

**FIJI ISLANDS**

**HIGH COURT ACT  
(CHAPTER 13)**

**HIGH COURT (AMENDMENT) RULES 1998**

IN exercise of the powers conferred upon me by Section 25 of the High Court Act, I hereby make the following Rules:

*Citation*

**1.** -(1) These Rules may be cited as the High Court (Amendment) Rules 1998 and shall come into force on the 15th day of May 1998.

(2) In these Rules unless the context otherwise requires “the principal Rules” means the High Court Rules 1988.

*Amendment of Order 32*

**2.** Order 32 of the principal Rules is amended by adding the following Rule 18:-

“18 - (1) Upon filing a summons, motion, application or appeal in chambers the party seeking relief shall forthwith pay such fee as is set out in Appendix 2.

(2) Where the hearing in chambers is adjourned and the Court is satisfied that the cause or partial cause of the adjournment is the default of a party or his legal representative the Court may order that party or the legal representative to pay a wasted hearing fee as set out in Appendix 2.

(3) A wasted hearing fee shall not be recoverable in costs.

(4) Failure to comply with a wasted hearing fee order within the time specified by the Court shall debar the party or the legal representative from taking any further part in the proceedings.

Providing that the Court may for good cause waive all or part of a hearing or wasted hearing fee and may enlarge the time previously specified for the payment of such fee.”

*Amendment of Order 34*

**3.** Order 34 of the principal Rules is amended by adding the following Rule 6: -

“6. - (1) Upon filing a summons to set an action down for trial the plaintiff shall pay such fee as is set out in Appendix 2.

(2) When the trial of an action is adjourned and the Court is satisfied that the cause or partial cause of the adjournment is the default of a party or his legal representative the Court may order that party or the legal representative to pay a wasted hearing fee as is set out in Appendix 2.

(3) A wasted hearing fee shall not be recoverable in costs.

(4) Failure to comply with a wasted hearing fee order within the time specified by the Court shall debar the party or the legal representative from taking any further part in the proceedings.

Providing that the Court may for good cause waive all or part of a hearing or wasted hearing fee and may enlarge the time previously specified for the payment of such fee.”

*Replacement of Order 62*

4. Order 62 of the principal Rules is replaced by the following Order 62:

**ORDER 62**

**Part I - PRELIMINARY**

*Interpretation (O. 62, r. 1)*

1. -(1) Except where it is otherwise expressly provided, or the context otherwise requires, the following provisions of this rule shall apply for the interpretation of this Order.

(2) “Certificate” includes allocatur;

“contentious business” means business done as a legal practitioner in or for the purposes of proceedings begun before a court, tribunal or arbitrator;

“non-contentious business” means any business done as a legal practitioner, other than contentious business;

“legal representative” means a legal practitioner or a barrister or a solicitor;

“party”, in relation to a cause or matter, includes a party who is treated as being a party to that cause or matter by virtue of Order 1, rule 2;

“patient” means a person who, by reason of mental disorder, is incapable of managing and administering his property and affairs;

“registrar” means the registrar of the High Court;

“the standard basis” and “the indemnity basis” have the meanings assigned to them by rule 12(1) and (2) respectively;

“solicitor” includes a legal practitioner admitted to practise in Fiji;

“taxed costs” means costs taxed in accordance with this Order;

“taxing officer” means the Registrar or Master or any officer for the time being authorised by the Chief Justice to act as a taxing officer.

(3) References to a fund, being a fund out of which costs are to be paid or which is held by a trustee or personal representative, include references to any estate or property, whether real or personal, held for the benefit of any person or class of persons; and references to a

fund held by a trustee or personal representative include references to any fund to which he is entitled (whether alone or together with any other person) in that capacity, whether the fund is for the time being in his possession or not.

(4) References to costs shall be construed as including references to fees, charges, disbursements, expenses and remuneration and, in relation to proceedings (including taxation proceedings), also include references to costs of or incidental to those proceedings.

*Application (O. 62, r. 2)*

2. -(1) Where by virtue of any Act the costs of or incidental to any proceedings before an arbitrator or umpire or before a tribunal or other body constituted by or under any Act, not being proceedings in the High Court, are taxable in the High Court, the following provisions (this Order, that is to say, rule 7(4) and (5), rule 8(6), rules 13 to 15, rule 16(1), rule 17, rule 20, rules 21 to 23 and rules 31 to 35, shall have effect in relation to proceedings for taxation of those costs as they have effect in relation to proceedings for taxation of the costs of or arising out of proceedings in the High Court.

(2) This Order shall have effect subject to the provisions of any enactment which limits the costs recoverable.

