

GOVERNMENT NOTICE NO. 263 published on 17/07/2015

THE ADVOCATES ACT
(CAP. 341)

ORDER

(Made under section 49(3))

THE ADVOCATES REMUNERATION ORDER, 2015

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THE ADVOCATES ACT
(CAP. 341)

ORDER

(Made under Section 49(3))

THE ADVOCATES REMUNERATION ORDER, 2015

PART I
PRELIMINARY PROVISIONS

- Citation 1. This Order may be cited as the Advocates Remuneration Order, 2015.
- Application 2. This Order shall apply to the remuneration of an advocate by a client in contentious and non-contentious matters, for taxation thereof and the taxation of costs between a party and another party in matters in the High Court and in courts subordinate to the High Court, arbitral tribunals and tribunals from which appeals lie to the Court of Appeal.
- Interpretation 3. In this Order, unless the context otherwise requires-
“folio” means 100 words, and a single figure or group of figures up to five in number or an item in account, which shall, for this purpose, be counted as one word;
“remuneration agreement” means an agreement between an advocate and a client stipulating terms payment of charges in respect of services offered or to be offered by the advocate to his client;
“taxing officer” means the Registrar, Deputy Registrar of the High Court, Resident Magistrate in-charge of a Resident Magistrates Court or a District Court, other officer of the court as the Chief Justice may appoint or such other officer as the law may provide;

“taxation proceedings” shall mean an application for taxation of a bill of costs or an application to enforce, set aside, or determine any question as to validity or effect.

PART II
TAXATION PROCEEDINGS

Application
for taxation

4. A decree holder may, within sixty days from the date of an order awarding costs, lodge an application for taxation by filing a bill of costs prepared in a manner provided for under Order 55.

Remuneration
agreement

5.-(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 within sixty days from the date on which the dispute arose.

(2) An application under sub-order (1) 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 person who has pecuniary interest on the agreement.

(3) The taxing officer shall, in determining a remuneration agreement-

- (a) order client who is party to the agreement to pay the advocates such costs incurred by such advocate for services rendered to that client in any matter; and
- (b) disallow costs incurred through over-caution, negligence or mistake, or by any other inappropriate expenditure.

Notice of
taxation

6.-(1) When taxation proceedings have been instituted, the taxing officer shall issue a notice specifying the date and time of taxation.

(2) The notice issued under order (1), shall be served to the parties to the taxation proceedings within five days before the date of taxation and it will be accompanied by a copy of the bill of costs.

(3) Where a person who is required to serve with a notice pursuant to sub-order 2 cannot be found at his last known address taxing officer, may by order in writing, dispense with service of notice upon such person.

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Reference from the decision of the taxing officer

7.-(1) Any party aggrieved by a decision of the Taxing officer, may file reference to a judge of the High Court.

(2) A reference under order (1), shall be instituted by way of chamber summons supported by an affidavit and be filed within 21 days of from the date of the decision.

(3) The applicant shall within seven clear days of filing reference save copies all parties entitled to appear on such taxation.

(4) For purpose of service under sub order (3), it shall be sufficient if the chamber summons has been endorsed and stamped by the Registry Officer.

Extension of time

8.-(1) The High Court may, subject to order 7 extend the time for filing a reference upon sufficient cause.

(2) An application for extension of time shall be made by way of chamber summons supported by an affidavit and be served to parties at least seven days before for hearing date.

Reference to High Court

9. Taxing officer may, with the consent of both parties or on his own motion, refer any matter in dispute arising out of the taxation of a bill for the opinion of the High Court.

Taxation of costs between advocate and client

10.-(1) The taxing officer may, upon an application by an advocate or the client tax cost between advocate and client.

(2) The taxing officer shall, where a client applies for taxation of a bill which has been rendered in summarised or block form, the taxing officer, give the advocate an opportunity to submit an itemised bill of costs.

(3) The advocate shall not be bound by or limited to the amount of the bill rendered in summarised or block form applied for sub order (2).

(4) Where an application under order (1) has been filed the taxing officer shall issue notice to both parties, stating the date, time and place.

Default of advocate to attend taxation after notice

11. Where an advocate who has been served with a notice to appear for taxation-

(a) fails to appear to appear on the date and at the time

fixed for taxation or on any date and time to which such taxation is adjourned;

(b) delays or impedes the taxation; or

(c) puts any other party to any unnecessary or improper expense relating to such taxation shall,

the Taxing officer shall issue an order forfeiting the fees entitled to the advocate for drawing the bill of costs and attending taxation or for paying for any unnecessary or improper expense to which such advocate caused the other party to incur and he may proceed *ex parte* with such taxation.

Discretion of taxing officer

12.-(1) The taxing officer may allow such costs, charges and expenses as authorised in this Order or appear to him to be necessary or proper for the attainment of justice.

(2) The taxing officer shall not allow, any costs incurred or increased through over-caution, negligence or mistake, or by payment of special charges or expenses to witnesses or other persons.

Refusal of remuneration

13. An advocate shall not agree or accept remuneration more than that provided by this Order.

Additional remuneration

14. An advocate shall, where any business requires and receives exceptional dispatch, be entitled to receive additional remuneration as is appropriate in the circumstances, between the advocate and client.

Special fee

15. An advocate shall in business of exceptional importance or unusual complexity, be entitled to receive as against his client, a special fee in addition to the remuneration as prescribed in this Order.

The taxing officer shall, in assessing the special fee, consider following-

(a) the nature of the place and the circumstances in which the business or part thereof is transacted;

(b) the nature and extent of the pecuniary or other interest involved;

(c) the nature and quality of labour and responsibility entailed;

- (d) the number, complexity and importance of documents prepared or examined; or
- (e) any other relevant circumstances.

Security from client for advocate's remuneration

16.-(1) An advocate may accept security from his client for-

- (a) the amount to become due to the advocate for remuneration and disbursements in business to be transacted or being transacted by him; and
- (b) interest on such amount; but that interest shall not commence until the amount due is ascertained by either agreement or taxation.

