

LEGAL NOTICE NO. 62

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, 1979

1. This Order may be cited as the Advocates (Remuneration) (Amendment) Order, 1979.

2. 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 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 (hereinafter called the principal Order) had not been amended by this Order:

Sub Leg.

Provided 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.

3. Paragraph 2 of the principal Order is amended by deleting the word "and" after the words "High Court" in the fourth line. by substituting a comma therefor, and by inserting after the words in brackets "(other than Muslim Courts)" a comma and the following—

"in a Tribunal appointed under the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act and in a Tribunal established under the Rent Restriction Act".

4. The principal Order is amended by inserting the following new paragraph—

3. No advocate may agree or accept his remuneration at less than that provided by this Order except where the remuneration assessed under this Order would exceed the sum of Sh. 10,000; and in such event the agreed fee shall not be less than Sh. 10,000.

5. Paragraph 4 of the principal Order is amended by inserting immediately after the words "exceptional dispatch" the words and commas "or, at the request of the client, is attended to outside normal business hours".

6. Paragraph 20 of the principal Order is deleted and replaced by the following—

20. (1) Scale charges shall include all work ordinarily incidental to a transaction, and in the case of a conveyance, transfer or mortgage shall include—

Scale charges; what they include and exclude.

- (a) taking of instructions to prepare the necessary deed or document;
 - (b) investigation of title;
 - (c) report on the title to the client;
 - (d) preparation or approval or adjustment of the deed or document;
 - (e) settlement of the transaction if in the town of the advocate's practice;
 - (f) obtaining by correspondence any necessary consent or clearance certificate but excluding land control consent;
 - (g) registration of the deed;
 - (h) correspondence between advocate and client.
- (2) Scale charges shall not include—
- (a) prior negotiations leading up to or necessary in the completion of a bargain;
 - (b) tracing of title deeds or obtaining certified copies thereof;
 - (c) payment of withholding tax or obtaining of exemption therefrom;
 - (d) completion of valuation forms for assessment of stamp duties;
 - (e) adjudication of stamp duties;
 - (f) obtaining land control consent and personal attendances for obtaining of any necessary consent or clearance certificate under subparagraph (1) (f);
 - (g) extra work occasioned by special circumstances;
 - (h) extra work occasioned by a change of circumstances emerging while an item of business is in progress, e.g. the death or bankruptcy of a party to the transaction.

7. Paragraph 31 of the principal Order is amended by inserting immediately after the words "request of the borrower" in the third line the comma and words ". whether or not the transaction is completed".

8. Paragraph 33 of the principal Order is amended by deleting all words and figures after "the mortgagor's advocate" in the third line.

9. Paragraph 34 of the principal Order is amended by deleting the expression "on and up to the first £7,500 of the loan and on any excess above £7,500, one fourth thereof,".

10. Paragraph 35 of the principal Order is amended by deleting all words and figures after "the appropriate scale fee" in the sixth line.

11. Paragraph 36 of the principal Order is amended by deleting the expression "on and up to the first £7,500 of the loan, and on any excess above £7,500, one sixth of the scale fee prescribed,".

12. The principal Order is amended by inserting the following new paragraph—

Costs in Tribunal under Cap. 296. 51B. The scale of costs applicable to proceedings in a Tribunal establishment under the Rent Restriction Act is that set out in Schedule IX to this Order.

13. The principal Order is amended by substituting for Schedules V, VI, VII and VIII thereto the following new Schedules V, VI, VII, VIII and IX—

SCHEDULE V

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. For drawing For engrossing For fair copying For perusing	Per Folio Sh. cts. 20 00 4 00 2 50 6 00
(3) ATTENDANCES— In ordinary cases, per 15 minutes or part thereof On routine telephone calls within Kenya for 3 minutes or part thereof In other cases the taxing officer may increase or diminish the above charges if for any special reason he sees fit.	60 00 15 00
(4) TIME ENGAGED where charge is so based in lieu of charges per item of work done: per hour or part thereof	240 00
(5) CORRESPONDENCE— Letters or per folio Receiving and perusing letters or per folio	25 00 15 00 10 00 4 00
(6) 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	120 00

SCHEDULE V—(Contd.)

