

GOVERNMENT NOTICE No. published on

THE ADVOCATES ACT
(Cap 341 R.E.)

ORDER

ADVOCATES REMUNERATION ORDER, 2011
Section 49 (2)

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THE ADVOCATES ACT
(CAP 341)

ORDER

Made under section 49 (2)

THE ADVOCATES REMUNERATION ORDER, 2011

PART I
PRELIMINARY PROVISIONS

Citation **1.**This Order may be cited as the Advocates
Remuneration Order, 2011.

*Applicati
on* **2.(a)** This Order shall apply for the purpose of the
remuneration of an advocate by his client for
contentious and non-contentious business as well

as for adjudication of advocates' remuneration agreements and matters incidental thereto.

(b) For the avoidance of doubt, this Order shall extend to the remuneration of an advocate in proceedings before arbitral tribunals.

Interpretation

3.In this Order unless the context otherwise requires-

“advocate” means a person whose name is duly entered as an advocate in the Roll and is entitled to practise as an advocate in the High Court or courts subordinate thereto under the provisions of the law for the time being applicable to advocates;

“affidavit” in the case of persons allowed by law to affirm or declare instead of swearing, includes affirmation and declaration, and “swear”, in the like case, includes “affirm” and “declare”;

“approved legal institution” means a non governmental organisation recognised by the Remuneration Committee offering free legal aid in Tanzania for persons who cannot afford to engage the services of an advocate including the Tanganyika Law Society, the Tanzania Women Lawyers Association and the Legal Aid Centre of the University of Dar es Salaam;

“care letter” means a letter in an appropriate form written by an advocate or a firm of advocates and addressed to a client stipulating the terms of engagement of the said advocate or firm of advocates with the said client;

“client” includes an owner of a business, a principal shareholder, executive director or financial officer of the business entity;

“costs” means all the monies lawfully expended

by an advocate or a firm of advocates on behalf of a client in relation to a remuneration agreement but shall not include the advocate's instruction fees;

“court” includes any court or adjudicating body in the United Republic of competent jurisdiction in which an advocate is allowed to appear;

“High Court” means the High Court of the United Republic;

“remuneration agreement” means an agreement between an advocate and a client stipulating the terms of engagement and includes a care letter;

“reimbursables” means the necessary costs which are incurred by an advocate in any proceedings but do not form part of the net fees of the advocate;

“schedule” means a schedule to this Order;

“scheduled minimum rates” means the minimum fees prescribed in the First Schedule to this Order in lieu or addition to a remuneration agreement;

“taxing officer” includes the Registrar, a District or Deputy Registrar of the High Court, a magistrate of the rank of Senior Resident Magistrate or above, or such other officer of the court as the Chief Justice may appoint, or such other officer as the law may provide.

PART II

GENERAL PROVISIONS

*Taxing
officer*

4.(a) The Taxing officer for the adjudication of any advocate's remuneration agreement shall be the Registrar, a District or Deputy Registrar of the High Court, a magistrate of the rank of Senior Resident Magistrate or above, or such other officer of the court as the Chief Justice may

appoint, or such other officer as the law may provide.

(b) For the purpose of this Part an advocate's remuneration agreement shall include the fixed minimum rates prescribed in Schedule I to this Order.

Remuneration agreement

6. No advocate shall have a right to claim remuneration under this Order except by a remuneration agreement express or implied between that advocate and the client, which shall be substantially in accordance with the description given in Part III of this Order.

Security for advocate's remuneration

7. An advocate may accept, and the client may disburse to the advocate any advance payment which the advocate may demand: Provided that the client may demand and the advocate shall submit, a full account of the expenditure of the sum paid in advance for the advocate's costs.

Interest on fees overdue

8. A remuneration agreement may provide for interest payable by a client at the rate of 8 percentum per annum on any disbursement due and costs in the event of default of the agreed advocate's fee or the scheduled minimum rates after the expiration of one month from the date when payment is due.

PART III

REMUNERATION AGREEMENTS

Basis of advocacy

8. A remuneration agreement or the scheduled minimum rates shall be the basis for the adjudication of an advocate's fees and costs in

te's fees contentious and non-contentious matters.

Terms of remuneration agreement **9.** (1) A remuneration agreement shall be in writing and in English or Kiswahili and shall be executed by the parties.

(2) Each party to the agreement shall be entitled to an equiponderous version of the agreement.

(3) Except for reasons of fraud, no remuneration agreement shall be set aside only because the provisions of sub-paragraphs (1) and (2) have not been followed.

(4) A remuneration agreement between an advocate and a client sent to an advocate by an approved legal institution on a *pro bono* basis shall contain a clause specifying that in case the client wins the case, then the advocate's fees due to the advocate shall be determined by the taxing officer from the compensation or monies awarded to the client by the court or tribunal.

Basis of charging fees **10.** The fees chargeable in a remuneration agreement shall take into account the nature and extent of the pecuniary or other interest involved; the number, complexity and importance of documents prepared or examined; any business that requires and receives exceptional despatch; or any business which, at the request of the client, is attended to after normal business hours or any other relevant circumstances that may exist.

