attach debt and drawing necessary application and affidavit	150	00
(b) Attendance at court filing the application	10	00
(c) Each necessary attendance before the judge	60	00
(15) Costs of objection to execution proceedings where the executing creditor withdraws the execution—		
(a) Instructions to object and drawing necessary notice and affidavit	100	00
(b) Filing and serving notice and perusing notice of withdrawal	20	00
<i>Note.</i> —Subject to proviso (iv) to paragraph (1) above the fees set out in this Schedule constitute the fees for both “party and party” and “advocate and client” bills.		

SCHEDULE VII

COSTS OF PROCEEDINGS IN SUBORDINATE COURTS

A—Party and Party Costs

Subject to any special order of the Court, when an order has been made in general terms for the payment of costs by either party in a subordinate court and an advocate has been employed, costs in addition to court costs may be allowed to the successful party according to the following Scale to include taking instructions, drawing or perusing pleadings, engrossing same and filing, and all necessary attendances at court or chambers for the prosecution of the suit—

	Lower Scale	Higher Scale
	<i>Sh.</i> <i>cts.</i>	<i>Sh.</i> <i>cts.</i>
(1) Where the sum found due (in the case of a wholly or partially successful plaintiff) or the sum sued for (in the case of a wholly successful defendant), does not exceed Sh. 100	21 00	50 00
exceeds Sh. 100 but does not exceed Sh. 150	30 00	60 00
exceeds Sh. 150 but does not exceed Sh. 300	45 00	75 00
exceeds Sh. 300 but does not exceed Sh. 600	75 00	125 00
exceeds Sh. 600 but does not exceed Sh. 800	100 00	160 00
exceeds Sh. 800 but does not exceed Sh. 1,000	125 00	200 00
exceeds Sh. 1,000 but does not exceed Sh. 1,500	175 00	275 00
exceeds Sh. 1,500 but does not exceed Sh. 2,000	200 00	350 00
exceeds Sh. 2,000 but does not exceed Sh. 2,500	225 00	400 00
exceeds Sh. 2,500 but does not exceed Sh. 3,000	250 00	450 00
exceeds Sh. 3,000 but does not exceed Sh. 5,000	300 00	575 00
exceeds Sh. 5,000 but does not exceed Sh. 10,000	400 00	700 00

SCHEDULE VII—(Contd.)

	<i>Sh. cts.</i>
<i>Note.</i> —The “Lower Scale” applies in all cases where no defence denying liability has been filed and the “Higher Scale” applies in all other cases.	
(2) In any suit or appeal by the nature of which no specific sum is sued for, claimed or awarded in the judgment: such costs as the Court in its discretion awards, but not less than Sh. 125 if undefended or unopposed and subject in any event to a maximum of Sh. 525.	
(3) On any application, notice of motion, chamber summons or execution proceedings, to include taking instructions to proceed or oppose, drawing applications, engrossing same and filing	45 00
(4) Attendance in court or chambers in support thereof or in opposition thereto	30 00

B—Advocate and Client Costs

Costs as between advocate and client shall be taxed by a taxing officer of the High Court upon the application either of the advocate or of the client pursuant to paragraph 13 of this Order. In such cases the minimum fee shall be the fee prescribed above or the fee ordered by the court increased in either event by one-third.

LEGAL NOTICE No. 57

THE HOTELS AND RESTAURANTS ACT, 1971

(No. 19 of 1971)

IN EXERCISE of the powers conferred by section 16 of the Hotels and Restaurants Act, 1971, the Minister for Tourism and Wildlife hereby makes the following Order—

THE CATERING TRAINING LEVY ORDER, 1972

1. This Order may be cited as the Catering Training Levy Order, 1972.

2. There shall be paid by the owner of every hotel and restaurant subject to the Act a levy at the rate of two per centum of the gross receipts derived from the sale of food and drink and, in the case of an hotel, the provision of accommodation during each month.

3. The levy payable in respect of any month shall become due on the tenth day of the month next following that in respect of which it is payable.

4. Payment of the levy shall be made to the Trustees and every payment shall be accompanied by audited or certified receipts in respect of the month for which payment is made.

5. This Order shall come into operation with effect from 1st April, 1972.

Made this 22nd day of March, 1972.

J. L. M. SHAKO,
Minister for Tourism and Wildlife.