(7) JOURNEYS FROM HOME—	
For every day of not less than seven hours employed in travelling . . .	1,400 00
Where a lesser time than seven hours is so employed, per hour . . .	180 00
Provided that the taxing officer may increase or diminish the above allowance if for any special reason he sees fit.	
(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.	
Provided that in any case where not more than one letter of demand has been written the scale shall be reduced by one half, subject to a minimum fee of Sh. 30; and provided further that where the letter of demand is followed by the institution of proceedings at the instance of the same advocate the scale does not apply and the letter shall be charged for under Scale (5) of this Schedule or under Schedule VI or Schedule VII as may be appropriate.	
(a) Where the amount of the debt does not exceed Sh. 150	30 00
(b) Where the amount of the debt exceeds Sh. 150 but does not exceed Sh. 300	45 00
(c) Where the amount of the debt exceeds Sh. 300 but does not exceed Sh. 600	65 00
(d) Where the amount of the debt exceeds Sh. 600 but does not exceed Sh. 1,000	150 00
(e) Where the amount of the debt exceeds Sh. 1,000 but does not exceed Sh. 10,000	15% on the first Sh. 1,000 plus 5% on the balance.
(f) Where the amount of the debt exceeds Sh. 10,000 but does not exceed Sh. 100,000	15% on the first Sh. 1,000 plus 5% on the next Sh. 9,000 plus 1% on the balance.
(g) Where the amount of the debt exceeds Sh. 100,000	15% on the first Sh. 1,000 plus 5% on the next Sh. 9,000 plus 1% on the next Sh. 90,000 plus ½% on the balance.
(9) CHATTELS TRANSFERS—	
For drawing and completing Instrument under the Chattels Transfer Act including all necessary and proper searches, affidavits, stamping and registration—	
(a) where the amount secured does not exceed Sh. 100,000	500 00
(b) where the amount secured exceeds Sh. 100,000; half of the fee for a single debenture under Schedule III.	

SCHEDULE V—(Contd.)

(10) ADMINISTRATION OF ESTATES—

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:—

- (a) on the estimated capital value of the estate: one and a half 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: three quarters per centum.

Note.—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 (10) hereof.

SCHEDULE VI

COSTS OF PROCEEDINGS IN THE HIGH COURT

A.—Party and Party Costs

(1) *Instructions Fees.*—The fee for instructions in suits shall be as follows, unless the taxing officer in his discretion shall increase or (unless otherwise provided) reduce the same—

- (a) To sue or defend in a suit on a bill of exchange, promissory note or cheque; or 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 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		Fee
—	Sh. 20,000	Sh. 1,000
Sh. 20,000	Sh. 50,000	1,600
Sh. 50,000	Sh. 100,000	2,000
Sh. 100,000	Sh. 200,000	3,000
Sh. 200,000	Sh. 500,000	3,750
Sh. 500,000	Sh. 750,000	the scale fee plus 1% of the excess.
Sh. 750,000	—	the scale fee plus ½% of the excess.

Provided that if no defence or other denial of liability is filed the instruction fee shall be reduced by thirty-five per cent.

SCHEDULE VI—(Contd.)

	<i>Sh.</i>
(b) To present or oppose a petition for winding up a company ..	2,000
(c) To support a petition for winding up a company	400
(d) To present a petition for dissolution of marriage, nullity, judicial separation, or restitution of conjugal rights—	
(i) where the proceedings are not defended	2,000
(ii) where the proceedings are defended; or to defend such proceedings: such sum as the taxing officer shall consider reasonable but not less than	6,500
(iii) to apply for ancillary relief—	
(1) if application heard together with Petition or Answer as the case may be	300
(2) if application not heard together with Petition or Answer as the case may be	1,500
(iv) to apply for custody or access	1,500
(v) to apply for Registrar's Certificate	84
(vi) to attend Registrar for Registrar's Certificate	63
(vii) to present or defend an application to a judge under the Matrimonial Causes Rules or Guardianship of Infants Act— not covered by the above	300
(e) (i) to present or oppose an application for adoption: such sum as the taxing officer shall consider reasonable but not less than	2,000
(ii) to present or oppose an application for guardianship under the Guardianship of Infants Act	1,500
(f) (i) to sue in an undefended mortgage suit commenced by plaintiff: a fee between the appropriate amounts at items (a) and (g).	
(ii) to sue in an undefended mortgage suit commenced by originating summons	2,000
(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. 20,000
Sh. 20,000	Sh. 50,000
Sh. 50,000	Sh. 100,000
Sh. 100,000	Sh. 200,000
Sh. 200,000	Sh. 500,000
Sh. 500,000	Sh. 750,000
	2,000
	4,200
	6,000
	8,000
	12,500
	the scale fee plus 1% of the excess.
Sh. 750,000	—
	the scale fee plus ½% of the excess.

