

STATUTORY INSTRUMENTS SUPPLEMENT

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S T A T U T O R Y I N S T R U M E N T S

2018 No. 7.

**The Advocates (Remuneration and Taxation of Costs) (Amendment)
Regulations, 2018.**

(Under section 77 (1) (e) of the Advocates Act, Cap. 267)

IN EXERCISE of the powers conferred on the Law Council by section 77 (1) (e) of the Advocates Act, these Regulations are made this 7th day of December, 2017.

1. Title

These Regulations may be cited as the Advocates (Remuneration and Taxation of Costs), (Amendment) Regulations, 2018.

2. Amendment of Regulation 4.

Regulation 4 of the Advocates (Remuneration and Taxation of Costs) Regulations, Statutory Instrument 267-4, in these Regulations referred to as the principal Regulations, is amended by replacing the words “twenty thousand shillings” appearing in the Regulation, with the words “one hundred thousand shillings”.

3. Insertion of new regulation 13A

The principal Regulations are amended by inserting immediately after regulation 13, the following new regulation—

“13A. Pre-taxation meeting of advocates or parties

(1) The advocates for the respective parties or the parties themselves, if unrepresented, shall jointly identify the costs, fees and expenses on which they agree, if any, before the taxation of a bill of costs.

(2) For every taxation, the taxing officer shall record the costs, fees and expenses that are identified in sub-regulation (1) if any, and then proceed to tax the costs, fees and expenses on which there is no agreement, if any.”

4. Replacement of regulation 47(1)

Regulation 47 (1) of the principal Regulations is substituted with the following—

“47. Manner of preparing bill for taxation

Bills of costs for taxation shall be prepared in five columns in the following manner—

- (a) the first column shall be for the numbers of the items;
- (b) the second column shall be for the date on which the service charged for was rendered;
- (c) the third column shall indicate the particulars of the service charged, categorized under separate sub headings such as instruction fees, drawing documents, attendances, Value Added Tax where applicable, and disbursements;
- (d) the fourth column shall indicate the professional fees claimed; and
- (e) the fifth column shall have the deductions by the taxing officer.”

5. Replacement of Schedules.

The Schedules to the principal Regulations are replaced as follows—

SCHEDULES

FIRST SCHEDULE

Regulations 14(a), 20, 28, 35

Scale of fees on sales, purchases, mortgages and debentures and for commission on sales, purchases and loans affecting certain land.

First scale

Scale of fees for advocate for the vendor or purchaser on sale and purchase of land

The fees shall be calculated cumulatively on the basis of the consideration or value of the subject matter as follows—

1. To the advocate for negotiating, preparing or completing a sale or purchase agreement for registered land—	
(a) Where the consideration does not exceed 10,000,000 shillings	5% of the amount or 500,000 shillings, whichever is higher;
(b) Where the consideration exceeds 10,000,000 shillings but does not exceed 20,000,000 shillings	5% of the amount not exceeding 10,000,000 shillings; and 3% of the amount exceeding 10,000,000 shillings;
(c) Where the consideration exceeds 20,000,000 shillings	5% of the amount not exceeding 10,000,000 shillings; 3% of the amount exceeding 10,000,000 shillings but not exceeding 20,000,000 shillings; and 2% of the amount exceeding 20,000,000 shillings.
2. To the advocate for effecting conveyance in a land registry or processing a certificate of title	50% of the fee in item 1 of this scale.
3. For purposes of items 1 and 2 of this scale, where the advocate has not handled the negotiation, preparation or completion for registration	the fee shall be reduced by 30% for each item not handled by the advocate.

Notes

1. The minimum fee for any transaction under this scale shall be 500,000 shillings.
2. The fees in this scale include fees for deducing title, drafting, making copies, attesting, attendances and correspondence in connection with any of these matters, so far as the matter is required to be done by the advocate.

Second Scale

Scale of fees for charges affecting land such as debentures and mortgages

1. The fees payable to the advocate of the chargee for negotiating and preparing to completion, of a security shall be calculated cumulatively on the basis of the consideration or the value of the subject matter as follows—	
(a) Where the value does not exceed 10,000,000 shillings	5% of the amount or 500,000 shillings, whichever is higher
(b) Where the value exceeds 10,000,000 shillings but does not exceed 20,000,000 shillings	5% of the amount not exceeding 10,000,000 shillings; and 3% of the amount exceeding 10,000,000 shillings
(c) Where the value exceeds 20,000,000 shillings	5% of the amount not exceeding 10,000,000 shillings; 3% of the amount exceeding 10,000,000 but not exceeding 20,000,000 shillings; and 1% of the amount exceeding 20,000,000 shillings
2. To the same advocate of the chargee referred to in item 1, for negotiating, preparing and completing a further charge in addition to the charge in item 1	30% of the fee in item 1 of this scale.
3. To the advocate for the charger for negotiating, preparing and completing a security	50% of the fee in item 1 of this scale.