(2) The amount referred to under paragraph (a) of sub order (1), shall be deemed to have been agreed after the expiry thirty days from the date of delivery of the bill, unless the client has within such period applied to have the same taxed.

Interest charges

17.-(1) An advocate may charge interest at 12% per annum on his disbursements and allowable costs from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill has been paid or tendered in full.

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

PART III NON-CONTENTIOUS MATTERS

Non-contentious matters

18. 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, trademarks 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.

Remuneration
of an advocate
in certain non-
contentious
matters

19. The remuneration of an advocate in respect to business connected with sales, purchases, leases, mortgages, settlements and other matters of conveyancing and other business not being business in any action or transaction in any court or in chambers of any judge, registrar or magistrate shall be regulated as follows-

- (a) in respect of sales, agreements for leases or conveyances the remuneration of the advocate having the conduct of the business shall be prescribed in the First Schedule and the Second Schedule of this Order and shall be subject to the scales therein contained;
- (b) in respect of leases, agreements for leases or conveyances reserving rents or agreements for the same, when the transaction shall have been completed, the remuneration of the advocate having the conduct of the business shall be that prescribed in the Third Schedule of this Order;
- (c) in respect of any business referred to in paragraph (a) and (b) which is not completed and in respect of business not hereinbefore provided for, connected with any transaction the remuneration for which if completed is prescribed in the Schedules First, second and Third but which is not in fact completed, and in respect of other deeds or

documents the remuneration for which is not prescribed in Schedules the remuneration shall be regulated according to the Eighth Schedule, save in the following matters-

- (i) in respect of business in connection with proceedings in probate and administration, remuneration shall be regulated by the Tenth Schedule;
 - (ii) in respect of business in connection with floating of companies, the remuneration shall be regulated by the Fifth Schedule;
 - (iii) in respect of business in connection with registration of trademarks, inventions and designs, the remuneration shall be regulated by the Fourth Schedule and the Seventh Schedule.
- (d) in respect of any business referred to in paragraph (a) and (b) which is not completed, and in respect of other deeds or documents, including settlements and of all other business of a non-contentious nature the remuneration for which is not hereinbefore provided for, the remuneration shall be that prescribed in the Fifth Schedule to this Order.

Remuneration not to include stamps, auctioneers' charges, etc

20. The remuneration prescribed in this Part does not include stamps, auctioneer's or valuer's charges, agency fees or travelling and hotel expenses, extracts from any register, record or roll, cost of photocopies, stationery, copies of letters and other disbursements reasonably and properly incurred, but includes charges and allowances for the time of the advocate and his clerks.

Remuneration for conveyance on a sale by auction

21. The remuneration for deducing title, perusing and completing conveyance on a sale by auction shall be chargeable on each lot of property except that where property held under the same title is divided into lots for convenience of sale and the same purchaser buys several such lots and takes one conveyance and only one abstract of title is delivered, the

commission shall be chargeable upon the aggregate prices of the lots.

Remuneration on attempted sale by auction

22.-(1) The remuneration on an attempted sale by auction in lots shall be chargeable on the aggregate of the reserved prices.

(2) When property offered for sale by auction is bought in and terms of sale are afterwards negotiated and arranged by the advocate he shall be entitled to charge according to the scales prescribed in the First Schedule on the reserved price for negotiating the same.

(3) When property is bought in and afterwards offered by auction by the same advocate, he shall only be entitled to charge according to the scale in the First Schedule for the first attempted sale, and for each subsequent sale ineffectually attempted he may charge only according to the Second Schedule.

(4) In case of a subsequent effectual sale by auction the full remuneration for an effectual sale shall be chargeable in addition less one half of the remuneration previously allowed on the first attempted sale.

Charges where advocate is concerned for both mortgagor and mortgagee or vendor and purchaser

23.-(1) Where an advocate is concerned for both mortgagor and mortgagee he shall be entitled to charge the mortgagee's advocate's charges and one half the mortgagor's charges.

(2) Where an advocate acts for both vendor and purchaser he shall be entitled to charge purchaser's advocate's charges and one half the vendor's advocate's charges, and such charges shall be pooled and paid by the vendor and purchaser equally.

Scale charges

24. Scale charges shall include all work ordinarily incidental to a transaction, and in the case of a conveyance, transfer or mortgage it shall include-

- (a) taking of instructions to prepare the necessary deed or document;
- (b) investigation of title;
- (c) report of title to the client;

- (d) preparation or approval or adjustment of the deed or document;
- (e) settlement of transaction if in the town of the advocate's practice;
- (f) obtaining by correspondence any necessary consent;
- (g) registration of deed; or
- (h) correspondence between advocate and client:

Provided that such charge shall not include-

- (i) prior negotiation necessary or leading to the completion of a bargain;
- (ii) tracing of title deeds or obtaining certified copies thereof;
- (iii) payment of withholding tax or obtaining of exemption thereof;
- (iv) completion of valuation forms for assessment of stamp duties and tax;
- (v) adjudication of stamp duties;
- (vi) personal attendance in obtaining any necessary consent under suborder (i);
- (vii) extra work occasioned by special circumstances; or
- (viii) extra work occasioned by change of circumstances emerging while an item of business is in progress, e.g. the death or the bankruptcy of a party to a transaction; or
- (ix) any other relevant matter.

Calculation of
scale

25. In the calculation of scale charges, the basis of a charge shall, unless charges otherwise provided in the Schedules to this Order, and irrespective of the number of titles involved or documents required to be prepared or approved, be the sum set forth in the deed or document as the price or consideration or, where only a nominal price or consideration is set forth, the value of the subject matter affected by the deed which shall be deemed to be-

- (a) the value fixed for the purpose of stamp duties; or
- (b) the sum at which the property affected has last been passed for estate duty; or

- (c) the last price at which a sale has taken place within 10 years from the date of transaction; or
- (d) the estimated average market value during the preceding three years.

Charges where conveyance and mortgage are prepared by one advocate

26.-(1) Where a conveyance and mortgage of the same property are completed at the same time and are prepared by the same advocate he shall be entitled to charge only half the fees in Schedule I, for investigating of title and preparing the mortgage deed as shown in Schedule I.