(3) The powers and discretion of the Court as to costs shall be exercised subject to and in accordance with this Order.

**Part II - ENTITLEMENT TO COSTS**

*General principles (O. 62, r 3)*

3. -(1) This rule shall have effect subject only to the following provisions of this Order.

(2) No party to any proceedings shall be entitled to recover any of the costs of those proceedings from any other party to those proceedings except under an order of the Court.

(3) If the Court in the exercise of its discretion sees fit to make any order as to the costs of any proceedings, the Court shall order the costs to follow the event, except when it appears to the Court that in the circumstances of the case some other order should be made as to the whole or any part of the costs.

(4) The amount of costs which any party shall be entitled to recover is the amount allowed after taxation on the standard basis where -

(a) an order is made that the costs of one party to proceedings be paid by another party to those proceedings; or

(b) an order is made for the payment of costs out of any fund; or

(c) no order is required, unless it appears to the Court to be appropriate to order costs to be taxed on the indemnity basis.

(5)

(6) Subject to rule 8, a term mentioned in the first column of the table below, when used in an order for costs, shall have the effect indicated in the second column of that table.

| <i>Term</i>  | <i>Effect</i>   |
|--|---|
| “Costs”  | <p>(a) Where this order is made in interlocutory proceedings, the party in whose favour it is made shall be entitled to the costs in respect of those proceedings whatever the outcome of the cause or matter in which the proceedings arise; and</p> <p>(b) where this order is made at the conclusion of a cause or matter, the party in whose favour it is made shall be entitled to have the costs taxed forthwith;</p>   |
| “Costs reserved”   | The party in whose favour an order for costs is made as the conclusion of the cause or matter in which the proceedings arise shall be entitled to the costs of the proceedings in respect of which this order is made unless the Court orders otherwise;  |
| “Costs in any event”   | This order has the same effect as an order for “costs” made in interlocutory proceedings;   |
| “Costs here and below”   | The party in whose favour this order is made shall be entitled not only to the costs in respect of the proceedings in which it is made but also to the costs of the same of proceedings in any lower court;   |
| “Costs in the cause” or “application”                                  | The party in whose favour an order for “costs” is made at the conclusion of the cause or matter) the proceedings arise shall be entitled to the costs of the proceedings in respect of which such an order is made.   |
| “Plaintiff’s costs in the cause” or “Defendant’s cost in the cause” if | The plaintiff or the defendant, as the case may be, shall be entitled to the costs of the proceedings in respect of which such an order is made if judgment is given in his favour in the cause or matter in which the proceedings arise, but he shall not be liable to pay the costs of any other party in respect of those proceedings if judgment is in favour of any party or parties in the cause or matter in question; |
| “Costs thrown away”  | Where proceedings or any part of them have been ineffective or have been subsequently set aside, the party in whose favour this order is made shall be entitled to the costs of those proceedings or that part of the proceedings in respect of which it is made.   |

*Cases where no order for costs is to be made (O.62, r.4)*

4. In a probate action where a defendant has given notice with his defence to the party setting up the will that he merely insists upon the will being proved in solemn form of law and only intends to cross examine the witnesses produced in support of the will, no order for costs shall be made against him unless it appears to the Court that there was no reasonable ground for opposing the will.

*Cases where order for costs deemed to have been made (O. 62, r. 5)*

5. -(1) In each of the circumstances mentioned in this rule an order for costs shall be deemed to have been made to the effect respectively described and the order shall be deemed to have been entered up on the date on which the event which gave rise to the entitlement to costs occurred.

(2) Where a summons is taken out to set aside any proceedings on the ground of irregularity and the summons is dismissed, the party who issued the summons shall pay the costs of every other party.

(3) Where a party by notice in writing and without leave discontinues an action or counterclaim or withdraws any particular claim made by him as against any other party, that other party shall be entitled to his costs of the action or counterclaim or his costs occasioned by the claim withdrawn, as the case may be, incurred to the time of receipt of the notice of discontinuance or withdrawal.

(4) Where a plaintiff by notice in writing in accordance with Order 22, rule 3(1), accepts money paid into court in satisfaction of the cause of action or of all the causes of action in respect of which he claims, or accepts money paid in satisfaction of one or more specified causes of action and gives notice that he abandons the others, he shall be entitled to his costs of the action incurred up to the time of giving notice of acceptance.

(5) Where in an action for libel or slander against several defendants sued jointly a plaintiff, by notice in writing in accordance with Order 22, rule 3(1), accepts money paid into court by one of the defendants he shall be entitled to his costs of the action against that defendant incurred up to the time of giving notice of acceptance.