4. To advocate referred to in item 3 for negotiating, preparing and completing a further charge in addition to the charge in item 3	30% of the fee in item 1 of this scale.
5. To the advocate for the chargee or charger, for negotiating and preparing to completion, an assignment, redemption or discharge of a security	15% of the fee in item 1 of this scale or 500,000 shillings, whichever is higher.
6. To the advocate for the chargee for negotiating and preparing to completion, an equitable mortgage or memorandum of charge	50% of the fee in item 1 of this scale.
7. To the advocate for the charger for negotiating, preparing and completing an equitable mortgage or memorandum of charge by deposit of title	25% of the fee in item 1 of this scale.
8. Where two or more securities are created, whether contemporaneously or subsequently, in favour of the same chargee to secure the same or a lower amount	The full prescribed fee in respect of the principal security; 25% of the prescribed fee for the first additional security; and 10% of each subsequent additional security.
9. Where a mortgage or charge comprises more than one immoveable property	10% of the prescribed fee in respect of the second immoveable property; and 5% of the prescribed fee in respect of the third and each subsequent immoveable property.
10. Where a security is created in favour of two or more chargees	The full prescribed fee in respect of the first chargee; 5% of the prescribed fee in respect of each additional charge; Provided that the total fee shall be divided equally among the chargees unless otherwise agreed by all the chargees in writing.

11. Where the advocate has not handled the negotiation and preparation to completion of a transaction	the fee shall be reduced by 30% for each item not handled by the advocate.
12. The fee on a single debenture of any nature where the debenture does not create a security, shall be calculated under the Fifth Schedule taking into account the time, complexity and responsibility.	
13. Where a security is created by more than one charger, no addition shall be made to the prescribed fee.	

Note

The fees in this scale include fees for deducing title, drafting, making copies, attesting, attendances and correspondence in connection with these matters, so far as those matters are required to be done by the advocate.

SECOND SCHEDULE

Regulations 14 (b), 15, 18, 19 & 29

Scales of charges for leases and agreements of leases at rack rent and for building leases, reserving rent, etc.

First Scale

Scale of charges for leases and agreements for leases at rack rent

1. To the advocate for preparing, settling and completing a lease or agreement for a lease and counterpart lease or agreement for a lease—	
(a) Where the consideration does not exceed 10,000,000 shillings;	5% of the consideration or 500,000 shillings, whichever is higher;
(b) Where the consideration exceeds 10,000,000 shillings but does not exceed 20,000,000 shillings	5% of the amount not exceeding 10,000,000 shillings; and 3% of the amount exceeding 10,000,000 shillings;
(c) Where the consideration exceeds 20,000,000 shillings	5% of the amount not exceeding 10,000,000 shillings, 3% of the amount exceeding 10,000,000 shillings but not exceeding 20,000,000 shillings; and 2% of the amount exceeding 20,000,000 shillings.
2. To the advocate for registering a lease or agreement for a lease	1,000,000 shillings.

Notes

1. For the purposes of item 1 of this scale and notwithstanding those items—
 - (a) in the case of a lease, an agreement for lease or a tenancy agreement for a dwelling house or an apartment or a flat, for a term exceeding one year but not exceeding three years, and which does not contain an option for renewal or extension which may extend the term in excess of three years, an advocate may reduce the fees by a sum not exceeding 50% of the fees;

- (b) in the case of an extension of the term of a lease, an agreement for lease or a tenancy agreement, where the extension may be effected by way of endorsement, or annexure to the original instrument, the fees shall be calculated under the Fifth Schedule to these Regulations.
2. For purposes of item 1 of this scale—
- (a) “consideration” includes the premium, if any, and the annual rent;
 - (b) “ground rent” means rent representing the value of the land without buildings on it;
 - (c) “rack rent” means rent representing the value of the land and the buildings on the land; and
 - (d) where a varying rent is payable, the amount of annual rent means the amount of the largest annual rent payable under the lease or agreement for lease or tenancy agreement.