SCHEDULE VI—(Contd.)

	<i>Sh.</i>
Provided that—	
(i) if no defence or other denial of liability is filed the instruction fee shall be reduced by thirty-five per cent;	
(ii) where the subject matter falls partly within item (a) and partly within item (g) the fee shall be a single fee assessed with due regard to the said two items and to the extent to which in the view of the taxing officer any portion of the subject matter falls within the one or the other.	
(h) To institute and conduct or to defend garnishee proceedings: such sum as the taxing officer in his discretion shall consider proper but not less than	250
(i) To prepare interrogatories for examination of a witness	200
(j) To prepare an affidavit	75
(k) To prepare objections to an award under the Arbitration Act	1,500
(l) To prepare objection proceedings against an attachment otherwise than by way of originating summons	500
(m) To present or oppose an election petition	4,000
(n) (i) To present an application for leave for a prerogative writ: such sum as the taxing officer shall consider reasonable but not less than	2,000
(ii) To present or oppose an application for a prerogative writ: such sum as the taxing officer shall consider reasonable but not less than	4,000
(o) To sue or defend in any case not provided for above	1,500
(p) To present or oppose an appeal in any case not provided for above	1,000
(q) To make a counter-claim: a fee according to the appropriate amounts shown at item (a) or item (g) (whichever is appropriate).	
(r) For applications, notices of motion or chamber applications (including appeals from taxation)	
—unopposed	125
—opposed	200
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 allowance 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 the cause being on the higher scale; and	

SCHEDULE VI—(Contd.)

- (iv) 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.
 - (v) for the purposes of assessing an instruction fee in a case where payment into court has been made under Order XXVI of the Civil Procedure Rules the following rules apply:
 - (a) where the plaintiff accepts payment into court under the provisions of Order XXVI, rule 2 (1), he is entitled to claim the full instruction fee;
 - (b) where the plaintiff accepts payment into court after the time allowed by Order XXVI, rule 2 (1), but before one month after the setting down of the case for hearing, he is entitled to claim three quarters of the instruction fee;
 - (c) where the plaintiff does not accept the payment into court and does not recover more than the payment, he is entitled to claim his costs to the date of payment including one-half of the instructions fee.
- (2) *Fee for getting up or preparing for trial.*—In any case in which a denial of 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—
- (i) This fee may be increased as the taxing officer considers reasonable but this fee does not include any work comprised in the instructions fee.
 - (ii) This fee does not apply where the instructions fee is calculable under sub-paragraph (1) (d) above.
 - (iii) No fee under this paragraph is chargeable until the case has been confirmed for hearing.
 - (iv) 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.
- (3) *Fee for getting up an appeal.*—In any appeal (including appeals under the East African Income Tax (Management) Act, 1958, the Income Tax Act, the Valuation for Rating Act, the Land Acquisition Act, the Rent Restriction Act and the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act in which a respondent appears at the hearing of the appeal and in which the Court at the conclusion of the hearing has certified that in view of the extent or difficulty of the work required to be done subsequently to the lodging of the appeal the case is a proper one for considering the allowing to a getting up fee, the taxing officer may in his discretion allow such a fee (in addition to the instructions fee) if he considers it reasonable so to do.

SCHEDULE IV—(Contd.)

