

Court Brokers and Process Servers (Appointment, Remuneration and Discipline) (Amendment)

GOVERNMENT NOTICE No 176 published on 26/9/2008

THE JUDICATURE AND APPLICATION OF LAWS ACT

(CAP.453)

RULES OF COURT

(Made under section 4)

THE COURT BROKERS AND PROCESS SERVERS (APPOINTMENT, REMUNERATION AND DISCIPLINE) AMENDMENT RULES, 2008

1. These Rules may be cited as The Court Brokers and Process Servers (Appointments, Remuneration and Discipline) (Amendment) Rules, 2008 and shall be read as one with The Court Brokers and Process Servers (Appointment, Remuneration and Discipline) Rules, 1997 (hereinafter referred to as the "principal Rules"). Citation

2. The principal Rules are amended in rule 12 by deleting sub-rule(3) and substituting for it the following-

"(3) The fees, charges and allowances payable under this rule shall be determined by the executing court and for this purpose, the executing officer, shall file his bill of costs with the court in sufficient number of copies to serve all the parties, and the court shall determine the amount payable after hearing the parties within twenty one days."

3. The principal Rules are amended by deleting rule 13 and substituting for it the following-

"13. The prescribed fees, charges and allowances shall, except where otherwise allowed, be deemed to include all expenses

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of advertisement, inventories, catalogues and necessary charges for safeguarding the property under attachment.

Provided that, where after an order for sale has been made the sale is stopped or postponed or where execution is stayed by court order, the executing officer shall be entitled to receive all the expenses and charges which he may, in the opinion of the Registrar or Magistrate, properly have incurred."

4. The principal Rules are amended by deleting the Second Schedule and substituting for it the following-

"SECOND SCHEDULE

PART I

ATTACHMENT

Item No.		Fees
1.	For attaching or taking possession of movable property and keeping possession of the same for 30 days or part thereof when the estimated value of the property (in accordance with the executing officers inventory furnished under rule (6)-	
	(a) where the value does not exceed T. Shs. 5 Million	10%
	(b) where the estimated value exceed 5 Million	7%
	Provided that where it is considered necessary to hold the property for a longer period, the executing officer shall in addition to the fee calculated on basis of the above schedule be reimbursed for the additional costs/expenses which in the opinion of the Registrar or Magistrate are properly incurred.	
2.	For attaching immovable property where the amount of the decree in execution of which the property is attached:-	
	(a) where the amount does not exceed T. Sh. 5 Million	5%
	(b) where the estimated value exceed 5 Million.	3%

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3. For attending to attach or take possession of movable property, where no property is found after diligent inquiries the executing officer shall be paid 1% of the decretal amount and be reimbursed for actual expenses incurred in the exercise.

PART II

STORAGE

4. Where the property so attached is sold the Court Broker shall not be entitled to storage fees.
5. Where the property attached is released, the court broker shall be entitled to in addition to attachment fees, storage fees as follows-
- (a) for the first 45 days or any part thereof5%
- (b) for any further period10%

Provided that no property shall be stored for a period exceeding six months and if it so remains, the Registrar or Resident Magistrate incharge shall make orders that it be sold or released on conditions as may deem fit.

SALE

6. For selling movable property where the amount realised does not exceed Shs. 3 Million 10%
7. For selling any property where the amount realized exceed three Million but does not exceed five million 7%
8. For selling immovable property where the amount realised does not exceed Shs. 3 Million 10%
9. Where value property exceeding 3 Million 7%

EVICTION:

10. For breaking the front door 10,000/=
11. For evicting from each room (bathroom and toilets not included).... 30,000/=
12. For purposes of these regulations, where the eviction is done in a self contained houses, the sitting room, dinning room and kitchen shall be deemed to be rooms of equal size and the fees shall be the same.

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13. In addition to the above fees, the court broker shall also be entitled, subject to the discretion of the Registrar or Magistrate (incharge), costs for:
- (a) Transport;
 - (b) Advertisements;
 - (c) Security (Where needed).

Dar es Salaam,
....., 2008

AUGUSTINO S. L. RAMADHANI,
Chief Justice"