Variation of agreement **11.** A remuneration agreement may be varied by the parties to it to provide for extra fees distinct from the agreed fees initially charged by the advocate if the business attended to by the

advocate acquires exceptional importance or unusual complexity or sensitivity subsequent to the signing of the remuneration agreement.

Fees in foreign currency **12.** A remuneration agreement may provide that the advocate's remuneration be paid in any foreign currency which may be converted into a commercial bank rate, bureau de change rate, or any other rate, but a client may pay an advocate in Tanzania Shillings converted from the agreed sum in foreign currency.

Taxation proceedings **13** (1) An application to enforce, set aside, or determine any question as to the validity or effect of a remuneration agreement may be brought to the taxing officer of the court or tribunal of appropriate jurisdiction for adjudication.
(2) Such application shall be by way of a chamber summons supported by affidavit and may be brought by a party to the remuneration agreement or any other interested party as a taxation cause.
(3) Notwithstanding anything contained in this Order, on every adjudication of a remuneration agreement, the taxing officer may allow all such costs as may appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the taxing officer to have been incurred or increased through over-caution, negligence or mistake, or by any other inappropriate expenditure.

Reference **14** (1) Any party aggrieved by the decision of a taxing officer shall, within fourteen days of that

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decision being made, give notice in writing to the taxing officer, with copy to all parties interested in the taxation, of his intention to refer such decision to the relevant authority:

Provided that the taxing officer shall have power to extend the time for giving notice upon sufficient grounds.

(2) Upon obtaining a certified copy of the reasons for the taxing officer's decision, the aggrieved party shall, within thirty days of receipt of the certified copy of the reasons, refer the taxing officer's decision to the relevant authority by way of a memorandum which shall be submitted on a form laid down in the Second Schedule to this Order.

(3) A copy of the memorandum shall be served on the other party as well as on all the other interested parties, setting the grounds of his dissatisfaction and the relief sought.

(4) The relevant authority may, on sufficient grounds, extend the time for filing the memorandum of reference.

*Refer-
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ority*

15. (1) The relevant authority for the adjudication of references of taxation of remuneration agreements from courts and tribunals subordinate to the High Court shall be the Registrar, Deputy Registrar or District Registrar of the High Court.

(2) The relevant authority for the adjudication of references of taxation of remuneration agreements from the High Court shall be a single Judge of the High Court.

*Proced-
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16. The procedure for the hearing and determining appeals in the High Court shall apply

*refer-
ences
in High
Court* to references of decisions of taxing officers.

PART IV

REMUNERATION IN NON-CONTENTIOUS BUSINESS

*Non-
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ess* **17.** Non-contentious business shall include-

- (a) all matters of conveyance such as sales, purchases, leases, mortgages, settlements, and the investigation of titles to land;
- (b) all corporate legal work including the formation of companies, company secretarial business, receiverships, liquidation, mergers and acquisitions and turn-around arrangements;
- (c) preparation of partnership agreements and registration of firms and business names;
- (d) preparation of joint venture agreements;
- (e) preparation of wills and codicils;
- (f) preparation of constitutions of societies, trusts and their registration and incorporation;
- (g) preparation of legal opinions;
- (h) processing patents, trade marks and any other business that does not require an advocate to prepare, enter appearance, and argue a case or matter before a court or tribunal on behalf of a client in expectation of a decision, ruling, award or judgment.

*Costs
and
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e-
ments* **18.(1)** The costs of an advocate in non-contentious business shall distinguish disbursements by the advocate to third parties while in the course of transacting the client's business, but shall not include charges and allowances for the time of the advocate, his

clerks or the advocate's other staff.

(2) The advocate's extra work necessary for the completion of the business, if occasioned by sudden and unforeseeable changes, may be indicated as extra remuneration above the initially agreed remuneration.

(3) The advocate's special exertion by means of which business had been carried through in an exceptionally short span of time at the requirement of the client may be charged above the initially agreed remuneration.

*Apporti
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clients*

19. Unless otherwise provided in a remuneration agreement, where an advocate is engaged for both mortgagor and mortgagee, lessor and lessee, vendor and purchaser, or any two opposite parties in a non-contentious and commonly agreed agreement or matter, he shall be entitled to charge each of the two parties two thirds of what each would have paid had they engaged two separate advocates.

*Prepar
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ments*

20. Unless otherwise agreed in a remuneration agreement, all conveyancing and similar documents shall be prepared by the following-

- (a) in the case of a conveyance or transfer, the advocate for the purchaser or party to whom the property is conveyed, transferred or assigned;
- (b) in the case of a mortgage or charge, the advocate for the mortgagee or chargee;
- (c) in the case of a release or discharge, the advocate or party in whose favour release or discharge is given;
- (d) in the case of a lease, the advocate for the lessor; and

(e) in respect of any other document, the advocate for the grantee or obligee.

