

LEGAL NOTICE NO. 70

## 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, makes the following Order:—

THE ADVOCATES (REMUNERATION) (AMENDMENT)  
ORDER, 1982

1. This Order may be cited as the Advocates (Remuneration) (Amendment) Order, 1982, and shall come into force on the 1st June, 1982.

Sub. Leg.

2. The Advocates (Remuneration) Order is amended by substituting for Schedules I, II, III, IV and V thereto the new Schedules I, II, III, IV and V annexed hereto.

3. 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 that date shall be charged for as if the Advocates (Remuneration) Order had not been amended by this Order; and in computing the fee for instructions for any such work, the work may be apportioned by the taxing officer as between the period prior to this Order coming into force and the period subsequent.

## SCHEDULE I

## FIRST SCALE

## SCALE OF CHARGES ON SALES, PURCHASES AND MORTGAGES AFFECTING LAND REGISTERED IN ANY REGISTRY

	<i>Scale Fee</i>	<i>Sh. cts.</i>
<b>1. VENDOR'S ADVOCATES</b>		
For preparing and completing contract, answering any preliminary enquiries, deducing title (including any necessary abstraction) to a freehold or leasehold property, answering any requisitions on title, perusing and completing conveyance or assignment.	On the first £5,000, minimum charge	4,000 00
	Over £5,000 to £10,000, per £100 ..	17 50
	Over £10,000 to £20,000, per £100 ..	14 00
	Over £20,000 to £50,000, per £100 ..	12 50
	Over £50,000, per £100 .. ..	10 00
<b>2. PURCHASER'S ADVOCATE</b>		
For investigating title to a freehold or leasehold property and preparing and completing conveyance (including perusal and completion of contract, if any).	The scale fee set out under 1 above.	

## SCHEDULE I—(Contd.)

## FIRST SCALE—(Contd.)

## SCALE OF CHARGES ON SALES, PURCHASES AND MORTGAGES AFFECTING LAND REGISTERED IN ANY REGISTRY

	<i>Scale Fee</i>	<i>Sh. cts.</i>
3. MORTGAGOR'S ADVOCATE		
(a) For deducing title (including any necessary abstraction) to a freehold or leasehold property, answering any requisitions on title, perusing and completing mortgage.	One-half of the scale fee set out under 1 above.	
(b) For preparing and completing reconveyance or reassignment of mortgage.	A fee of $\frac{1}{8}\%$ of amount secured, but subject to a minimum charge of . . . and a maximum charge of . . .	700 00 2,000 00
4. MORTGAGEE'S ADVOCATE		
(a) For investigating title to a freehold or leasehold property and preparing and completing mortgage.	The scale fee set out under 1 above	
(b) For perusing and completing reconveyance or reassignment of mortgage.	One-half of the scale fee set out under 3(b) above.	

## NOTE

Only two-thirds of the scale fee for mortgages should be charged in the circumstances set out in note (2) to item 4 of Schedule III.

## SECOND SCALE

## SCALE OF CHARGES RELATING TO MEMORANDA OF EQUITABLE MORTGAGES BY DEPOSIT OF DOCUMENTS OR CHARGES BY DEPOSIT OF TITLE

	<i>Scale Fee</i>	<i>Sh. cts.</i>
1. For investigating title to a freehold or leasehold property and completing and registering a memorandum of equitable mortgage by deposit of documents or a memorandum of charge by deposit of title in respect thereof.	On the first £15,000, minimum charge Over £15,000 to £30,000, per £100 . . Over £30,000, per £100 . . . . .	1,500 00 3 50 3 00
2. 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.	Half the scale fee set out under item 3(b) of the first scale.	

## NOTE

Only half of the scale fee should be charged for equitable mortgages and charges in the circumstances set out in note (2) to item 4 of Schedule III.

## SCHEDULE I—(Contd.)

## THIRD SCALE

## SCALE OF NEGOTIATING COMMISSION ON SALES AND MORTGAGES

	<i>Scale Fee</i>	<i>Sh. cts.</i>
For negotiating a sale of property by private treaty or a loan secured by mortgage.	On the first £10,000, per £100 ..	37 50
	Over £10,000 to £30,000, per £100 ..	17 50
	Over £30,000, per £100 .. ..	10 00

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

## SCHEDULE II

## SCALE OF CHARGES FOR THE PREPARATION OF LEASES, AGREEMENTS FOR LEASES AND TENANCY AGREEMENTS AT A RACK RENT

	<i>Scale Fee</i>
1. To the advocate preparing, settling and completing lease or agreement and counterpart—	
(a) where the term of the lease or agreement is for 2 years or less	Annual rent: first £500—10%, but subject to a charge of Sh. 600 minimum. Over £500 to £2,500—10% on first £500, and 3% on excess. Over £2,500—10% on first £500, 3% on next £2,000, 1½% on excess.
(b) Where the term of the lease or agreement is for more than 2 years.	The scale fee set out under (a) above increased by one-half.
2. To the advocate perusing, amending and completing lease or agreement and counterpart.	One-half of the fee payable under 1 above or Sh. 300 whichever is the greater.