(2) Where a conveyance and mortgage of the same property are completed at the same time, the respective advocate acting for the vendor and purchaser shall charge two-thirds of the appropriate scale fee on the conveyance for preparing and approving the mortgage.

Charges for approving draft on behalf of several parties having different interests

27. If an advocate approves a draft on behalf of several parties having distinct interests proper to be separately represented, he shall be entitled to twenty thousand shillings additional for each such party after the first.

Scale: how reckoned where property is sold subject to encumbrances

28. Where a property is sold subject to encumbrances it is to be deemed part of the purchase money except where the mortgagee purchases, in which case the charge of his advocate shall be calculated upon the price of the equity of redemption.

Scale: how reckoned on transfers of mortgages

29.-(1) The above scale as to mortgages shall apply to transfers of mortgages where the title was investigated by the same advocate on the original mortgage or on any previous transfer, but it shall not apply to further charges where the title has been so previously investigated.

(2) On transfers and further charges the remuneration shall be regulated according to the Schedule Eighth hereto, but the scale for negotiating the loan shall be chargeable on such transfers and further charges where it is applicable.

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Scale for
conducting a
sale by auction

30.-(1) Where no commission is paid by the client to an auctioneer, the advocate's remuneration in respect of sale by auction shall be regulated by the Schedule Eighth.

(2) The scale of negotiation shall apply-

(a) to cases where the advocate of a vendor or purchaser arranges the sale or purchase and the price, terms and conditions thereof, and no commission is paid by the client to an auctioneer's legal practitioner, and

(b) to cases where the advocate arranges and obtains the loan from a person for whom he acts.

Abstract of
title furnished
by vendor

31. Where the vendor or lessor furnishes, at the request of the purchaser or lessee, an abstract of title it shall be charged for according to Schedule VIII.

Where
advocate is
concerned for
both vendor
and purchaser
or lessor and
lessee

32. Where an advocate is concerned for both vendor and purchaser or lessor and lessee, he may charge the vendor's or lessor's advocate's charges and one half of that of the purchaser's or lessee's advocate's charges.

Where a
mortgagor
joins in a
conveyance or
lease

33. Where a mortgagor or mortgagee joins in a conveyance or lease the vendor's or lessor's advocate may charge Shillings Fifteen Thousands s in addition.

Where a party
other than
vendor or
lessor joins a
conveyance
and is
represented by
a separate
advocate

34. Where a party other than a vendor or lessor joins in a conveyance or lease and is represented by a separate advocate the charges of such separate advocate shall be dealt with under the Eighth Schedule.

Where
consideration
for
conveyance or
lease consists
of premium
and rent

35. Where a conveyance or lease is partly in consideration of a money payment or premium and partly of a rent then in addition to the remuneration hereby prescribed in respect of the rent there shall be paid a further sum equal to the remuneration on a purchase at a price equal to such money payment or premium.

Conveyancing documents

36. Unless otherwise agreed, all conveyancing documents shall be prepared by the advocate for the parties as follows-

- (a) conveyance or transfer: advocate of the purchaser or party to whom property is conveyed, transferred or assigned;
- (b) mortgage or charge: advocate of mortgagee or chargee;
- (c) release or discharge: advocate or party in whose favour release or discharge is given;
- (d) lease: advocate of lessor; and
- (e) all other documents: advocate of the guarantee or obligee unless express provision to the contrary is made elsewhere in this Order.

Advocate acting on behalf of a building society mortgagee

37.-(1) Where an advocate acting on behalf of a building society mortgagee makes use of a printed or stereo-typed form of engrossment, mortgage or discharge, the fee payable to the mortgagee's advocate under Schedule I shall be reduced by one-third but not in excess of half of the scale fee.

(2) For the purpose of this order, a building society shall be deemed to include an association, corporation or company acting in the making of an advance or the lending of money on the security of, or for the purposes of purchasing of building, domestic or residential property.

Advocate acting on behalf of a lessor in two or more leases

38. Where an advocate acting on behalf of a lessor who is granting or proposing to grant two or more leases in common form makes use of printed or stereo-typed form engrossment of lease, the fee payable to such advocate in respect of each such lease under the Second Schedule shall be reduced by one third.

Bills of costs

39. Bills of costs shall be drawn in accordance with scales provided in the Schedules to this Order.

PART IV TAXATION OF COSTS IN CONTENTIOUS PROCEEDINGS

Application of Part IV

40.-(1) This Part shall apply to contentious proceedings and taxation of costs as between advocate and client and

between party and party in contentious and other proceedings.

(2) Contentious business shall include:

- (a) proceedings in the High Court of Tanzania and all courts subordinate to the High Court where an advocate is allowed to appear;
- (b) proceedings in arbitration;
- (c) proceedings in a tribunal established under any written law; and
- (d) proceedings in any other judicial or quasi-judicial body.

Costs in
contentious
proceedings

41. Bills of costs incurred in contentious proceedings under this Part shall be taxable according to the rates prescribed in the Tenth, Eleventh and Twelfth Schedules to this Order.

Costs taxable
as between
party and party
or as between
advocate and
client

42. The costs of any matter or application shall be taxed and paid either as between party and party or as between advocate and client or as the court may direct.

Costs on an
opposed
application

43. In the absence of any express direction, costs of an opposed application shall follow the event, and shall be taxed as between party and party.

Court may
determine
amount in lieu
of taxed costs,
etc

44. The Court may of its own motion fix a sum to be paid in lieu of taxed costs and shall at the request of all parties to any proceedings, record as an integral part of the court's final order or judgment therein, the agreement of the parties as to the amount of costs to be paid in pursuance of the order or judgment, unless the court for reasons to be recorded, considers the amount so agreed as exorbitant or unreasonable.

Application
for costs when
not made at
the time of the
proceeding

45.-(1) Where any party to, or person affected by, any proceedings desires to make an application for an order that he be allowed his costs, or any part of them incidental to such proceeding, and such application is not made at the time of the proceeding, such party or person shall serve notice of his

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intended application on all parties interested, who may appear on such application and object thereto.