Remuneration for conveyance work

21. Remuneration for non-contentious business shall cover all work ordinarily incidental to a transaction, and in the case of a conveyance, transfer or mortgage it shall include-

- (a) taking instructions to prepare the necessary deeds or documents;
- (b) report of title to the client;
- (c) preparation or approval or adjustment of the deed or document;
- (d) settlement of transaction if in the town of the advocate's practice;
- (e) obtaining by correspondence any necessary consent;
- (f) registration of the relevant deed;
- (g) correspondence between the advocate and client; and
- (h) any other relevant factor:

Provided that a remuneration agreement may provide for extra fees to include, inter alia, the following items:

- (i) prior negotiation necessary or leading to the completion of any bargain;
- (ii) tracing of title deeds or obtaining certified true copies thereof;
- (iii) payment of any tax or obtaining of exemption thereof;
- (iv) completion of valuation forms for assessment of stamp duty and taxes;
- (v) adjudication of stamp duty;
- (vi) personal attendance of the advocate in any matter mentioned in this paragraph;
- (vii) extra work occasioned by special

- circumstances;
- (viii) extra work occasioned by change of circumstances emerging while an item of business is in progress; or
- (ix) any other relevant matter.

Factors for computation of remuneration **22.** In calculating the remuneration, due regard shall be made to the following factors:

- (a) the sum set forth in the deed or document as the price or consideration; or
- (b) the value fixed for the purpose of stamp duty; or
- (c) the sum at which the property affected has last been passed for estate duty; or
- (d) the last price at which a sale has taken place within ten years from the date of the transaction; or
- (e) the estimated average market value during the preceding three years.

Advocate's costs in lieu of fees **23.** An advocate may privately act for himself in any contentious or non-contentious matter and be entitled to costs but he shall not be entitled to any advocate's fees under this Order when so acting.

PART V

REMUNERATION OF CONTENTIOUS BUSINESS

Contentious business **24.** Contentious business shall include:

- (a) proceedings in the Court of Appeal of Tanzania;
- (b) proceedings in the High Court of Tanzania;
- (c) proceedings in all courts subordinate to the High Court where an advocate is allowed to appear;

- (d) proceedings in arbitration;
- (e) proceedings in a tribunal established under any written law;
- (f) Proceedings in any other judicial or quasi-judicial body.

Remuneration for contentious business

25. An advocate's remuneration for contentious business shall be regulated by a remuneration agreement between the advocate and the client.

Allowance for higher fees

26. The taxing officer may allow an advocate a higher remuneration than that prescribed by the remuneration agreement on special grounds arising out of the nature, importance, complexity, sensitivity or urgency of the contentious business not envisaged at the time of signing the agreement, and only upon the advocate filing his application for adjudication of the remuneration agreement against the client.

Fees for multiple advocates

27. Upon the determination or order of the court, the taxing officer may allow in remuneration for more than one advocate in any contentious business provided that he is satisfied that the nature, importance or difficulty of the case merited the appearance and professional attention of such number of advocates.

Reduction of costs due to default

28. Where it is proved to the taxing officer that costs have been improperly incurred or incurred without reasonable cause by reason of misconduct or default of the advocate, the taxing officer may, on application for adjudication of a remuneration

*or
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duct* agreement by an affected party order the errant advocate to refund the costs arising from such misconduct or default and may take any such orders as the justice of the case may require.

*Fees
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ings* **29.** Where the same advocate is employed for two or more parties on the same side of a contentious matter, and separate pleadings are prepared and filed or other proceedings attended to for the two or more such parties to the proceedings separately, the taxing officer shall consider on the application for adjudication of such advocate's remuneration agreement, either between one party and another or between advocate and client, whether such separate pleadings or other proceedings were necessary or proper, and if he is of the opinion that any part of the costs occasioned thereby have been unnecessary or improperly incurred, the same shall be disallowed.

*Conflic-
t G.N.
No.
515 of
1991* **30.** To the extent that this Order is in conflict with the provisions of the Advocates' Remuneration and Taxation of Costs Rules, 1991 as regards advocates' remuneration, the provisions of this Order shall prevail.

SCHEDULES
Paragraph 3
(Fixed percentage rates)

SCHEDULE I

SCALE OF CHARGE ON SALES, PURCHASE AND MORTGAGES

Vendors Advocate:

Scale Fees

(i) For negotiating a sale of immovable property by private contract 3% of the subject matter

(ii) For deducing title to immovable and perusing and completing conveyance (including preparation of contract of conditions of sale, if any), the scale shall be as shown here below.

Purchaser's Advocate:

(i) For negotiating a purchaser of property by private contract Scale as shown below:

(ii) For investigating title to immovable leasehold property, and preparing and completing conveyance (including perusal and completion of contract, if any) Scale as shown below:

Mortgagee's and Mortgagor's Advocate:

(i) For negotiating loan Scale as shown below:

(ii) For investigating title to immovable property and preparing and completing mortgage Scale as shown below:

<i>Amount</i>	<i>Fees</i>
<i>Up to 26,300,000/- ...</i>	15%
Between 26, 300, 000/=	-
39,450,000/=	10%
Between 39, 450, 000/=	-
65,750,000/= .	8%
Between 65,750,000/=	-
131,500,000/-	5%
Between 131,500,000/-	-
394,500,000/- million	3%
Over 394,500,000/- shall be charged as if it were for 394,500,000m	

DISCHARGE OF MORTGAGES:	1/5 of the fees for mortgages
.....	
ASSIGNMENT OF MORTGAGES:	same fees as for mortgages
.....	
EQUITABLE MORTGAGES:	same fees as for mortgages
.....	
DISCHARGE OF EQUITABLE MORTGAGES:	1/5 of the fees for mortgages
.....	