Second Scale

Scale of charges for building leases, agreements for building leases and other long leases not at rack rent

1. To the advocate for preparing, settling, completing a lease and a counterpart lease—	
Where the consideration does not exceed 20,000,000 shillings	10% of the consideration or 500,000 shillings, whichever is higher.
Where the consideration exceeds 20,000,000 shillings but does not exceed 50,000,000 shillings	10% of the amount not exceeding 20,000,000 shillings; and 5% on the amount exceeding 20,000,000 shillings.
Where the consideration exceeds 50,000,000 shillings	10% of the amount not exceeding 20,000,000 shillings; 5% of the amount exceeding 20,000,000 shillings but not exceeding 50,000,000 shillings; and 2% of the amount exceeding 50,000,000 shillings.

2. To the advocate registering a lease or agreement for a lease	30% of the amount payable for preparing, settling and completing the lease.
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Notes

For purposes of item 1 of this scale—

- (a) “consideration” includes the premium, if any, and annual rent; and
- (b) where a varying rent is payable, the amount of annual rent means the amount of the largest annual rent payable under the lease or agreement for a lease.

THIRD SCHEDULE

Regulations 14(c), 15, 18 & 19

Floatation of companies

First scale

Registration of new companies

1. Instruction fees for the formation and incorporation of a private company with limited liability and share capital—	
(a) Where the nominal capital of the company to be formed does not exceed 10,000,000 shillings	10% of the amount or 500,000 shillings, whichever is higher;
(b) Where the nominal capital of the company to be formed exceeds 10,000,000 shillings but does not exceed 50,000,000 shillings	10% of the amount not exceeding 10,000,000 shillings; and 3% of the amount exceeding 10,000,000 shillings;
(c) Where the nominal capital of the company to be formed exceeds 50,000,000 shillings but does not exceed 100,000,000 shillings	10% of the amount not exceeding 10,000,000 shillings; 3% of the amount exceeding 10,000,000 shillings but not exceeding 50,000,000 shillings; and 2% of the amount exceeding 50,000,000 shillings;
(d) Where the nominal capital of the company to be formed exceeds 100,000,000 shillings	10% of the amount not exceeding 10,000,000 shillings; 3% of the amount exceeding 10,000,000 shillings but not exceeding 50,000,000 shillings; 2% of the amount exceeding 50,000,000 but not exceeding 100,000,000 shillings; and 1% of the amount exceeding 100,000,000 shillings.

2. The instruction fees for the formation and incorporation of a public company shall be 150% of the fees set out in item 1 of this scale, or 1,000,000 shillings, whichever is higher.
3. The instruction fees for the formation and incorporation of a new company without share capital shall be agreed upon between the advocate and the client, taking into account the complexity and responsibility of the matter, but shall not be less than 500,000 shillings.
4. Instruction fees for registering a foreign company shall be agreed upon between the advocate and the client, taking into account the complexity and responsibility of the matter, but shall not be less than 1,000,000 shillings.

Notes

1. The fees in items 1, 2 and 3 of this scale include- fees for drawing the memorandum and articles of association, preparing and lodging the documents necessary for obtaining the certificate of incorporation, attendances and correspondence in connection with the incorporation of the company, which are required to be done by the advocate, but not any work in connection with the preparation or issue of a prospectus.
2. The fees in item 4 of this scale shall include fees for preparing and lodging company forms at the Companies Registry and procuring a certificate of registration and all routine attendances and correspondence.

Second Scale

Debentures

1. Instruction fees for preparing a single debenture or series of debentures—	
(a) Where the amount secured does not exceed 10,000,000 shillings	10% of the amount secured or 500,000 shillings, whichever is higher
(b) Where the amount secured exceeds 10,000,000 shillings but does not exceed 50,000,000 shillings	10% of the amount not exceeding 10,000,000 shillings; and 3% of the amount exceeding 10,000,000 shillings;

(c) Where the amount secured exceeds 50,000,000 shillings but does not exceed 100,000,000 shillings	10% of the amount not exceeding 10,000,000 shillings; 3% of the amount exceeding 10,000,000 shillings but not exceeding 50,000,000 shillings; and 2% of the amount exceeding 50,000,000 shillings;
(d) Where the amount secured exceeds 100,000,000 shillings	10% of the amount not exceeding 10,000,000 shillings; 3% of the amount exceeding 10,000,000 but not exceeding 50,000,000 shillings; 2% of the amount exceeding 50,000,000 shillings but not exceeding 100,000,000 shillings; and 1% of the amount exceeding 100,000,000 shillings.

2. Where security is given by way of a mortgage or other form of charge of immovable property, in addition to a floating charge, the advocate shall in addition to the fees prescribed in this scale, charge the fees prescribed for the advocate for a chargee in the First Schedule.