(2) No cost of or incidental to such application shall be allowed to the applicant unless the court is satisfied that the application could not have been made at the time of the proceeding.

Bills to be taxed on prescribed scale

46. All bills of costs shall be taxed on the prescribed scale, unless a Judge of the High Court, for special reasons to be certified, allows costs in addition to the costs provided by the scale or refuses to allow costs or allows costs at a lower rate than that provided by the scale.

Fees over and above the remuneration agreement

47. 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.

Excessive claim

48. When more than one-sixth of the total amount of a bill of costs exclusive of court fees is disallowed, the party presenting the bill for taxation shall not be entitled to the costs of such taxation:

Provided that, at the discretion of the taxing officer any instruction fee claimed, may be disregarded in the computation of the amount taxed of that fee in the computation of the one-sixth.

Costs of more than one advocate to be certified by the Judge

49. The costs of more than one advocate may be allowed in cases or matters in which, the Judge at the trial, in the case of a plaintiff, having regard to the amount recovered or paid in settlement or the relief awarded or the nature, importance or difficulty of the case and, in case of the defendant having regard to the amount sued for or the relief claimed, or the nature, importance or difficulty of the case has certified under his hand that more than one advocate was

reasonable and proper, and such certificate may be granted in respect of two members or employees of the same firm.

Costs
improperly
incurred by
advocate

50.-(1) Where it appears to the court or tribunal that costs have been improperly or without reasonable cause incurred or by reason of-

(a) undue delay in proceeding under any judgment or order; or

(b) any misconduct or default of the advocate, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the court or tribunal may call on the advocate by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the advocate and his client, and also as the case may require why the advocate should not repay any costs which his client may have been ordered to pay to any other person, and thereupon may make such order as the justice of the case require.

(2) The court or tribunal may, if it deems fit, refer the matter to a taxing officer for inquiry and report, and direct the advocate to show cause before the taxing officer.

When costs
upon an award
may be taxed

51. Costs may be taxed upon an award in arbitration notwithstanding that the time for setting aside the award has elapsed.

No notice
where
defendant has
not appeared

52. Notice of taxation of costs shall not be necessary in any case in which the defendant has not appeared in person or by advocate.

Official
Receiver in
bankruptcy or
insolvency to
have notice

53. In bankruptcy or insolvency matters every person whose bill or charges is or are to be taxed shall, in all cases, give reasonable notice of appointment to tax the same to the official receiver, and shall on application furnish him with a copy thereof on payment at the ordinary copying rate per folio, which payment may be charged to the estate.

Refusal or

54. When any party entitled to costs refuses or neglects

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neglect in
lodging bills

to bring in his costs for taxation or to procure the same to be taxed and thereby prejudices any other party, the taxing officer shall be at liberty to certify the costs of other parties and certify such refusal or neglect bills or may allow such party refusing or neglecting a nominal sum or other sum for such costs so as to prevent any other party being prejudiced by such refusal or neglect.

Manner of
preparing bills
for taxation

55.-(1) Bills of costs shall show the case and title of the name concerned and shall be prepared in five columns, as follows-

- (a) the first or left hand column for dates showing year, month and days;
- (b) the second for the number of items;
- (c) the third for the particulars of the service charged for;
- (d) the fourth for the professional charges; and
- (e) the fifth for the taxing officer's deduction.

(2) Disbursements shall be shown separately at the foot of the bill.

(3) Fees for attending taxation shall not be included in the body of the bill, but the item shall appear at the end, and the amount left blank for completion by the taxing officer.

(4) Every bill of costs which shall be lodged for taxation shall be endorsed with the name and address of the advocate by whom it is lodged, and also the name and address of the advocate for whom he is agent.

Bills not to be
altered after
being lodged

56. No addition or alteration shall be made in a bill of costs by the party submitting the same after the bill has been lodged for taxation, except by consent of the parties, or by permission or direction of the court, tribunal or taxing officer.

Advocate of
petitioner to
give credit for
deposit

57. The advocate in the matter of a bankruptcy or insolvency petition presented by the debtor against himself shall, in his bills of costs, give credit for such sum or security, if any, as he may have received from the debtor, as a deposit on account of the costs and expenses to be incurred in and about the filing and prosecution of such petition and the amount of any such deposit shall be noted by the taxing officer in his certificate of taxation.

Vouchers to be produced on taxation

58.-(1) Receipts or vouchers for all disbursements charged in a bill of costs (other than witness allowances and expenses supported by a statement signed by an advocate) shall be produced at taxation if required by the taxing officer.

(2) All drafts and other documents or copies of them, the preparation of which is charged for, shall be produced at taxation if required by the taxing officer, and those charged for by the folio shall have the folios of the documents or copies consecutively numbered in their margin, and the number of the folios shall be endorsed on them in figures.

(3) The length of all documents not vouched for by production of the original copies of the documents or other evidence satisfactory to the taxing officer may be certified by the advocate in writing, and if the certificate is found by the taxing officer to be erroneous, the taxing officer may disallow the cost of the document so erroneously certified or any part of it.

Certificate of taxing officer on bills taxed under special order

59. When a bill of costs is taxed under any special order of the court, and it appears by such order that the costs are to be paid otherwise than out of the estate of a bankrupt or insolvent, minor, lunatic or deceased person the taxing officer shall note in his certificate of taxation by whom or the manner in which such costs are to be paid.

Reasonable charges and expenses of witnesses

60.-(1) The taxing officer shall allow reasonable charges and expenses of witnesses who have given evidence and shall take into account all circumstances and without prejudice to the generality of the foregoing, the following factors-

- (a) the loss of time of the witness;
- (b) if the witness is a party, the time spent giving evidence;
- (c) the loss of wages or salary to the witness or his employer while attending court;
- (d) the cost of traveling, board and lodging in accordance with the status of the witness;
- (e) where the witness is a professional person, any

scale fees by which he may charge for his time or attendance;

- (f) if the witness came from abroad, whether this was a reasonable means of obtaining his evidence after considering the importance or otherwise of his evidence;
- (g) where the witness is an expert witness as defined by the Evidence Act and has given evidence, a fee for qualifying to give evidence where he has reasonably had to spend time, effort or money in investigating the particular matter on which he gave evidence.