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SCHEDULE II
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SCALE FEES FOR LEASES OR AGREEMENTS FOR LEASES

	<i>Amount</i>	<i>Fees</i>
	<i>Up to 2,630,000/-</i>	30%
Between	2,630,000/= - 6,575,000/=	25%
.....		
Between	6,575,000/= - 13,150,000/=	20%
.....		
Between	13,150,000/= - 26,300,000/=	15%
.....		
Between	26,300,000/= - 39,450,000/=	12%
.....		
Between	39,450,000/= - 65,750,000/=	10%
.....		
Between	65,750,000/= - 131,500,000/-	8%
.....		
Between	131,500,000/= - 394,500,000/-	5%
.....		
Over 394,500,000/ million		3%

For Leases of, or over five years, the fees should be increased by 1/3

SCHEDULE III

SCALE FEES FOR CONVEYANCES RESERVING A RENT 1/2
of the fees
As prescribed under Schedule II.

SCHEDULE IV

SCALE FEES FOR DEBENTURES

	<i>Amount</i>		<i>Fees</i>
	<i>Up to 26, 300,000/=</i>		15%
Between	26,300,000/=	-	
39,450,000/=			10%
Between	39,450,000/=	-	
65,750,000/=			8%
Between	65,750,000/=	-	
131,500,000/-.....			5%
Between	131,500,000	-	
394,500,000/-			3%
Between	394,500,000/=	-	
13.15Billion			3%
Over Shs. 13.15 Billion shall be charged as if it were for 13.15 Billion			

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SCHEDULE V
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SCALE FEES FOR DEBENTURES

<i>Amount</i>	<i>Fees</i>
Up to 26, 300,000/=	15%
Between 26 300,000/= -	
39,450,000/=	10%
Between 39, 450,000/= -	
65,750,000/=	8%
Between 65, 750,000/= -	
131,500,000/-.....	5%
Between 131, million -	
394,500,000/-	3%
Between 394,500,000/- - 13.15 Billion	3%
Over Shs. 13.15 Billion shall be charged as if it were for 13.15 Billion	

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SCHEDULE VI
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SCALE FEES FOR FORMATION OF COMPANIES

<i>Share Capital</i>	<i>Fees</i>
Up to 13,150,000/= A minimum of	1, 315, 000/=
Above 13,150,000/= up to 131,500,000/-	1, 315, 000/=
Above 131,500,000/- up to - 13,150,000,000/-	

.....
Over 13.15 Billion should be charged as if it
were 13.15 Billion

5%

SCHEDULE VII

TRADE MARKS

	Shs.	Cts
1. Applications:		
Instructions to register one trade mark in one class	200,000	00
(a) Instructions to register second and further trade marks in the name of the same proprietor simultaneously per trade mark in one class	450,000	00
2. Registered Users:		
(a) Instructions to file an application to enter one registered user of one registered trade mark of more than one registered trade mark of the same proprietor incorporated and subject to the same condition and restrictions in each case:		
(i) For the first one single registered trade mark	350,000	00
(ii) For the second registered trade mark and any subsequent	150,000	00
(b) Drawing statement of case statutory declaration in support and application depending on the amount of work involved but not less than	300,000	00
(c) Drawing registered user agreement depending on the amount of work		

	involved but not less than	500,000	00
(d)	Instruction to file an application for cancellation of a registered user in respect of one registered trade mark or more than one registered trade mark of same proprietor:		
	(i) For the first or single registered trade mark	250,000	00
	(ii) For the second registered trade mark and any subsequent	150,000	00
(e)	Drawing application for cancellation and statement of ground depending on amount of work involved but not less than	150,000	00
(f)	And for each subsequent registered trademark included in the same application for cancellation the ground for cancellation being the same	50,000	00
(g)	Instructions to file an application for variation of terms of appointment of registered user	350,000	00

3. Assignments:

(a)	Instruction to file an application to register 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 field simultaneously with or without goodwill)::		
	(i) For the first registered trade mark ...	210,400	00

(ii) For the second registered trade mark and any subsequent	150,000 00
(b) Instruction to file application for directions by the Registrar for advertisement of the assignment of trade marks in use without goodwill and according to the advertisement thereof:	
(i) For one registered trade mark assigned.....	210,400 00
(ii) For every other registered trademark assigned under the same devolution of title filed simultaneously	150,000 00
(iii) Instructions to apply for extensions of time in which to apply for directions to advertise.....	150,000 00
4. Renewals:	
(a) Instructions to renew the registration of one trade mark in one class.....	210,400 00
(b) Instructions to renew the registration of a good and further trade marks in the name of the same proprietor simultaneously	200,000 00
(c) Instructions to restore the registration of one trade mark in one class	276,150 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	200,000 00

(b) Instructions to register change of name of the registered proprietor in respect of second and further trademarks simultaneously for each change of name per trade mark in one class	100,000 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	210,400 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	100,000 00
 7. Alterations or Amendments:	
(a) Instructions to amend or alter one registered trade mark in one class	250,400 00
(b) Instructions to amend or alter second and further registered trademarks simultaneously in one class per trade mark per class	100,000 00
 8. Searches and copies:	
(a) Attendance to search the register or a file at the registry and advising thereon per quarter hour or part thereof by:	
(i) an advocate	98,625 00