## SCHEDULE II—(Contd.)

## NOTES

(1) Where a varying rent is payable the amount of the annual rent means the amount of the largest annual rent payable under the lease or agreement.

(2) In the case of 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.

(3) Charges as to conveyances 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, shall be calculated under Schedule V.

## SCHEDULE III

## 1. FORMATION AND INCORPORATION OF COMPANIES WITH SHARE CAPITAL

A fee calculated according to the following scales, the fee to cover taking instructions to incorporate the company, drawing memorandum of association and articles of association (if any), preparing and lodging all necessary company forms at the Companies Registry on the incorporation of the company (but excluding any prospectus) and procuring certificate of incorporation, including all routine attendances and correspondence in connection therewith.

(a) *Private company without articles or with articles adopting Table "A" by reference without any modification*

<i>Nominal Capital</i>	<i>Fee</i>
(i) Not exceeding £5,000 .. ..	Sh. 3,000 to Sh. 6,000 according to time, complexity and responsibility.
(ii) Exceeding £5,000—	
On the first £5,000 .. ..	6%
Over £5,000—£10,000 .. ..	5%
Over £10,000—£20,000 .. ..	1%
Over £20,000—£50,000 .. ..	$\frac{1}{2}$ %
Over £50,000—£100,000 .. ..	$\frac{1}{3}$ %
Over £100,000—£500,000 .. ..	$\frac{1}{4}$ %
Over £500,000 .. ..	$\frac{1}{8}$ %

(b) *Private company with articles adopting Table "A" by reference but with modification*

Not less than the fee set out at (a) increased by the one-quarter.

(c) *Private company with articles not adopting Table "A" in whole or in part.*

Not less than the fee set out at (a) increased by one-half.

(d) *Public company with articles adopting Table "A" by reference without any modification*

<i>Nominal Capital</i>	<i>Fee</i>
(i) Not exceeding £20,000 .. ..	Sh.12,500.
(ii) Exceeding £20,000—	
Over £20,000—£50,000 .. ..	1%
Over £50,000—£100,000 .. ..	$\frac{1}{2}$ %
Over £100,000 .. ..	$\frac{1}{4}$ %

## SCHEDULE III—(Contd.)

- (e) *Public company with articles adopting Table "A" by reference but with modification*

Not less than the fee set out at (d) increased by one-quarter.

- (f) *Public company with articles not adopting Table "A" in whole or in part*

Not less than the fee set out at (d) increased by one-half.

2. FORMATION AND INCORPORATION OF COMPANIES WITHOUT SHARE CAPITAL

- (a) Without articles of association or with articles adopting Table "A" without any modification . . . Sh. 3,500—Sh. 10,500

- (b) With full articles of association . . . Sh. 6,500—Sh. 15,750

In either case according to time, complexity and responsibility.

3. REGISTRATION OF FOREIGN COMPANIES

A fee between Sh. 1,500 and Sh. 10,000 to cover taking instructions to register, preparing and lodging the necessary company forms at the Companies Registry and procuring certificate of registration, including all routine attendances and correspondence in connection therewith, according to time, complexity and responsibility.

4. DEBENTURES

(a) *Single debentures*

- (i) On each single debenture of any nature not creating a security, a fee calculated under Schedule V according to time, complexity and responsibility.

- (ii) On each single debenture of any nature creating a security and not supported by a mortgage or charge where the grantee uses his printed or standard form, a fee calculated on the capital for which the debenture is issued as follow—

	<i>Sh. cts.</i>
On the first £5,000 secured, minimum charge . . . . .	2,000 00
Over £5,000 to £10,000, per £100 . . . . .	8 75
Over £10,000 to £20,000, per £100 . . . . .	7 00
Over £20,000 to £50,000, per £100 . . . . .	6 25
Over £50,000, per £100 . . . . .	5 00

- (iii) In all other cases, a fee calculated on the capital for which the debenture is issued as follow—

	<i>Sh. cts.</i>
On the first £5,000 secured, minimum charge . . . . .	4,000 00
Over £5,000 to £10,000, per £100 . . . . .	17 50
Over £10,000 to £20,000, per £100 . . . . .	14 00
Over £20,000 to £50,000, per £100 . . . . .	12 50
Over £50,000, per £100 . . . . .	10 00

## SCHEDULE III—(Contd.)

*(b) Series of debentures*

A fee on the total capital for which the series is issued as for a single debenture with the addition of fees under Schedule V in respect of the preparation, completion and registration of all debentures after the first.