(2) The taxing officer shall allow reasonable charges and expenses in respect of any person not actually called as a witness whose attendance has been certified as necessary by the Court or Tribunal.

Discretion of
taxing officer
in allowing
witnesses

61.-(1) The taxing officer shall not be absolutely bound by the scale but shall allow just and reasonable charges and expenses as appear to have been properly incurred in procuring evidence.

(2) A party who is a material and necessary witness may be allowed for his loss of time and expenses as if a stranger to the suit.

(3) When taxing costs, witnesses' expenses shall be supported by a statement signed by the advocate and filed with the bill of costs stating-

- (a) the place of abode and the condition, quality, occupation; or
- (b) rank in life of the witnesses or intended witnesses charged for; or
- (c) the distance they have had to travel, the mode of travel, and if by rail the class in which such witness travelled for the purpose of attending the trial;
- (d) whether to the knowledge or belief of the deponents they attended as witnesses in any other cause or came upon any other business; and
- (e) also that they were material and necessary witnesses for the party on the trial of the cause, and

the notes of their evidence must be produced on taxation.

(4) The allowances in respect of fees to any expert witnesses to whom any question is referred shall, save where the court or a Judge shall otherwise order, be regulated by the taxing officer subject to review by the court.

Costs where the same advocate is employed by two or more plaintiffs or defendants

62. Where the same advocate is employed by two or more plaintiffs or defendants and separate pleadings are delivered or other proceedings had by or for two or more of such plaintiffs or defendants separately, the taxing officer shall consider in the taxation of such advocate's bills of costs, either between party and party or between advocate and client, whether such separate pleadings or other proceedings were necessary or proper, and if he is of opinion that any part of the costs occasioned thereby have been unnecessarily or improperly incurred, the same shall be disallowed.

Where parties agree to the costs to be paid

63.-(1) If, after the disposal of any proceedings by the court, the parties thereto agree to the amount of costs to be paid in pursuance of the court order or judgment therein, the parties may, instead of filing a bill of costs and proceeding to taxation thereof, request a taxing officer by letter to record the agreement and, unless he considers the amount agreed upon to be exorbitant, the taxing officer shall do so upon payment of the same court fee as is payable on the filing of any document for which no special fee is prescribed.

(2) The agreement when recorded shall have the same force and effect as a certificate of taxation of a taxing officer.

(3) Where the taxing officer considers the amount so agreed upon to be exorbitant may direct the said cost to be taxed according to this Order.

Final advocate to draw the bill for the whole matter

64.-(1) Where there has been a change of an advocate or more than one change of advocates, the advocate finally on the record shall draw a single bill for the whole of the matter in respect of which costs have been awarded.

(2) On taxing the bill the taxing officer shall take into account that the bill shall not be larger than if a single advocate had been employed, and that the party taxing the bill shall not obtain indemnity for costs which he has not paid.

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Costs between party and party where joint executors or trustees defend separately

65. In taxing the costs between a party and party of joint executors or trustees who defend separately, the taxing officer shall, unless otherwise ordered by the court or tribunal, allow one set of costs for such defendants where the taxing officer is of the opinion that a party and party of joint executors or trustees ought to have joined in their defence and such costs to be apportioned among them as the taxing officer may deem fit.

Appearance in court or tribunal of party not interested

66. Where any party appears upon any application or proceeding in court, tribunal, in which he is not interested or upon which, according to the practice of the court, he ought not to attend, he shall not be allowed any costs of such appearance unless the court or tribunal shall otherwise order.

Certificate of costs of suit Cap.33

67. Notwithstanding anything to the contrary in this Order, when a judge of the High Court enters judgment under Order XXXV of the Civil Procedure Code, he may, on application in writing, and without the filing or taxation of any bill of costs, or of notice to any party, sign a certificate of the costs of the suit.

Taxing officer may proceed ex parte and extend or limit time or adjourn

68. The taxing officer shall have power to proceed to taxation *ex parte* in default of appearance of either or both parties or their advocates, and to limit or extend the time for any proceeding before him, and for proper cause to adjourn the hearing of any taxation from time to time.

Instructions to include attendance on deponent

69. The allowances for "instructions" and "drawing an affidavit in answer to interrogatories" and other special affidavits shall include all attendances on the deponent to settle.

No advocate's costs for suit without notice

70. If the plaintiff in any action has not given the defendant notice of his intention to sue, and the defendant pays the amount claimed or found due at or before the first hearing, no advocate's costs will be allowed except on a special order of the court or tribunal.

PART V
FINAL PROVISIONS

Revocation of
GN No. 515 of
1991

71. The Advocates' Remuneration and Taxation of Costs Rules, 1991 are hereby revoked.

Savings

72. Upon commencement of this Order, it shall apply in all proceedings pending, whether in the High Court, subordinate courts or tribunals, and without prejudice to the validity of anything previously done but-

- (a) if and so far as it is impracticable in any of those proceedings to apply the provisions of this Order, the previous practice and procedure shall be followed;
- (b) in any case of difficulty or doubt, a Judge or the Taxing officer may informally give directions as to the procedure to be adopted.

FIRST SCHEDULE

SCALE OF CHARGE ON SALES, PURCHASES AND MORTGAGES

1 Vendor's Advocate: Scale Fee

- (a) For negotiating a sale of immovable property by private contract; 3% of the subject matter
- (b) For deducing title to immovable property and perusing and completing conveyance (including preparation of contract of conditions of sale, if any), the scale shall be as shown here below.