(ii) an unqualified employee	78,900	00
(b) Instructions to obtain Registrar's preliminary advice including drawing the prescribed form	144,650	00
(c) Instructions to obtain registry copies of documents:		
(i) one copy of any document	144,650	00
(ii) second and additional copies of same document obtained simultaneously	52,600	00

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 whose such opposition or proceedings are conducted before the Registrar, such fee as the taxing officer in the exercise of the discretion and taking into consideration the nature and importance of the opposition of rectification, the value of the trade mark to the parties concerned, the amount of evidence filed and the time required for the preparations thereof, the general conduct of the proceedings and all other relevant circumstances shall decide but not less than	1,985,650	00
(b) Attendance before the Registrar conducting opposition or rectification proceedings every whole day	407,650	00

(c) Every half day or part thereof	210,400	00
(d) On interlocutory matter, taking judgment, etc every 15 minutes or part thereof	1,11,775	00

10. Miscellaneous Matters:

(a) Instructions to advise on registerability of a mark or on a point of law of practice such fee as may be reasonable in the circumstances, but not less than	39,450	00
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(b) Attendance on the Registrar for every 15 minutes or part thereof:

(i) for argument	39,450	00
(ii) for filing papers	39,450	00

(c) Correspondence where charge for separately:

(i) per letter	26,300	00
or per folio	9,205	00
(ii) receiving and perusing letters per letter	7,890	00
Or per folio	7,890	00

(d) Drawing all other necessary documents (notices of opposition, statutory, declaration, counterstatements etc) per folio	32,875	00
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(e) Perusing documents, pleadings,

statutory, declarations etc	7,890	00
(f) All other necessary attendance (including attendance to take minutes of evidence of witnesses other than the party for whom the advocate is acting) per quarter hour or part thereof	111,775	00

The fees in item 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 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 shall be charged for separately.

SCHEDULE VIII

1.	<i>Registrations:</i>	
	Instructions to register a patent including form of authorization and stamping it, drawing and lodging application	276,150.00
2.	<i>Assignments:</i>	
	Instructions to register an assignment of a patent including drawing form of authorization and stamping it and assignment, drawing and lodging application	210,400.00
3.	<i>Extensions:</i>	
	Instructions to register an extension of a patent including drawing term of authorization and stamping it and making application for extension	210,400.00
4.	<i>Searchers:</i>	
	Attending for searching at the Registry of patents for every 15 minutes:	
	(i) by an advocate	111,775.00
	(ii) by an unqualified employee	78,900.00

SCHEDULE IX

FEES IN RESPECT OF BUSINESS THE REMUNERATION FOR WHICH IS NOT OTHERWISE PRESCRIBED

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 as it may be fair and reasonable, but so that due allowance shall be given for other charges raised under this schedule.

2. Drawing and Perusing Etc.

*Per folio
Shs.*

For drawing	32,875.00
For engrossing	6,575.00
For fair copying	5,260.00
For perusing	6,575.00

3. Attendance:

(i) In ordinary cases, per 15 minutes or party thereof 98,625.00

(ii) On routine telephone calls within Tanzania for 3 minutes or part thereof (in other cases the taxing officer may increase or diminish the charges if for any special reason he sees fit) 26,300.00

4. Time Engaged:

Where charge is so based in lieu of charges per item of work done per hour or part thereof	394,500.00
5. Correspondence:	
Letters	10,520.00
or per folio	10,520.00
Receiving and perusing letters	7,890.00
Or per folio	5,260.00
6. Opinions:	
For formal written opinion, such fees as may be reasonable in the circumstances, having regard to the same consideration as set out above for the assessment of instructions.	
7. Journey from Home:	
For every day of not less than seven hours employed	
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 matter an advocate may enter into a general agreement with a client to charge therefore 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 Shs. 131,500/= 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 for debt collections shall be 5% of the	

total debt to be collected. The scales for **DEBENTURES** should apply to **CHATTELS TRANSFERS**.

Summary suits 3% of the value of the subject matter of the suit both in the High Court and subordinate court.

SCHEDULE X

FEES IN RESPECT OF BUSINESS THE REMUNERATION FOR WHICH IS NOT OTHERWISE PRESCRIBED

<i>Amount</i>	<i>Fees</i>
For any claim not exceeding 2,630,000/=	15% - 30%
Between 2,630,000/= and 6,575,000/=	20% - 25%
Between 6,575,000/= and 13,150,000/=	15% - 20%
Between 13,150,000/= and 26,300,000/=	12% - 15%
Between 26,300,000/= and 65,750,000/=	8% - 10%
Between 65,750,000/= and 131,500,000/- million...	5% - 8%
Between 131,500, 000/- and 394,500,000/- million.....	3% - 7%
Over 394,500,000/- should be charged as if it were 394,500,000/- million	3%

Provided that where the defendant does not dispute the claim and does not file defence, the scale of fees should be two thirds of the fees above.