	<i>Sh.</i>
(4) <i>Drawing</i> —	
(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 of suit, or for reference to arbitration or any other pleading not otherwise provided for (two folios or less)	40
(b) The like, in excess of two folios: additional per folio after the first two folios	20
(c) Drawing the creditor's or debtor's petition that debtor be adjudicated insolvent: per folio Sh. 20 but not less than	100
(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. 20 but not less than	100
(e) All other documents (including proofs of witnesses' evidence) so far as necessary: per folio Sh. 15 but not less than	20
(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. 20 but not less than	200
(g) Bill of Costs: per folio	10
(h) (i) Affidavit of service, inclusive of annexures	20
(ii) Return of service under O 5 r. 15 (1)	15
	<i>Sh. cts.</i>
(5) <i>Copies</i> —	
(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	2 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	10 00
(e) Other copies: per folio	2 50
(6) <i>Letters</i> —	
(a) Letters before action or other necessary letters	25 00
or per folio	15 00
(b) Routine telephone calls not falling within paragraph (7) below: each necessary telephone call allowed per three minutes or part thereof	15 00

SCHEDULE VI—(Contd.)

	Ordinary Scale	Higher Scale
	<i>Sh. cts.</i>	<i>Sh. cts.</i>
(7) <i>Attendances</i> —		
(a) On any necessary application to or formal attendance on the registrar or deputy registrar	50 00	120 00
(b) At offices of court or registrar on routine matters ..	30 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 by advocate for calling over lists ..	100 00	—
(d) At court or in chambers before judge not otherwise provided for—		
(i) half hour or less	150 00	200 00
(ii) one hour	220 00	280 00
(iii) half day	440 00	560 00
(iv) every whole day	880 00	1,120 00
(e) With a 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	300 00	—
(f) 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, per quarter-hour	60 00	—
		<i>Sh. cts.</i>
(8) <i>Perusals</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		40 00
or per folio		4 00
(b) Of affidavits: per folio Sh. 4 but not less than		15 00
(c) Of notices and other routine documents		10 00
(d) Of necessary letters		10 00
or per folio		4 00
(e) For reading and correcting proofs of printed matter: per folio ..		6 00
(9) <i>Service</i> —		
(a) Within three kilometres of the High Court or district registry of the High Court		15 00
(b) Every additional kilometre over three: such amount as is reasonable, not exceeding per kilometre		3 00
(c) By post, if authorized		7 50
(10) <i>Plans, Models, etc.</i> —		
Plans, charts, photographs or models for use of judge at trial: such sum as may be reasonable.		

SCHEDULE VI—(Contd.)

(11) <i>Translation</i> —	<i>Sh. cts.</i>
Such sum as is reasonable but not less than per folio	15 00
(12) <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 execute decree and drawing necessary application	100 00
(b) Attendance at court filing application	20 00
(c) Attending court to peruse order	30 00
(13) <i>Probate proceedings</i> (not including the administration of estates)—	
(a) Perusing will: per folio Sh. 10 but not less than	75 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 property comprised in such grant or letters does not exceed Sh. 10,000	1,000 00
(ii) where such value exceeds Sh. 10,000 but does not exceed Sh. 50,000	1,500 00
(iii) where such value exceeds Sh. 50,000 but does not exceed Sh. 200,000	2,000 00
(iv) where such value exceeds Sh. 200,000 but does not exceed Sh. 500,000	4,000 00
(v) where such value exceeds Sh. 500,000 but does not exceed Sh. 1,000,000	One per cent of such value.
(vi) where such value exceeds Sh. 1,000,000	One per cent of such value on the first Sh. 1,000,000 thereof and thereafter one-half per cent thereof.
(c) Instructions to apply for re-sealing a grant, the proceedings not being contested	Four-fifths of the fee provided under sub paragraph (b) of this paragraph.
(d) If contested: an instruction fee in accordance with sub-paragraph (1) (g) of this Schedule.	
(e) Instructions to lodge or oppose a caveat in probate proceedings	200 00
(f) Drawing application for letters of administration or probate, oath of executor or bond	100 00
(g) Instructions to prepare an inventory or account, per £1,000 of net estate: per folio Sh. 10 but not less than	100 00
(h) Drawing inventory or account: per folio Sh. 12 but not less than	100 00
(i) Copies of inventory and account and other necessary documents: per folio	3 00

SCHEDULE VI—(Contd.)