Notes

1. The fees for the advocate of a debenture holder or trustee and those of the advocate for the company, shall be paid by the company, unless otherwise agreed in writing.
2. The fees in items 1 and 2 of this scale may be for- attendance, correspondence, drawing of resolutions and documents, approval and registration of the resolutions and documents at the Company Registry and Land Registry, as necessary.

Third Scale

Other company work

1. The fees for preparing a prospectus on issue of equity or debt instruments, obtaining regulatory approval, obtaining securities exchange listing, drafting and adjusting press advertisements, the reconstruction or amalgamating of

companies or any other non-litigious work in relation to company matters not otherwise provided for, shall be charged by the advocate according to time, complexity and responsibility.

2. All work relating to company matters for which fees are specifically prescribed in a Schedule to these Regulations shall be charged under that Schedule.

FOURTH SCHEDULE.

Regulation 14(d), 15, 18 & 19

Trademarks, inventions and designs

First Scale

Trademarks

Activity	Fees
1. Applications	
(1) instructions to register one trademark in one class and drawing form of authorization	1,000,000
(2) instructions to register second and further trademarks in the name of the same proprietor simultaneously per trademark in one class	500,000
(3) drawing application for registration and copies of representation of mark	100,000
2. Registered users	
(1) instructions to file an application to enter one registered user of one registered trademark or more than one registered trademark of same proprietor incorporated in the same set of documents and subject to the same conditions and restrictions in each case—	
(a) for the first single registered trademark	500,000
(b) for the second registered trademark	400,000
(c) for the third registered trademark	300,000
(d) for the fourth and each subsequent registered trademark, where the applications are filed simultaneously	200,000
(2) drawing a statement of case, a statutory declaration in support and application	Not less than 300,000
(3) drawing registered user agreement	Not less than 300,000

(4) instructions to file an application for variation or cancellation of a registered user in respect of one registered trademark of same proprietor— (a) for the first or single registered trademark (b) for the second registered trademark (c) for the third registered trademark	500,000 400,000 300,000
(d) for the fourth and each subsequent trademark, where the applications are filed simultaneously	200,000
(5) drawing application and statement of grounds	not less than 300,000
(6) for each subsequent registered trademark, where the grounds for cancellation are the same	200,000.
3. Assignments	
(1) instructions to file an application to register a subsequent proprietor of one registered trademark (or more than one registered trademark standing in the same name under the same devolution of title and filed simultaneously) with or without goodwill— (a) for the first registered trademark (b) for the second registered trademark (c) for each subsequent registered trademark	500,000 400,000 300,000
(2) instructions to file an application for directions by the registrar, for advertisement of the assignment of trademarks in use without goodwill and attending to the advertisement— (a) for one registered trademark assigned (b) for every other registered trademark assigned under the same devolution of title where this is filed simultaneously	500,000 400,000
(3) instructions to apply for extension of time under section 53(4) of the Trademarks Act	300,000

4. Renewals—	
(1) instructions to renew the registration of one trademark in one class, including drawing the prescribed form and form of authorisation	500,000
(2) instructions to renew the registration of a second and further trademarks in the name of the same proprietor simultaneously, including drawing the prescribed form and form of authorisation per mark in one class	400,000
(3) instructions to restore the registration of one trademark in one class under regulation 51 of the Trademarks Regulations, including drawing the prescribed forms and form of authorization	700,000.
5. Change of name—	
(1) instructions to register change of name of the registered proprietor in respect of one trademark in one class, including drawing the prescribed form and form of authorization	500,000.
(2) instructions to register change of name of the registered proprietor in respect of the second and further trademarks simultaneously, including drawing the prescribed form and form of authorisation for each change of name per trademark in one class	500,000.
6. Change of address—	
(1) instructions to register a change of address of the registered proprietor in respect of one trademark in one class, including drawing the prescribed form and form of authorization	500,000.
(2) instructions to register change of address of the registered proprietor in respect of second and further trademarks simultaneously, including the drawing of the prescribed forms and form of authorisation for each change of address per trademark in one class	300,000.