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SCHEDULE XI
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PROBATE AND ADMINISTRATION

1. Instruction Fees:

(a) To apply for grant of probate of written will, or proof of oral will, or letters of administration with or without will annexed, the proceeding not being contested, where the gross capital value of property comprised in the grant:-

Amount		<i>Fees</i>
Exceeds	But not exceed	
13,150,000/=	26,300,000/=	670,675/-
26,300,000/=	65,750,000/=	1,328,150/-
Over 131,500,000/-m		2%

(b) To apply for re-scaling a grant, the proceedings not being contested: four-fifths the fee provided under paragraph (a)

(c) To lodge a caveat or a renunciation of a right 276,150.00

(d) To lodge an objection to a grant, or a citation or other application or proceeding under any provision of the Law of Probate and Administration not otherwise provided for in this Schedule: Such sum as the taxing officer shall consider reasonable, but not less than 276,150.00

(e) To order an inventory on account, including estate duty affidavit, corrective estate duty affidavit and inventory included in or annexed to an affidavit in support of petition ..	1% of net estate
2. Drawing: Each form or document prescribed under or required by the Law of Probate and Administration	21,040.00 each document
3. Copies: Per folio	10,000.00
4. Perusing	10,000.00 per folio
5. Letters and Attendances: Including those necessary in ascertaining the particulars, extent and identity of an estate, and the raising and settlement of estate duty:	
(a) Letters despatched	100,000.00
Or per folio	100,000.00
(b) Letters received and perused	100,000.00
Or per folio	100,000.00
a. Attendances:-	
(i) in ordinary cases or 15 minutes or part thereof	100,000.00
(ii) routine telephone calls within Tanzania for three minutes or part thereof	100,000.00
(iii) in other cases the taxing officer may	

increase or diminish the above charges if, for any special reason, he sees fit.

b. Actual Administration of a Testamentary or Other Estate or Trust:

(a) Such annual or semi-annual fee as may be reasonable in the circumstances, having regard to the care and labour required, the number and length of the paper to be perused, the value and complexity of the estate, the interests of the parties and all other relevant circumstances; or by agreement of client advocate.

(b) An annual commission of such amount as the taxing officer shall consider reasonable, having regard to all the circumstances, but not exceeding in aggregate the following rates:-

(i) on the estimated net capital value of the estate

1% per annum

(ii) on the amount of the income of the estate

2% per annum

(iii) on the capital value of any portion of the estate which is realized or invested Or by agreement of client and advocate

3% per annum

(c) An amount based upon schedule VIII provided that:-

(i) in relation to a shorter period than a year or half year, a fee under paragraph (b) (i) shall be calculated

- with reference to period;
- (ii) a fee charged under paragraph (a) or (b) shall include all necessary correspondence received and sent and attendance relative thereto and the preparation of the set of inventory and accounts for that year but any additional inventories or accounts required or formal documents filed or proceedings taken under the Probate and Administration Ordinance shall be charged for separately under the appropriate paragraphs of this schedule.

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SCHEDULE XII
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**COSTS OF PROCEEDINGS IN THE HIGH COURT AND
 SUBORDINATE COURTS**

1. *Instruction Fees:*

The fee for instructions in the suit shall be as Shs.
 prescribed in these paragraphs.

(a) To present or oppose a petition for winding
 up a company ... 2,500,150.00

(b) To support a petition for winding up a
 company 1,500,000.00

(c) To present a petition for dissolution of
 marriage, nullity, judicial separation:

(i) Where the proceedings are not
 defended 500,00.00

(ii) Where the proceedings are defended:
 or to defend such proceedings: such
 sum as the taxing officer shall
 consider reasonable but not less than
 1,500,000.00

(iii) To apply for ancillary relief:
 if application heard together with
 petition or answer as the case may be
 1,300,000.00

If application not heard together with
 petition or answer as the case may be
 1,600,000.00

(c) To apply for custody or access	1,500,000.00
(d) To present or defend an application to a judge under the Law of Marriage (Matrimonial Proceedings) Rules 1971 or Law of the Child Act of 2009 not covered by the above	1,200,000.00
(d) To present or oppose such an application for adoption:	
(i) sum as the taxing officer shall consider reasonable but not less than	1,500,000.00
	1,500,000.00
(ii) to present or oppose an application under the Law of the Child Act of 2009 or substitute legislation	1,600,000.00
(e) 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	2,000,000.00
(f) To present an application for leave for a prerogative order: such sum as the taxing officer shall consider reasonable but not less than	2,000,000.00
(g) To present or oppose an application for a prerogative order: such as the taxing officer shall consider reasonable but not less than	

- (h) To sue or defend in any case not provided for above: (as shown below)
- (i) To present or oppose an appeal in any case not provided for above: (as shown below)
- (j) For applications, notices of motion or chamber applications, (including appeals from taxation) (as shown below)

- Unopposed	1,500,000.00
- Opposed.....	2,000,000.00

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 double where requisite;
- (iii) 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) together with the arrears of rent or mesne profits (if any) is found due.