2. Purchaser's Advocate:

- (a) For negotiating a purchase of property by private contract Scale as shown below
- (b) For investigating title to immovable leasehold property, and preparing and completing conveyance (including perusal and completion of contract, (if any) Scale as shown below
- (c) Amount Fee
 - Up to 20,000,000/= 15%
 - Between 20, 000, 001/= and 40,000,000/= 10%
 - Between 40, 000, 00/= and 60,000,000/= 8%
 - Between 60,000,001/= and 100,000,000/= 5%
 - Between 100,000,001/= and 400,000,000/= 3%
 - Over 400,000,000/= shall be charged as if it were for 3%
- Discharge of mortgages one-fifth of the fees for mortgages
- Assignment of mortgages same fees as for mortgages
- Equitable mortgages same fees as for mortgages
- Discharge of equitable mortgages one-fifth of the fees for mortgages.

—————
SECOND SCHEDULE
—————

SCALE OF FEES FOR LEASES OR AGREEMENTS FOR LEASES

Amount			Fee
Up to 2,000,000/=			30%
Between 2,000,000/=	and	6,000,100/=	25%
Between 6,000,100/=	and	13,000,000/=	20%
Between 13,000,100/=	and	26,000,000/=	15%
Between 2600,100/=	and	40,000,000/=	12%
Between 40,000,100/=	and	60,000,000/=	10%
Between 60,000,100/=	and	130,000,000/=	8%
Between 130,000,000/=	and	400,000,000/=	5%
Over 400,000,000/=			3%

For leases of, or over five years, the fees should be increased by one-third

—————
THIRD SCHEDULE
—————

SCALE FEES FOR CONVEYANCES RESERVING A RENT
½% of the fees prescribed under the Second Schedule

—————
FOURTH SCHEDULE
—————

SCALE OF FEES FOR DEBENTURES

Up to 26,000,000/=			7.5%
Between 26,000,001/=	and	40,000,000/=	5%
Between 40,000,001/=	and	60,000,000/=	4%
Between 60,000,001/=	and	150,000,000/=	2.5%
Between 150,000,001/=	and	400,000,000/=	1.5%
Over 400,000,000/=			1.5%
shall be charged as if it were for		400,000,000/=	

—————
FIFTH SCHEDULE
—————

SCALE OF FEES FOR FORMATION OF COMPANIES

Share Capital Fees

Up to 15,000,000/=			A minimum of
			1,500,000/=
15,000,000/=	and	150,000,000/=	2,000,000/=
150,000,000/=	and	1,500,000,000/=	2%
Over Shs. 1,500,000,000/=			2%
shall be charged as if it were		Shs. 1,500,000,000/=	

SIXTH SCHEDULE

SCALE OF FEES FOR TRADE MARKS: INSTRUCTIONS

	FEE/ AMOUNT
1. Applications:	
(a) Instructions to register one trade mark in one class;	200,000.00
(b) 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 or more than one registered trade mark of the same proprietor incorporated and subject to the same conditions and restrictions in each case:	
(i) for the first or single registered trade mark	350,000.00
(ii) for the second registered trade mark and any subsequent registered trade mark.	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 registered trade mark	150,000.00
(e) drawing application for cancellation and statement of grounds depending on amount of work involved but not less than	150,000.00
(f) and for each subsequent trade mark included in the same application for cancellation the ground for cancellation being the same	50,000.00

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	(g) instructions to file an application for variation of term 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 filed simultaneously with or without goodwill)-	200,000.00
	(i) for the first registered trade mark	
	(ii) for the second registered trade mark and any subsequent registered trade mark	150,000.00
	(b) Instructions 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-	200,000.00
	(i) for one registered trade mark assigned	
	(ii) for every other registered trade mark assigned under the same devolution of title simultaneously	150,000.00
	(c) 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;	200,000.00
	(b) Instructions to renew the registration of a good and further trade mark in the name of the same proprietor simultaneously	200,000.00
	(c) Instructions to restore the registration of one trade mark in one class	300,000.00
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) Instruction 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;	200,000.00
	(b) Instructions to register change of address of the registered proprietor in respect of second and	100,000.00

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- further trademarks simultaneously for each change of address per trade mark in one class.
7. **Alterations or Amendments:**
- (a) Instructions to amend or alter one registered trade mark in one class 250,000.00
 - (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 100,000.00
 - (ii) an unqualified employee 80,000.00
 - (b) Instructions to obtain Registrar's preliminary advice including drawing the prescribed form 150,000.00
 - (c) Instructions to obtain registry certified copies of documents-
 - (i) one copy of any document 150,000.00
 - (ii) second and additional copies of same document obtained simultaneously 50,000.00
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 preparation thereof, the general conduct of the proceedings and all other relevant circumstances shall decide but not less than 200,000.00
 - (b) Attendance before the Registrar conducting opposition or rectification proceedings-
 - (i) every whole day 400,000.00
 - (ii) every half day or part thereof 200,000.00
 - (c) On interlocutory matters, taking judgment, etc. every 15 minutes or part thereof 100,000.00
10. **Miscellaneous Matters:**
- (a) Instructions to advise on registrability of a mark or on a point of law of practice such fee as may be reasonable in the circumstances, but not less than 40,000.00

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(b) Attendance on the Registrar for every fifteen minutes or part thereof-	40,000.00
(i) for argument	
(ii) for filing papers	40,000.00
(c) Correspondence where charged for separately-	
(i) per letter	30,000.00
or per folio	10,000.00
(ii) receiving and perusing letters per letter	50,000.00
or per folio;	10,000.00
(d) Drawing all other necessary documents (notices of opposition statutory declaration, counter statements etc) per folio	30,000.00
(e) Perusing documents, pleadings, statutory declarations etc.	50,000.00
(f) All other necessary attendance (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.	100,000.00

The fees in items 1, 2, 3, 4, 5, 6 and 7 above are inclusive, unless otherwise provided, of drawing statutory forms and authorisations 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.