7. Alterations of amendments—	
(1) instructions to amend or alter one registered trademark in one class, including drawing the prescribed form and form of authorisation	500,000.
(2) instructions to amend or alter second and further registered trademarks simultaneously in one class, including the drawing of the prescribed form and form of authorisation for amendment or alteration per trademark in one class	300,000.
8. Searches—	
(1) instructions to search the register	300,000.
(2) instructions to advise on the registrability of a proposed trademark in one class, including all correspondence	300,000.
(3) instructions to obtain preliminary advice of the registrar under section 6 of the Trademarks Act, including all correspondence related to the advice	300,000.
(4) instructions to search a trademark file for particulars of the trademark, per trademark in one class	300,000.
9. Opposition and rectification proceedings—	

(1) instructions to enter opposition or to defend opposition proceedings, to apply for rectification, to defend rectification proceedings, where the opposition or proceedings are conducted before the registrar	The fee shall be determined by the taxing officer, in the exercise of his or her discretion, taking into consideration the nature and importance of the opposition or rectification, the value of the trademark to the parties concerned, the amount of evidence filed and the time required for the preparation, the general conduct of the proceedings and all other relevant circumstances but not less than 3,000,000 shillings.
(2) attendances before the registrar conducting opposition or rectification proceedings— (a) every whole day (b) every half- day or part of	400,000 200,000.
(3) for interlocutory matters, and taking rulings, per hour or part of an hour	100,000.
10. Miscellaneous matters—	
(1) attendances on the registrar for every hour or part of an hour	100,000

(2) drawing and perusing correspondence and other documents not expressly provided for, and making copies of the documents	75,000.
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Notes

1. The fees for instructions in each case enumerated other than the fee for oppositions or rectification, include the drawing and lodging of all forms of disclaimer, requests for correction of clerical error or for amendment of an application, and all other correspondences.
2. In this scale, “trademark” includes service mark
This term is not defined in the Trademarks Act, where it was imported from.

Second Scale

Patents, utility models, industrial designs, geographical indications, plant varieties and other intellectual property rights

Activity	Fees
1. Instructions to register	3,000,000.
2. Processing applications (1) application for amendment (2) application to convert pending application and preliminary advice on converting the application (3) application for substantive examination and preliminary advice on the examination	2,000,000 2,000,000 1,000,000.
3. Licenses (1) instructions to file an application, to register a licensee and advice on whether the licensee is registrable (2) drawing the application (3) drawing a license agreement	1,000,000 1,000,000 Not less than 1,000,000.
4. Instructions to file an application to register a subsequent proprietor of a pending application or registered right	1,000,000.
5. Instructions to pay the annual maintenance fee	2,000,000.
6. Applications for extension of term of registration	500,000.

7. Instructions to file an application to restore a registration	1,000,000.
8. Instruction to register a change of name or change of address of the registered proprietor and reviewing all the supporting documents	500,000.
9. Searches at the registry and advice on the search	300,000
10. Instructions to obtain from the registry certified copies of documents	
(1) one copy of any document	100,000
(2) additional copies of same document obtained simultaneously	50,000
11. Infringement, expungement, rectification, opposition proceedings and applications and appeals—	
(1) instructions to file infringement, expungement, rectification, caution and opposition proceedings or, applications for compulsory licenses, variation, transfer or cancellation of compulsory licenses, entry of licenses as of right and to defend or contest the proceedings or applications where the proceedings or applications are conducted before the registrar	The fee shall be determined by the taxing officer in the exercise of his or her, taking into consideration the nature and importance of the proceedings or applications, the importance of the rights to the parties concerned, the amount of evidence filed and the time required for the proceedings and all other relevant circumstances, but shall not be less than 5,000,000

(2) attendance before the registrar in connection with conducting proceedings or applications referred to in 11(a) for a full day (a) for every half day or a part of	500,000 300,000
12. Miscellaneous matters—	
(1) instructions to advise on whether a patent, industrial design or other intellectual property right is registrable and to advise on a point of law or practice	The fee shall be reasonable in the circumstances but shall not be less than 500,000
(2) instructions to request for reasons for the refusal of an application	300,000
(3) instructions to register a surrender	500,000
(4) instructions to have a caution or similar notice included or removed from the register	500,000
(5) attendance on the registrar on routine matters- (a) for a full day (b) for every half a day or part of	300,000 200,000
(6) correspondence, where charged for separately- (a) per letter (b) per folio	100,000 50,000
(7) receiving and perusing letters, documents, pleadings, statutory declarations, etc. (a) per letter (b) per folio	100,000 50,000
(8) drawing the necessary documents associated with any of the applications or proceedings referred to in this scale, per folio	50,000
(9) applying for an extension of time	500,000

Notes

Unless otherwise provided, the fees in items 1 to 11 above include drawing statutory forms and authorizations as may be necessary, and drawing the necessary routine correspondence and attendance at the registry and correspondence with the client, but the fees do not cover additional matters shown in items 10, 11 and 12, and the fees occasioned by objections or queries by the registrar or third parties or by any other complication or unusual delay, which shall be charged for separately.