2. *Copies:*

- (a) Complaint, 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 1,000,000.00
- (b) The actual cost of copies of judge's notes be spoken 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 Rule 56).
- (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 trial: such sum as may be reasonable not exceeding per folio 500,000.00

(e) Other copies: per folio	250,000.00
3. Service:	
(a) Within three kilometres of the Court	20,000.00
(b) Every additional kilometre over these: such amount as is reasonable, not exceeding per kilometre	6,000.00
(c) By post, if authorized	5,000.00
 4. Plans, Models, etc.	
Plans, charts, photographs or models for use of judge at trial: such sum as may be reasonable under the circumstances.	
 5. Translation:	
Such sum as is reasonable but not less than per folio	30,000.00
 6. Costs in Unopposed Execution Proceedings:	
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	
(i) Attendance at court filling application	50,000.00
(ii) Attending court to peruse order.....	100,000.00

SCHEDULE XIII

**BANKRUPTCY PROCEEDINGS
PETITIONING DEBTOR'S ADVOCATE'S COSTS
INSTRUCTIONS FOR PETITION**

**INSTRUCTION FEES AS PRESCRIBED IN CONTENTIOUS
MATTERS SCHEDULE IX**

Instructions to apply for discharge	<i>Shs.</i> 1,000,000.00
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A Certificate of the Official Receiver as to the value which the assets are likely to realise shall be produced to the Taxing Officer and the allowance for instructions for petition made accordingly.

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.

**PETITIONING CREDITOR'S ADVOCATE'S BILL OF
COSTS**

Instructions for petition to adjudicate debtor bankrupt as per scales prescribed in contentious matter.

Instructions for appointment of interim receiver of a bankrupt's estate	2,000,000.00
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Where the debtor disputes the statements in the petition, further instruction ...	1,500,000.0
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DEBTOR'S ADVOCATE'S COSTS

Where the court allows costs to the debtor on dismissal of petition in bankruptcy:

Instruction to oppose petition 2,500,000.00

The scale of costs in bankruptcy matters is supplemental to all other scales of costs as provided by rules of court for taxation, and the Taxing Officer shall in taxing bills of costs in such matters tax all acts, appearances, and work done not provided for in the above scale according to such scale or scales in force for the time being for the taxation of costs.

BANKRUPTCY PROCEEDINGS DRAWING

Concise statement, plaint, written statement, 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 (under two folios) 2,000,000.00

The like over two folios additional per folio after the first two 500,000.00

Drawing creditor's or debtor's petition that debtor be adjudicated bankrupt per folio Shs. 39,450/- but not less than 1,500,000.00

Drawing notice of objections by debtor to creditor's petition where the court allows costs to the debtor on dismissal of creditor's petition, per folio Shs.39,450/- but not less than 1,500,000.00

All other necessary documents under two folios 500,000.00

The like over two folios, per folio 250,000.00

Every agreement raising questions of law or fact for the decision of the court (unless certified by the judge to be allowed at a higher rate) 1,000,000.00

Bill of costs, per folio 500,000.00

COPIES

Of plaint, written statement, 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 ever other necessary document (whether for court or opposing party) per folio 250,000.00

The actual cost of copies of Judge’s notes from day today as a case proceeds may be allowed if certified by the trial Judge.

Printing: actual cost supported by vouchers shall be allowed.

ATTENDANCES

(i) On any necessary application to or attendance on the Registrar 200,000.00

(ii) Where there are several deponents, or it is necessary for the purpose of having an affidavit sworn or to employ an agent: reasonable allowance may be made on special grounds by the Taxing Officer.

(iii) To inspect or produce for inspection, pursuant to a notice per half hour or part thereof provided that no allowance shall be made for any notice or inspection where it is shown that there were not good and sufficient reasons for giving the same 500,000.00

(iv) At office of court or upon opposite party on his advocate not otherwise provided for, which may be

necessary: such fee as is reasonable but not less than	200,000.00
(v) Where in consequence of anything done by the opposite party it becomes necessary to advise or receive instructions from a client in the progress of an action or matter, for each necessary attendance: such fee as is reasonable but not less than	300,000.00
(vi) At court on settlement of issues or for other, to make or oppose any application or motion before the Judge or District registrar in Chambers	200,000.00
(vii) For the second or any further day's attendance on any such application or motion, if specially allowed by the order of the Judge or Registrar	150,000.00
(viii) At meeting of creditors of a bankrupt per half hour or part thereof	100,000.00
(ix) On behalf of petitioning creditor at court on presentation of petition that debtor be adjudicated bankrupt	100,000.00 per 30 minute
(x) On petitioning creditor or receiver after receiver appointed and giving him all necessary information	100,000.00 per 30 minutes
(xi) In court or in chambers on any matter on a date fixed by the court for hearing when case cannot be taken and notice has been given on the previous day that case will not be taken	100,000.00 per 30 minutes
(xii) To hear a deferred judgment or to obtain judgment on an arbitrator's award or commissioner's report when the award or report is not disputed	100,000.00 per 30 minutes

(xiii) In court on order day when summons unsaved	100,000.00 per 30 minutes
(xiv) In court to ask for judgment where claim admitted before the hearing.....	100,000.00 per 30 minutes
(xv) In court for orders if defendant served and plaintiff proves his case or defendant appears and admits the claim and judgment is given	100,000.00 per 30 minutes
(xvi) At officer of court or Registrar to be speak or receive copies of proceedings or approving draft decree	100,000 per 30 minutes
(xvii) With Judge or with Judge and assessors on a view out of court: the same fees as for attendance in Court conducting case, in addition to all expenses properly incurred in getting to and from the place viewed	100,000.00 per 30 minutes
(xviii) Before a commissioner for adjustment of accounts	100,000.00 per 30 minutes
(xix) Before an arbitrator: same fees as for conducting a case in court	100,000 per 30 minutes
(xx) Before Taxing Officer on taxation	100,000.00 per 30 minutes
(xxi) Special not otherwise provided for: at Taxing Officer's discretion .	