	<i>Sh. cts.</i>
(j) Other necessary attendances: as provided in Schedule V of this Order.	
(14) <i>Bankruptcy proceedings</i> —	
(a) (i) Instructions to present or oppose a petition in summary cases	300 00
(ii) Instructions to apply for discharge	150 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	450 00
(b) where the assets are likely to exceed £1,000 but not to exceed £5,000: not less than	750 00
(c) where the assets are likely to exceed £5,000	750 00
	to be increased by Sh. 30 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.	
(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.	
(ii) Instructions to apply for discharge	200 00
(15) <i>Costs in unopposed garnishee proceedings</i> , where no dispute is raised over the liability of the garnishee to the judgment-debtor—	
(a) Instructions to attach debt and drawing necessary application and affidavit	300 00
(b) Attendance at court filing the application	20 00
(c) Each necessary attendance before the judge	100 00
(16) <i>Costs of objection to execution proceedings</i> where the executing creditor withdraws the execution—	
(a) Instructions to object and drawing necessary notice and affidavit	200 00
(b) Filing and serving notice and perusing notice of withdrawal ..	40 00

B—Advocate and Client Costs

As between advocate and client the minimum fees shall be—

- (a) the fees prescribed in A above, increased by one-third; or
- (b) the fees ordered by the court, increased by one-third; or
- (c) the fees 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 VII

COSTS OF PROCEEDINGS IN SUBORDINATE COURTS

A—Party and Party Costs

- (1) When an order has been made in general terms for the payment of costs by either party and an advocate has been employed, such costs, in addition to the court fees, shall be computed under this Schedule, which shall be the minimum fee, and shall include (except as otherwise provided) taking instructions, drawing or perusing pleadings or similar documents, engrossing same and filing, and all necessary attendances at court or chambers.
- (2) Costs exceeding the scales in this Schedule may be ordered on special grounds arising out of the nature and importance or the difficulty or the urgency of the case.
- (3) Where success in a suit is divided, the scale may be applied distributively, having regard to partial success on either side.
- (a) 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)—

		Fee	
		Lower Scale	Higher Scale
		<i>Sh.</i>	<i>Sh.</i>
	Exceeds		
	But does not exceed		
—	Sh. 150	45	85
Sh. 150	Sh. 300	65	120
Sh. 300	Sh. 600	100	200
Sh. 600	Sh. 800	130	260
Sh. 800	Sh. 1,000	170	320
Sh. 1,000	Sh. 1,500	230	450
Sh. 1,500	Sh. 2,000	275	560
Sh. 2,000	Sh. 2,500	300	650
Sh. 2,500	Sh. 3,000	350	750
Sh. 3,000	Sh. 5,000	400	1,200
Sh. 5,000	Sh. 7,500	600	1,600
Sh. 7,500	Sh. 10,000	800	2,000
Sh. 10,000	—	a fee as for Sh. 10,000 plus an additional 5 per cent on the lower scale or 10 per cent on the higher scale in respect of such excess.	

Note.—The “Lower Scale” shall be applied in all cases where no defence or other denial of liability has been filed and the “Higher Scale” shall be applied in all other cases.

SCHEDULE VII—(Contd.)