Fifth Schedule

Regulations 14(e) 15, 30, 34

Scale of fees in respect of business the remuneration for which is not otherwise prescribed.

Activity	Fees
1. Instructions for drawing and perusing deeds, deed polls, constitutions, declarations, affidavits, proposals, contracts and other documents or other matters of a non-contentious nature	The fees for instructions shall be fair and reasonable, having regard to the care and labour required, the number and length of papers to be perused, the nature and importance of the matter, the amount or value of the subject matter involved, the interest of the parties, complexity of the matter, and all the other circumstances of the case, but shall not be less than 200,000.
2. Attendances or consultation in person or by electronic means, per 15 minutes or part of	not less than 75,000
3. Overnight journeys from home, per day	300,000
4. Attendances where the fee is based on attendance and not on the time the advocate is engaged	not less than 100,000
5. Drawing and perusing correspondence and other documents not expressly provided for, including making copies of the documents and correspondences	100,000
6. For formal written opinions	The fees shall be as considered reasonable in the circumstances, having regard to the same considerations as set out in this scale for the assessment of instructions, but not less than 100,000

<p>7. Witnessing the execution of a document where that an advocate is not entitled to a fee for witnessing</p> <p>(1) where the advocate has prepared, settled or approved the document and the advocate is being remunerated according to this order; or</p> <p>(2) where the advocate acts for one of the parties in a transaction and witnesses or attests the signature of the other party, for whom the advocate is not acting</p>	100,000.
8. Filing of any form with an appropriate authority	not less than 200,000.
9. Immigration related applications	not less than 500,000.
10. For preparing and perfecting chattels securities	The fees shall be as set out under the second scale of the Third Schedule.
Debt collection—	
(a) Where the amount of debt does not exceed 5,000,000 shillings	10% of the amount of the debt
(b) Where the amount of debt exceeds 5,000,000 shillings but does not exceed 15,000,000 shillings	10% of the amount not exceeding 5,000,000 shillings; and 7.5% of the amount exceeding 5,000,000 shillings.
(c) Where the amount of debt exceeds 15,000,000 shillings but does not exceed 30,000,000 shillings	10% of the amount not exceeding 5,000,000 shillings; 7.5% of the amount exceeding 5,000,000 shillings but not exceeding 15,000,000 shillings; and 5% of the amount exceeding 15,000,000 shillings.
(d) Where the amount of debt exceeds 30,000,000 shillings but does not exceed 50,000,000 shillings	10% of the amount exceeding 5,000,000 shillings; 7.5% of the amount exceeding 5,000,000 but not exceeding 15,000,000 shillings; 5% of the amount exceeding 15,000,000 shillings, but not exceeding 30,000,000; and 3% of the amount exceeding 30,000,000 shillings.

(e) Where the amount exceeds 50,000,000 shillings	10% of the amount not exceeding 5,000,000 shillings; 7.5% of the amount exceeding 5,000,000 shillings but not exceeding 15,000,000 shillings; 5% of the amount exceeding 15,000,000 shillings, but not exceeding 30,000,000 shillings; 3% of the amount exceeding 30,000,000 shillings but not exceeding 50,000,000 shillings; and 2% of the amount exceeding 50,000,000 shillings.
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SIXTH SCHEDULE

Regulations 37, 57

Scale of fees in High Court, magistrate courts, tribunals and arbitration matters

1. The fees for instructions to sue, claim, defend or oppose shall be as follows—

- (1) to sue or defend any case, whether commenced by plaint, statement of claim, petition, originating summons or originating motion, or to present or oppose an appeal, where the claim or value of the subject matter can be determined from the pleadings, settlement, a valuation or the judgment, the instruction fee shall be in accordance with the following scale—

Claim or value of subject matter	fees
(a) Where the amount does not exceed 2,000,000 shillings	15% of the claim or value of the subject matter
(b) Where the amount exceeds 2,000,000 shillings but does not exceed 5,000,000 shillings	15% of the amount not exceeding 2,000,000 shillings; and 14% of the amount exceeding 2,000,000 shillings
(c) Where the amount exceeds 5,000,000 shillings but does not exceed 10,000,000 shillings	15% of the amount not exceeding 2,000,000 shillings; 14% of the amount exceeding 2,000,000 shillings but not exceeding 5,000,000 shillings; and 12% of the amount exceeding 5,000,000 shillings.
(d) Where the amount exceeds 10,000,000 shillings but does not exceed 20,000,000 shillings	15% of the amount not exceeding 2,000,000 shillings; 14% of the amount exceeding 2,000,000 shillings but not exceeding 5,000,000 shillings; 12% of the amount exceeding 5,000,000 shillings but not exceeding 10,000,000 shillings; and 10% of the amount exceeding 10,000,000 shillings.