*(c) Debenture stock issued under a debenture trust deed*

A fee on the total capital for which the trust deed is drawn as under paragraph (a) (iii) above plus one-half thereof, with such additional amount as may be reasonable taking into account the time, complexity and responsibility involved in each case.

## NOTES

- (1) (a) Where the grantee of a security and the company creating it are separately represented, the advocate for the company shall be entitled to charge one-half of the fees chargeable by the advocate for the grantee.
- (b) Where one advocate represents both the grantee of a security and the company creating it he shall be entitled to increase the prescribed fee by forty per cent.
- (2) Where two or more securities are created by a company, whether contemporaneously or subsequently, in favour of the same grantee to secure the same amount, then the fee payable shall be the full prescribed fee in respect of the principal security plus one-half of the prescribed fee based on the value of the property charged or the principal sum secured, whichever is the less, in respect of the other securities.
- (3) Where a security is created by one document by more than one company in favour of the same grantee to secure the same amount, then the fee payable shall be the full prescribed fee in respect of the first company, one-half of such fee in respect of the second company and one-quarter of such fee in respect of each company thereafter, the total fees to be divided equally between the companies unless otherwise agreed by all the companies in writing.
- (4) Where a security is created by one document by a company in favour of more than one grantee, then the fee payable shall be the full prescribed fee in respect of the first grantee, one-half of such fee in respect of the second grantee and one-quarter of such fee in respect of each grantee thereafter.
- (5) Unless otherwise agreed by the parties in writing the company or companies creating a security shall pay the fees of the advocate for the grantee as well as the fees of its or their own advocate.

## 5. OTHER COMPANY WORK

All work relating to company matters other than that for which fees are prescribed in this Schedule shall be charged under the appropriate Schedule.

## SCHEDULE IV

## TRADE MARKS AND PATENTS

*A. Trade Marks*

	<i>Sh. cts.</i>
1. APPLICATIONS	
(a) Instructions to register one trade mark in one class	1,200 00
(b) Instructions to register second and further trade marks in the name of the same proprietor simultaneously per trade mark in one class ..	700 00
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 the same proprietor incorporated in the same set of documents and subject to the same conditions and restrictions in each case—	
(1) for the first one single registered trade mark	1,000 00
(2) for the second registered trade mark ..	450 00
(3) for the third registered trade mark .. ..	300 00
(4) for the fourth and each subsequent registered trade mark, applications being filed simultaneously .. .. .	120 00
(b) Drawing statement of case, statutory declaration in support and application, depending on the amount of work involved but not less than ..	1,500 00
(c) Drawing registered user agreement, depending on the amount of work involved but not less than	2,000 00
(d) Instructions to file an application under section 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	800 00
(2) for the second registered trade mark ..	540 00
(3) for the third registered trade mark .. ..	360 00
(4) for the fourth and each subsequent trade mark, application being filed simultaneously	180 00
(e) Drawing application for cancellation and statement of ground, depending on amount of work involved but not less than .. .. .	450 00
(f) And for each subsequent registered trade mark included in the same application for cancellation, the grounds for cancellation being the same ..	150 00
(g) Instructions to file an application for variation of terms of appointment of registered user .. ..	1,000 00

## SCHEDULE IV—(Contd.)

## 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 .. .. .	600 00
(2) for the second registered trade mark .. .. .	270 00
(3) for each subsequent registered trade mark .. .. .	180 00
(b) Instructions to file application for directions by the Registrar for advertisement of the assignment of trade marks in use without goodwill and attending to the advertisement thereof—	
(1) for one registered trade mark assigned .. .. .	600 00
(2) for every other registered trade mark assigned under the same devolution of title filed simultaneously .. .. .	270 00
(c) Instructions to apply for extensions of time in which to apply for directions to advertise .. .. .	300 00

## 4. RENEWALS

(a) Instructions to renew the registration of one trade mark in one class .. .. .	660 00
(b) Instructions to renew the registration of second and further trade marks in the name of the same proprietor simultaneously .. .. .	450 00
(c) Instructions to restore the registration of one trade mark in one class under the provisions of rule 68 of the Trade Marks Rules .. .. .	800 00

## 5. CHANGE OF NAME

(a) Instructions to register change of name of the registered proprietor in respect of one trade mark in one class .. .. .	360 00
(b) Instructions to register change of name of the registered proprietor in respect of second and further trade marks simultaneously, for each change of name per trade mark in one class .. .. .	240 00