	<i>Sh. cts.</i>
(b) In any suit or appeal by the nature of which no specific sum is sued for, claimed or awarded in the judgment (other than proceedings falling under sub-paragraph (c) below): such costs as the court in its discretion awards but not less than Sh. 500 if undefended or unopposed and (subject to any special order for good reason connected with the nature and importance or the difficulty or the urgency of the matter) not to exceed Sh. 3,000.	
(c) (i) in proceedings for dissolution of marriage, nullity, judicial separation or restitution of conjugal rights—	
(1) where the proceedings are undefended	750 00
(2) where the proceedings are defended	2,000 00
(ii) in proceedings for ancillary relief—	
(1) if heard together with Petition or Answer	150 00
(2) if not heard together with Petition or Answer	500 00
(iii) in other proceedings for custody, access or guardianship	500 00
(iv) in proceedings for adoption	750 00
(d) On any application, notice of motion, chamber summons or execution proceedings, to include taking instructions to proceed or oppose, drawing application, engrossing same and filing	70 00
(e) On any necessary application to or attendance on magistrate in court or chambers	55 00
(f) Attendances at the hearing where the hearing lasts more than one full day—	
for each full day after the first day	500 00
for each part day after the first day	250 00
(g) Where the costs of adjournment of case are awarded	70 00
(h) Service—	
(i) within three kilometres of subordinate court or district registry of the subordinate court	15 00
(ii) every additional kilometre over three: such amount as is reasonable, but not exceeding, per kilometre	3 00
(iii) By post, if authorized	7 50
(i) Drawing and filing Affidavit or Return of Service	10 00

B—Advocate and Client Costs

As between advocate and client the minimum fees shall be—

- (a) the fees prescribed in A above, increased by one-third; or
- (b) the fees ordered by the court, increased by one-third; or
- (c) the fees 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 VIII

COSTS OF PROCEEDINGS IN TRIBUNALS UNDER THE LANDLORD AND TENANT (SHOPS, HOTELS, AND CATERING ESTABLISHMENTS) ACT OR ANY LEGISLATION AMENDING OR REPLACING THE SAME

A—Party and Party Costs

- (1) When an order has been made in general terms for the payment of costs by either party and an advocate has been employed, such costs, in addition to the Tribunal fees, shall be computed under this Schedule, which shall be the minimum fee, and shall include (except as otherwise provided) taking instructions, drawing or perusing pleadings or similar documents, engrossing same and filing, and shall include all necessary attendances at the Tribunal.
- (2) Costs exceeding the scale in this Schedule may be ordered on special grounds arising out of the nature and importance or the difficulty or the urgency of the case.
- (3) Where success in a suit or reference is divided, the scale may be applied distributively, having regard to partial success on either side.
- (a) Where the value of the subject matter can be determined from the pleadings, judgment or settlement between the parties, and—

		Fee	
		Lower Scale	Higher Scale
		<i>Sh.</i>	<i>Sh.</i>
Exceeds	But does not exceed		
—	Sh. 150	45	85
Sh. 150	Sh. 300	65	120
Sh. 300	Sh. 600	100	200
Sh. 600	Sh. 800	130	260
Sh. 800	Sh. 1,000	170	320
Sh. 1,000	Sh. 1,500	230	450
Sh. 1,500	Sh. 2,000	275	560
Sh. 2,000	Sh. 2,500	300	650
Sh. 2,500	Sh. 3,000	350	750
Sh. 3,000	Sh. 5,000	400	1,200
Sh. 5,000	Sh. 7,500	600	1,600
Sh. 7,500	Sh. 10,000	800	2,000
Sh. 10,000	—	a fee as for Sh. 10,000 plus an additional 5 per cent on the lower scale or 10 per cent on the higher scale in respect of such excess.	

Notes. (1)—In a dispute or reference—

- (i) 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.

SCHEDULE VIII—(Contd.)

	<i>Sh. cts.</i>
(ii) for determination of rent, the value of the subject matter shall be the difference between one year's standard or existing rent and one year's rent as proposed by the unsuccessful party or as determined by the Tribunal whichever is the greater.	
(2) The "Lower Scale" shall be applied in all cases where no defence or other opposition has been filed and the "Higher Scale" shall be applied in all other cases.	
(b) In any reference, suit or appeal by the nature of which no specific sum is sued for, claimed or awarded in the judgment: such costs as the Tribunal in its discretion awards but not less than Sh. 500 if undefended or unopposed and (subject to any special order for good reason connected with the nature and importance or the difficulty or the urgency of the matter) not to exceed Sh. 3,000.	
(c) On any application not otherwise provided for, to include taking instructions to proceed or oppose, drawing application, engrossing same and filing	70 00
(d) On any necessary attendance on the Tribunal	55 00
(e) Attendances at the hearing where the hearing lasts more than one full day—	
for each full day after the first day	500 00
for each part day after the first day	250 00
(f) Where the costs of adjournment of case are awarded	70 00
(g) Service—	
(i) within three kilometres of the Tribunal	15 00
(ii) every additional kilometre over three: such amount as is reasonable, not exceeding per kilometre	3 00
(iii) By post, if authorized	7 50
(h) Drawing and filing affidavit or return of service	10 00