(e) Where the amount exceeds 20,000,000 shillings but does not exceed 50,000,000 shillings	15% of the amount not exceeding 2,000,000 shillings; 14% of the amount exceeding 2,000,000 shillings but not exceeding 5,000,000 shillings; 12% of the amount exceeding 5,000,000 shillings but not exceeding 10,000,000 shillings; 10% of the amount exceeding 10,000,000 shillings but not exceeding 20,000,000; and 8% of the amount exceeding 20,000,000 shillings.
(f) Where the amount exceeds 50,000,000 shillings but does not exceed 100,000,000 shillings	15% of the amount not exceeding 2,000,000 shillings; 14% of the amount exceeding 2,000,000 shillings but not exceeding 5,000,000 shillings; 12% of the amount exceeding 5,000,000 shillings but not exceeding 10,000,000 shillings; 10% of the amount exceeding 10,000,000 shillings but not exceeding 20,000,000; 8% of the amount exceeding 20,000,000 shillings but not exceeding 50,000,000 shillings; and 5% of the amount exceeding 50,000,000.
(g) Where the amount exceeds 100,000,000 shillings	15% of the amount not exceeding 2,000,000 shillings; 14% of the amount exceeding 2,000,000 shillings but not exceeding 5,000,000 shillings; 12% of the amount exceeding 5,000,000 shillings but not exceeding 10,000,000 shillings; 10% of the amount exceeding 10,000,000 shillings but not exceeding 20,000,000; 8% of the amount exceeding 20,000,000 shillings but not exceeding 50,000,000 shillings; 5% of the amount exceeding 50,000,000 shillings but not exceeding 100,000,000 shillings; and 2% of the amount exceeding 100,000,000 shillings.

- (2) to sue in an ordinary suit in which no defence is filed or in a summary suit where no application for leave to appear and defend is made, the fee shall be 65% of the fees chargeable under the scale under item 1(a) of this Schedule.
- (3) to sue or defend in a summary suit in which an application for leave to appear and defend was made and refused, the fee shall be 75% of the fee chargeable under item 1(a) of this Schedule.
- (4) in a suit where settlement is reached prior to confirmation of the first hearing date of the suit the fee shall be 85% of the fee chargeable under item 1(a) of this Schedule.

2. Insolvency proceedings—

To present or oppose any petition or claim under the Insolvency Act, where the value of the subject matter can be determined from the statement of affairs, pleadings, settlement, a valuation or the judgment, the instruction fee shall be in accordance with the scale in item 1 of this schedule.

3. Matrimonial causes—

- (1) For instructions to present a petition for dissolution or nullity of a marriage, judicial separation, or restitution of conjugal rights—
 - (a) where the proceedings are not defended, the fees shall be reasonable but not less than 1,000,000 shillings;
 - (b) where the proceedings are defended, or an advocate has instructions to defend the proceedings, the fees shall be reasonable but not less than 2,000,000 shillings.
- (2) For instructions to apply for additional or ancillary relief, or for custody, or access or other relief under the Children's Act—
 - (a) in case the application is dealt with together with the petition or answer, not less than 1,000,000 shillings; and
 - (b) in case the application is not dealt with together with the petition or answer, not less than 1,500,000 shillings.

4. Adoption and guardianship—

For instructions to present or oppose an application for adoption or guardianship the fee shall be reasonable, but not less than 500,000 shillings.