SEVENTH SCHEDULE

SCALE OF FEES FOR TRADE MARKS: REGISTRATION, ASSIGNMENT, EXTENSION, etc

1. **Registrations:**
Instructions to register a patent including form of authorisation and stamping it, drawing and lodging application. 250,000/=

2. **Assignments:**
Instruction to register an assignment of a patent including drawing form of authorisation and stamping it and assignment, drawing and lodging application. 200,000/=

3. **Extensions:**
Instructions to register an extension of a patent including drawing term of authorisation and stamping it and making application for extension. 200,000/=

4. **Searches:**
Attending for searching at the Registry of patents for every
15 minutes—
- | | |
|---------------------------------|-----------|
| (a) by an advocate; | 100,000/= |
| (b) by an unqualified employee. | 50,000/= |

EIGHTH SCHEDULE

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

FEE/PAYABLE

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. Cts. |
| | (a) For drawing; | | 30,000/= |
| | (b) For engrossing; | | 6,000/= |
| | (c) For fair copying; | | 5,000/= |
| | (d) For perusing. | | 6,000/= |
|
 | | | |
| 23. | Attendance: | | |
| | (a) In ordinary cases, per 15 minutes or part thereof; | | 50,000/= |
| | (b) 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); | | 20,000/= |
| | (c) Time Engaged: Where charge is so based in lieu of charges per item of work done per hour or part thereof; | | 300,000/= |
| | (d) Correspondence: letters, or
per folio; | | 10,000/= |
| | (e) Receiving and perusing letters
or per folio; | | 7,000/= |
| | | | 5,000/= |

- (f) 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;
- (g) 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. 20,000/=

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NINENTH SCHEDULE
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SCALE OF FEES FOR CONTENTIOUS PROCEEDINGS
FOR LIQUIDATED SUM IN ORIGINAL AND APPELLATE JURISDICTION

	FEE/AMOUNT PAYABLE
1. For any claim not exceeding 2,500,000/=	25% - 30%
2. Between 2,500,000/= and 7,000,000/=	20% - 25%
3. Between 7,000,000/= and 15,000,000/=	15% - 20%
4. Between 15,000,000/= and 30,000,000/=	12% - 15%
5. Between 30,000,000/= and 70,000,000/=	8% - 10%
6. Between 70,000,000/= and 150,000,000/=	5% - 8%
7. Between 150,000,000/= and 400,000,000/=	3% - 7%
8. Over 400,000,000/=	3%

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

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TENTH SCHEDULE
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SCALE OF FEE FOR 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 proceedings not being contested, where the gross capital value of property comprised in the grant:

Amount	Fee
(i) Up to 2,500,000/=	
(ii) For any Claim Exceeding	100,000/=

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	2,500,000/=		
(iii)	Between 2,500,000/= and 15,000,000/=	and	300,000/=
(iv)	Between 15,000,000/= and 30,000,000/=	and	500,000/=
(v)	Between 30,000,000/= and 100,000,000/=	and	1,000,000/=
(vi)	Over 100,000,000/=		2%
(b)	To apply for re-sealing a grant, the proceedings not being contested:		Four-fifths of the fee provided under order (a)
(c)	To lodge a caveat or a renunciation of a right		250,000/=
(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 250,000/=		
(e)	To render 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 Probate and Administration of Estates Act		20,000/=
(a)	Copies: per folio		6,000/=
(b)	Perusing: per folio		6,000/=
(c)	Letters and Attendances including those necessary in ascertaining the particulars, extent and identity of an estate, and the raising and settlement of estate duty-		
(i)	Letters dispatched or per folio		20,000/=
(ii)	Letters received and perused per folio.		15,000/= 10,000/= 7,000/=
(iii)	Attendances-		
(a)	In ordinary cases of 15 minutes or part thereof		50,000/=
(b)	Routine telephone calls within Tanzania for three minutes or part thereof.		20,000/=
(c)	In other cases the taxing officer may increase or reduce the above charges if, for any special reason, he sees fit.		
(iv)	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		

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the care and labour required, the number and length of the papers 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 and 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 | 1½% 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 realised or invested | 3% per annum or by agreement of client and advocate |
- (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 order (b)(i) shall be calculated with reference to that period;
- (ii) a fee charged under order (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 of Estates Act * shall be charged for separately under the appropriate orders of this Schedule.

ELEVENTH SCHEDULE

COSTS OF PROCEEDINGS IN THE HIGH COURT, SUBORDINATE COURTS AND TRIBUNALS

1. Instruction Fees:

The fee for instructions in the suit shall be as prescribed in these orders:

- | | |
|---|--|
| (a) To present or oppose a petition for winding up a company | 2,500,000/= |
| (b) To support a petition for winding up a company | 500,000/= |
| (c) To present a petition for dissolution of marriage, nullity, judicial separation- | |
| (i) Where the proceedings are not defended | 300,000/= |
| (ii) Where the proceedings are defended or to defend such proceedings: | such sum as the Taxing Officer shall consider reasonable but not less than |
| (d) Where the proceedings are defended or to defend such proceedings: | such sum as the Taxing Officer shall consider reasonable but not be less than 1,000,000/= |
| (e) To apply for ancillary relief- | |
| (i) If application is heard together with petition or answer, as the case may be | 500,000/= |
| (ii) If application is not heard together with petition or answer as the case may be | 600,000/= |
| (f) To apply for custody or access | 500,000/= |
| (g) To present or defend an application under the Law of Marriage or the Law of the Child Act* covered by the above | 500,000/= |
| (h) To institute and conduct or to defend garnishee proceedings: | To institute and conduct or to defend garnishee proceedings: Such sum as the Taxing Officer in his discretion shall consider proper but not be more than 5,000,000/= |

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- | | |
|--|--|
| (i) To present an application for leave for a prerogative order: | Such sum as the Taxing Officer shall consider reasonable but not more than 500,000/= |
| (j) To present or oppose an application for a prerogative order: | Such sum as the Taxing Officer shall consider reasonable but not more than 1,000,000/= |
| (k) To sue or defend in any case not provided for above: | As shown above |
| (l) To present or oppose an appeal in any case not provided for above: | As shown above |
| (m) For applications, notices of motion or chamber applications, (including appeals from taxation) | |
| (i) Un-opposed | 500,000/= |
| (ii) Opposed | 1,000,000/= |