## 6. CHANGE OF ADDRESS

(a) Instructions to register change of address of the registered proprietor in respect of one trade mark in one class .. .. .	360 00
(b) Instructions to register change of address of the registered proprietor in respect of second and further trade marks simultaneously, for each change of address per trade mark in one class .. .. .	240 00



## SCHEDULE IV—(Contd.)

(c) Correspondence, where charged for separately (see the Note to this part of this Schedule)	
(i) per letter .. .. .	50 00
or per folio .. .. .	30 00
(ii) receiving and perusing letters—	
per letter .. .. .	20 00
or per folio .. .. .	12 00
(d) Drawing all other necessary documents (notices of opposition, statutory declarations, counter-statements, etc.) per folio .. .. .	80 00
file copies, per folio .. .. .	8 00
(e) Perusing documents, pleadings, statutory declarations, etc:	
to be charged for as for perusals at item 8 (a) of Schedule VI	
(f) All other necessary attendances (including attendances to take minutes of evidence of witnesses other than the party for whom the advocate is acting), per quarter hour or part thereof .. .. .	180 00

## NOTE

The fees in items, 1, 2, 3, 4, 5, 6 and 7 above are inclusive, unless otherwise provided, of drawing statutory forms and authorizations as necessary, and of all necessary routine correspondence with and attendances at the registry and correspondence with the client; but they do not cover additional matters shown in items 8 and 9 and work occasioned by objections or queries by the Registrar or third parties or by any other complication or unusual delay, which matters and writ shall be charged for separately.

*B. Patents*

## 1. REGISTRATIONS

Instructions to register a patent including form of authorization and stamping it, drawing and lodging application .. .. . 800 00

## 2. ASSIGNMENTS

Instruction to register an assignment of a patent including drawing form of authorization and stamping it and assignment, drawing and lodging application .. .. . 600 00

## 3. EXTENSIONS

Instructions to register an extension of a patent including drawing form of authorization and stamping it and making application for extension .. .. . 600 00

## 4. SEARCHES

Attending at the Registry of Patents searching, for every 15 minutes: by an advocate .. .. . 300 00  
by an unqualified employee .. .. . 150 00

## 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, but so that due allowance shall be given in the instruction fee for other charges raised under this Schedule.		
		Per Folio
2. DRAWING AND PERUSING, ETC.		Sh.
For drawing	.. .. .	40
For engrossing	.. .. .	8
For fair copying	.. .. .	5
For perusing	.. .. .	12
3. ATTENDANCES		
In ordinary cases, per 15 minutes or part thereof	.. .. .	120
On routine telephone calls within Kenya for 3 minutes or part thereof	.. .. .	25
In other cases the taxing officer may increase or diminish the above charges if for any special reason he sees fit.		
4. TIME ENGAGED where charge is so based in lieu of charges per item of work done: per hour or part thereof		480
5. CORRESPONDENCE		
Letters	.. .. .	50
or per folio	.. .. .	30
Receiving and perusing letters	.. .. .	20
or per folio	.. .. .	12
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		300
7. JOURNEYS FROM HOME		
For every day of not less than seven hours employed in travelling	.. .. .	2,800
Where a lesser time than seven hours is so employed, per hour	.. .. .	400
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 item 5 of this Schedule or under Schedule VI or Schedule VII as may be appropriate.		

## SCHEDULE V—(Contd.)

	<i>Sh.</i>
(a) Where the amount of the debt does not exceed Sh. 150 .. .. .	50
(b) Where the amount of the debt exceeds Sh. 150 but does not exceed Sh. 300 .. .. .	60
(c) Where the amount of the debt exceeds Sh. 300 but does not exceed Sh. 600 .. .. .	80
(d) Where the amount of the debt exceeds Sh. 600 but does not exceed Sh. 1,000 .. .. .	200
(e) Where the amount of the debt exceeds Sh. 1,000 but does not exceed Sh. 10,000 .. .. .	Sh. 250 plus 5% on the amount over Sh.1,000
(f) Where the amount of the debt exceeds Sh. 10,000 but does not exceed Sh. 100,000 .. .. .	Sh. 700 plus 1% on the amount over Sh. 10,000
(g) Where the amount of the debt exceeds Sh. 100,000 .. .. .	Sh. 1,600 plus $\frac{1}{2}$ % on the amount over Sh. 100,000
<b>9. CHATTELS TRANSFERS</b>	
For drawing and completing an instrument under the Chattles Transfer Act including all necessary and proper searches, affidavits, stamping and registration—	
(a) where the amount secured does not exceed Sh. 50,000 .. .. .	Sh. 1,000
(b) where the amount secured exceeds Sh. 50,000, one-half of the fee for a single debenture under paragraph (a) (ii) or (a) (iii) of item 4 of Schedule III.	

Made on the 27th May , 1982.

A. H. SIMPSON,  
*Chief Justice.*