5. Probate and letters of administration—

- (a) for instructions to apply for a grant of probate, proof of an oral will, or letters of administration with or without a will annexed, where the proceedings are not contested; the fees shall be 1% of the gross capital value of the property comprised in the grant, but shall not be less than 1,000,000 shillings;
- (b) for instructions to apply for a grant of probate, proof of an oral will, or letters of administration with or without a will annexed, where the proceedings are contested, the fees shall be 2% of the gross capital value of the property comprised in the grant, but shall not be less than 1,000,000 shillings;
- (c) for instructions to apply for re-sealing a grant, where the proceedings are not contested, the fees shall be 4/5ths of the fees provided under paragraph (1);
- (d) for instructions to apply for the re-sealing of a grant, where the proceedings are contested, the fees shall not be less than twice the fees prescribed under paragraph (3);
- (e) for instructions to lodge a caveat, renunciation, objection to a grant, apply for a citation or other application or proceedings under the law not otherwise provided for in this Schedule, the fees shall be a sum as the taxing officer shall consider reasonable, but shall not be less than 500,000 shillings;
- (f) for instructions to render an inventory or account, the fees shall not be less than 500,000 shillings;
- (g) for instruction to draw a will or a codicil, the fees shall be a sum agreed between the advocate and the client but shall not be less than 500,000 shillings;
- (h) for instructions to administer a testament, an estate or a trust the fees shall be annual or semi-annual fees as may be reasonable in the circumstances, having regard to the care and labour required, the number and length of the papers to be perused, the value and complexity of the estate, the interest of the parties and all other circumstances, but shall not be less than 1,000,000 shillings; or an annual or semi-annual commission of amounts as the taxing officer shall consider reasonable, having regard to all the circumstances, but not exceeding in aggregate the following rates—

- (a) 2½ % of the estimated net capital value of the testament, estate or trust, per year or half year;
- (b) 3% of the amount of the income of the testament, estate or trust, per year or half year;
- (c) 1½% of the capital value of any portion of the testament, estate or trust, which is realized or invested in a year or half year; or
- (d) an amount based on the fees in the Fifth Schedule;
- (e) where the period is less than a year or half a year, the commission shall be calculated with reference to the shorter period.

6. Election petitions

For instructions to present or oppose an election petition, the fee shall be as the taxing officer considers reasonable, taking into consideration the nature, importance, complexity and novelty of the petition, the place where and the circumstances in which work or a part of it was done, the time expended, the public interest and all other relevant circumstances, but the fees shall not be less than 5,000,000 shillings for petitions under the Local Governments Act and shall not be less than 10,000,000 shillings for petitions under the Parliamentary Elections Act.

7. Judicial review and prerogative orders

The fees shall be a sum as the taxing officer considers reasonable, having regard to the amount of the subject matter, the nature, importance, complexity and novelty of the matter, but the fees shall not be less than 3,000,000 shillings.

8. Criminal cases

- (1) for instructions to defend or prosecute a criminal case, the fees shall be a sum the taxing officer considers reasonable, taking into consideration the nature, importance, complexity and novelty of the case, the place where and the circumstances in which work or any part of it was done, and the time expended, but the fees shall not be less than 2,000,000 shillings;
- (2) for instructions to make or oppose a bail application, the fees shall not be less than 500,000 shillings.

9. Other Matters

- (1) for instructions to sue or defend in any case not provided for in this Schedule, the fees shall be reasonable but shall not be less than 2,000,000 shillings.
- (2) for instructions to make or oppose interlocutory applications under items 1 to 9 in this Schedule, the fees shall be not less than 300,000 shillings.

10. Drawing court papers—

- (1) for drawing a plaint, statement of claim, complaint, petition, memorandum of appeal, written statement of defence, reply and similar pleadings, 300,000 shillings and 50,000 shillings for each extra copy made;
- (2) for interlocutory application, notice of motion or chamber application, originating summons, affidavits, interrogatories, notice to admit and produce agreement for compromise, adjustment or satisfaction of suit, or for reference to arbitration, 200,000 shillings, and 30,000 shillings for each extra copy made;
- (3) for decrees, orders and all other necessary court documents, 50,000 shillings, and 20,000 shillings for each extra copy made;
- (4) for written submissions, 300,000 shillings, and 50,000 shillings for each extra copy made;
- (5) for bill of costs, 200,000 shillings and 50,000 shillings for each extra copy made.

11. Correspondence

- (1) for a letter before action or other necessary letter, 100,000 shillings;
- (2) making copies of the letter, 20,000 shillings per copy.

12. Attendance—

- (1) attendance of court, tribunal, before an arbitrator, mediator, or conciliator conducting matter, to hear a judgment or ruling or to make any necessary application including taxation, 100,000 shillings per hour ;

- (2) attendance of court, tribunal, before an arbitrator or mediator or conciliator on routine matters—
 - (a) by advocate, 100,000 shillings per hour;
 - (b) by clerk, 20,000 shillings per hour ;
- (3) for instructions to interview witnesses, deponents and experts, and any other necessary attendance outside the advocate's chambers, 100,000 shillings per hour.

Note

Unless otherwise provided in this scale, the instruction fee allowed under items 1 to 10 of this Schedule, shall include all the work necessarily and properly done in connection with the case which is not otherwise chargeable, including perusals.

JUSTICE REMMY KASULE,
(Justice Court of Appeal and Constitutional Court)
Chairperson, Law Council.