B—Advocate and Client Costs

As between advocate and client the minimum fees shall be—

(a) the fees prescribed in A above, increased by one-third; or

(b) the fees ordered by the Tribunal, increased by one-third; or

(c) the fees 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 TRIBUNALS UNDER THE RENT RESTRICTION ACT OR ANY LEGISLATION AMENDING OR REPLACING THE SAME

A—Party and Party Costs

- (1) When an order has been made in general terms for the payment of costs by either party and an advocate has been employed, such costs, in addition to the Tribunal fees, shall be computed under this Schedule, which shall be the minimum fee, and shall include (except as otherwise provided) taking instructions, drawing or perusing pleadings or similar documents, engrossing same and filing, and shall include all necessary attendances at the Tribunal.
- (2) Costs exceeding the scale in this Schedule may be ordered on special grounds arising out of the nature and importance or the difficulty or the urgency of the case.
- (3) Where success in a suit or reference is divided, the scale may be applied distributively, having regard to partial success on either side.
- (a) Where the value of the subject matter can be determined from the pleadings, judgment or settlement between the parties, and—

		Fee	
		Lower Scale	Higher Scale
		<i>Sh.</i>	<i>Sh.</i>
	Exceeds		
	But does not exceed		
—	Sh. 150	45	85
Sh. 150	Sh. 300	65	120
Sh. 300	Sh. 600	100	200
Sh. 600	Sh. 800	130	260
Sh. 800	Sh. 1,000	170	320
Sh. 1,000	Sh. 1,500	230	450
Sh. 1,500	Sh. 2,000	275	560
Sh. 2,000	Sh. 2,500	300	650
Sh. 2,500	Sh. 3,000	350	750
Sh. 3,000	Sh. 5,000	400	1,200
Sh. 5,000	Sh. 7,500	600	1,600
Sh. 7,500	Sh. 10,000	800	2,000
Sh. 10,000	—	a fee as for Sh. 10,000 plus an additional 5 per cent on the lower scale or 10 per cent on the higher scale in respect of such excess.	

Notes 1—In a dispute or reference—

- (i) 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.

SCHEDULE IX—(Contd.)

	<i>Sh. cts.</i>
(ii) for determination of rent, the value of the subject matter shall be the difference between one year's standard or existing rent and one year's rent as proposed by the unsuccessful party or as determined by the Tribunal whichever is the greater.	
(2) The "Lower Scale" shall be applied in all cases where no defence or other opposition has been filed and the "Higher Scale" shall be applied in all other cases.	
(b) In any reference, suit or appeal by the nature of which no specific sum is sued for, claimed or awarded in the judgment: such costs as the Tribunal in its discretion awards but not less than Sh. 500 if undefended or unopposed and (subject to any special order for good reason connected with the nature and importance or the difficulty or the urgency of the matter) not to exceed Sh. 3,000.	
(c) On any application not otherwise provided for, to include taking instructions to proceed or oppose, drawing application, engrossing same and filing	70 00
(d) On any necessary attendance on the Tribunal	55 00
(e) Attendances at the hearing where the hearing lasts more than one full day—	
for each full day after the first day	50 00
for each part day after the first day	250 00
(f) Where the costs of adjournment of case are awarded	70 00
(g) Service—	
(i) within three kilometres of the Tribunal	15 00
(ii) every additional kilometre over three: such amount as is reasonable, not exceeding per kilometre	3 00
(iii) By post, if authorized	7 50
(h) Drawing and filing affidavit or return of service	10 00

B—Advocate and Client Costs

As between advocate and client the minimum fees shall be—

- (a) the fees prescribed in A above, increased by one-third; or
- (b) the fees ordered by the Tribunal increased by one-third; or
- (c) the fees 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 this 24th day of March, 1979

JAMES WICKS,
Chief Justice.