Provided that-

- (aa) 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;
- (bb) 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;
- (cc) 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) 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
- 1,000/=

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opposing party) per folio;

- (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 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; 4,000/=
- (e) which may be necessary for the judge's or advocate's use at trial; such sum as may be reasonable not exceeding per folio;
- (f) Other copies: per folio 1,000/=

3. Service

- (a) Within three kilometres of the court 1,000/=
- (b) Every additional kilometre over the initial Three kilometres such amount as is reasonable, not exceeding 1,000/= per kilometre
- (c) By post, if authorized 15,000/=

4. Plans Models, etc.

Plans, charts, photographs or models for use of judge at trial: Sum as may be reasonable under the circumstances

5. Translation

Such sum as is reasonable but not less than per folio 30,000/=

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 500,000/=
- (b) Attendance at court filing application 50,000/=
- (c) Attending court to peruse order 100,000/=

TWELFTH SCHEDULE

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

- 1. Instruction fee**

As prescribed in contentious matters in the Nineth Schedule Schedules

Instructions to discharge
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 as the amount required for the purposes of composition.
- 2. Petitioning creditor's advocate's bill of costs**

 - (a) Instructions for petition to adjudicate debtors bankrupt

As per scales prescribed in contentious matters
 - (b) Instructions for appointment of interim receiver of a bankrupt's estate

1,000,000/=
 - (c) Where the debtor disputes statements in the petition, further instruction

2,000,000/=
- 3. Debtor's advocate's costs**

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

Instruction to oppose petition

2,500,000/=

The scale of costs in bankruptcy matters is supplementally to all other scales of costs as provided for 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.
- 4. Bankruptcy proceedings drawing**

 - (a) 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

300,000/=

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reference to arbitration (under two folios)

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| (b) The like over two folios additional per folio after the first two | 50,000/= |
| (c) Drawing creditor's or debtor's petition that debtor be adjudicated bankrupt per folios | 30/= but not less than 75,000/= |
| (d) 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 | 30/= but not less than 50,000/= |
| (e) All other necessary documents under two folio | 25/= |
| (f) The like over two folios, per folio | 50,000/= |
| (g) 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) | 300,000/= |
| (h) Bill of costs, per folio | 10,000/= |

5. Copies

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| (a) 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 every other necessary document (whether for court or opposing party) per folio | 10,000/= |
| (b) The actual cost of copies of Judge's notes from day to day as a case proceeds may be allowed if certified by the trial Judge. Actual cost of printing supported by vouchers shall be allowed. | 200,000/= |
| (c) 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. | |
| (d) 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 was not good and sufficient reasons for giving the same. | 100,000/= |
| (e) At office of court or upon opposite party on his advocate not otherwise provided for, which may be necessary: | Such fee as it is reasonable but not less than 50,000/= |
| (f) 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 | 50,000/= |
| (g) At court on settlement of issues or for order, to make | |

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| or oppose any application or motion before the Judge or District Registrar in chambers. | 50,000/= |
| (h) 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. | 50,000/= |
| (i) At a meeting of creditors of a bankrupt per half hour or part thereof. | 20,000/= |
| (j) On behalf of petitioning creditor at court on presentation of petition that debtor be adjudicated bankrupt. | 25,000/= per 30 minutes |
| (k) On petitioning creditor or receiver after receiver appointed and giving him all necessary information | 25,000/= per 30 minutes |
| (l) 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 | 25,000/= per 30 minutes |
| (m) 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. | 25,000/= per 30 minutes |
| (n) In court on order day when summon unserved | 25,000/= per 30 minutes |
| (o) In court to ask for judgment where claim admitted before the hearing. | 25,000/= per 30 minutes |
| (p) In court for orders if defendant served and plaintiff proves his case or defendant appears and admits the claim and judgment is given. | 25,000/= per 30 minutes |
| (q) At office of court or Registrar to bespeak or receive copies of proceedings or approving draft decree. | 25,000/= per 30 minutes |
| (r) 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 | 750/= per 30 minutes |
| (s) Before a commissioner for adjustment of accounts | 25,000/= per 30 minutes |
| (t) Before an arbitrator: Same fees as for conducting a case in court | 25,000/= per 30 minutes |
| (u) Before Taxing Officer on taxation | 25,000/= per 30 minutes |
| (v) Special not otherwise provided for at Taxing Officer's discretion. | 25,000/= per 30 minutes |
| (w) Examining and taking minutes of evidence of each witness afterwards allowed on taxation. | 25,000/= per 30 minutes |
| (x) 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. | 25,000/= per 30 minutes |

6. 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. 10,000/= or per folio 1,000/=
 - (b) Of affidavits per folio 25 cents but not less than 500/=
 - (c) Of notices and other formal documents 10,000/=
 - (d) Of necessary letter 10,000/=
- Exhibits attached to affidavits will not as a rule be allowed unless they are required to be read in detail as part of the affidavit.
- (e) For reading and correcting proofs of printed matter. Per folio 1,000/=

7. 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/=
- (b) For each defendant after the first 20,000/=
- (c) If substituted service is effected the following additional costs shall be charged 50,000/=

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

8. SERVICE

- (a) Within three kilometres of the court 20,000/=
- (b) Every additional kilometre over three: such amount as is reasonable
- (c) By post if authorized 15,000/=

9. PLANS, MODELS ETC.

Plans, charts, photographs or models for use by the Judge at trial: Such sum as may be reasonable.

10. TRANSLATION

Of necessary documents or accounts, per folio 30,000/=

11. 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 for going, remaining and returning-

- (a) Public employees: According to their allowances while on official duty.

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| (b) Others: | According to their income. |
| (c) Professional men in practice: | 200,000/= per day. |

12. GENERAL MATTERS

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| Consultation fees | 50,000/= per 15 minutes |
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Submitted after Consultation with the Advocates Remuneration Committee at Dar es Salaam this day 22nd of December, 2014

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MOHAMED CHANDE OTHMAN
Chief Justice

Approved at Dar es Salaam this 23rd day of June, 2015

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JAKAYA MRISHO KIKWETE
President