(xxii) Examining and taking minutes of evidence of each witness afterwards allowed on taxation	100,000.00 per 30 minutes
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(xxiii) In special cases, in addition, for preparing and making copies of any account or other documents 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 ...	100,000.00 per 30 minutes
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PERUSALS

(a) Of pleadings, memo of appeal, interrogatories and answers thereto, notice to admit or produce, petition to wind up company, petition in bankruptcy, notice of motion in court, originating summons or other necessary document not specifically provided for

Or per folio

(b) Of Affidavits, per folio 6,575/- but not less than

(c) Of notices and other formal documents.....	50,000.00
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(d) Of necessary letter	50,000.00
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Exhibits attached to affidavits will not as a rule be allowed for unless they are required to be read in detail as part of the affidavit.	50,000.00
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(e) For reading and correcting proofs of printed matter per folio	20,000.00
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COSTS IN SUITS FOR DEBT OR LIQUIDATED DEMAND

The cost of a suit for a debt or liquidated demand in money with or without interest due on a contract expressed or implied where the amount claimed is paid

either into court or to the plaintiff before the date fixed in the summons for the first attendance of the defendant:

(a) Where there is one defendant	200,000.00
(b) For each defendant after the first	100,000.00
(c) If substituted service is effected the following additional costs shall be charged	100,000.00

In the event of the suit being defended these costs shall not apply.

SERVICE

(a) Within three kilometres of the court	
(b) Every additional kilometre over three: such amount as is reasonable:	50,000.00
(c) By post if authorized	20,000.00

PLANS, MODELS, ETC.

Plans, charts, photographs or models for use of judge at trial: such sum as may be reasonable.

TRANSLATION

Of necessary documents or accounts, per folio	50,000.00
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ALLOWANCE TO WITNESSES

The allowance shall be for the number of days a witness was necessarily absent from home for the purpose of the trial in going, remaining and returning:

- (1) Public employees – According to their allowances while on official duty.

- (2) Others: According to their income.
- (3) Professional men in practice - 200,000/= per day.

SCHEDULE XIII

Paragraph 14 (2)

Form of Memorandum of reference from decision of Taxing Officer

PART I

Name of Client/Complainant

Address of Client/Complainant

Name of Advocate/Respondent

Citation of Case/subject matter for reference

Decision of Taxing Officer

Summary of decision of Taxing Officer

Prayer sought by Client/Complainant

Signed by Complainant

Date

PART II
DECISION ON REFERENCE

Dated this day of 20..

Signed

Title

Date

CHAIRMAN
REMUNERATION COMMITTEE
TANGANYIKA LAW SOCIETY

I APPROVE

PRESIDENT

Dar es Salaam,
.....2011

Explanatory Note

The fees and costs payable to advocates by their clients have always been the subject of regulation right from the beginning of the British administration in the early 1920s when the common law system of courts was introduced in Tanganyika and

Advocates were permitted to appear and plead on behalf of parties who engage them. With the abrupt end of the German rule in Tanganyika Territory (now Mainland Tanzania) at the end of the First World War, the High Court of Tanganyika was established through the Tanganyika Order in Council, 1920 under the UK Foreign Jurisdiction Acts. Article 26 of the Order in Council empowered the colonial Governor to regulate very closely the fees and costs which an advocate may lawfully charge his client. Fixed schedules of fees were set, and the Taxing master was given wide powers to determine or 'tax' what the advocate charges the client, particularly where the client disputes the fees or costs demanded. Detailed fixed fees were prescribed for non-contentious and contentious legal work performed by Advocates in the courts and in their chambers.

Right from the 1920's when the British administration was set up in Tanganyika up to the attainment of political independence in 1961, and thereafter up to 1991 advocates' fees and costs were regulated by the Advocates' Remuneration and Taxation of Costs Rules of 1921 as amended from time to time. The current regime which governs the fees payable to advocates is the Advocates' Remuneration and Taxation of Costs Rules, 1991 (published in G.N. 515 of 1991). These Rules have retained the basic policy of price regulation of the fees and costs charged on clients by advocates.

However, following the liberalisation of the economy in Tanzania from the late 1980's and the globalisation of the legal and other professions worldwide means that the price charged for services and goods should be left to be determined by the market forces, rather than by schedules fixed by law.

The present Order sets the minimum schedules of fees with room for the client and his Advocate to be able to bargain on the fees chargeable. The agreement must be reduced into writing

which will be the basis for settlement by the Taxing officer in case of dispute. Advocates will be permitted to plead for impecunious clients but may recoup themselves from any costs awarded in favour of his client who wins the case.