(6) A defendant who has counterclaimed shall be entitled to the costs of the counterclaim if -

(a) he pays money into court and his notice of payment in states that he has taken into account and satisfied the cause or causes of action in respect of which he counterclaims; and

(b) the plaintiff accepts the money paid in; but the costs of such counterclaim shall be limited to those incurred up to the time when the defendant receives notice of acceptance by the plaintiff of the money paid into court.

*Cases where costs do not follow the event (O. 62, r. 6)*

6. -(1) The provisions of this rule shall apply in the circumstances mentioned in this rule unless the Court orders otherwise.

(2) Where a person is or has been a party to any proceedings in the capacity of trustee, personal representative or mortgagee, he shall be entitled to the costs of those proceedings,

in so far as they are not recovered from or paid by any other person, out of the fund held by him in that capacity or out of the mortgaged property, as the case may be, and the Court may order otherwise only on the ground that he has acted unreasonably or in the case of a trustee or personal representative, has in substance acted for his own benefit rather than for the benefit of the fund.

(3) Where any person claiming to be a creditor -

(a) seeks to establish any claim to a debt under any judgment or order in accordance with Order 44; or

(b) comes in to prove his title, debt or claim in relation to a company in pursuance of any such notice,

he shall, if his claim succeeds, be entitled to his costs incurred in establishing it: and, if his claim or any part of it fails, he may be ordered to pay the costs of any person incurred in opposing it.

(4) Where a claimant (other than a person claiming to be a creditor) has established a claim to be entitled under a judgment or order in accordance with Order 44 and has been served with notice of the judgment or order pursuant to rule 2 of that Order, he shall, if he acknowledges service of the notice, be entitled as part of his costs of action (if allowed) to costs incurred in establishing his claim; and where such a claimant fails to establish his claim or any part of it he may be ordered to pay the costs of any person incurred in opposing it.

(5) The costs of any amendment made without leave in the writ or any pleadings be borne by the party making the amendment.

(6) The costs of any application to extend the time fixed by these rules or by any direction or order thereunder shall be borne by the party making the application.

(7) If a party on whom a notice to admit facts is served under Order 27, rule 2, refuses or neglects to admit the facts within 14 days after the service on him of the notice or longer time as may be allowed by the Court, the costs of proving the facts and the occasioned by and thrown away as a result of his failure to admit the facts shall be borne by him.

(8) If a party-

(a) on whom a list of documents is served in pursuance of Order 24; or

(b) on whom a notice to admit documents is served under Order 27, rule 5, gives notice of non-admission of any of the documents in accordance with Order 27, rule 4(2) or 5(2), as the case may be, the costs of proving that document and the costs occasioned by and thrown away as a result of his non-admission shall be borne by him.

*Special circumstances in which casts shall not or may not be taxed (O. 62, r. 7)*

7. -(1) The provisions of this rule shall apply in the circumstances mentioned in this rule.

(2) Costs which by or under any direction of the Court are to be paid to a receiver appointed by the High Court, in respect of his remuneration, disbursements or expenses, shall be allowed in accordance with Order 30, rule 3 and shall not be taxed.

(3) Where a writ in an action is indorsed in accordance with Order 6, rule 2(1) (b), and judgment is entered on failure to give notice of intention to defend or in default of defence for the amount claimed for costs (whether alone or together with any other amount claimed), the plaintiff is not entitled to tax his costs; but if the amount claimed for costs as aforesaid is paid in accordance with the indorsement (or is accepted by the plaintiff as if so paid) the defendant shall be entitled to have those costs taxed.

(4) In awarding costs to any person the Court may order that, instead of his taxed costs, that person shall be entitled -

(a) to a proportion (specified in the order) of those costs from or up to a stage of the proceedings so specified; or

(b) to a gross sum so specified in lieu of those costs; but where the person entitled to such a gross sum is a litigant in person, rule 18 shall apply with the necessary modifications to the assessment of the gross sum as it applies to the taxation of the costs of a litigant in person.

(5) Where a claimant is entitled to costs under rule 6(3) the amount of the costs shall be assessed by the Court unless it thinks fit to order taxation and the amount so assessed or taxed shall be added to the debt due to the claimant.

(6) Subject to paragraph (7), where a party is entitled to costs under rule 6(7) or (8) the amount of those costs may be assessed by the Court and be ordered to be paid forthwith.

(7) No order may be made under paragraph (6) in a case where the person against whom the order is made is an assisted person within the meaning of the statutory provisions relating to legal aid.

*Stage of proceedings at which costs to be taxed (O. 62, r. 8)*

8. -(1) Subject to paragraph (2), the costs of any proceedings shall not be taxed until the conclusion of the cause or matter in which the proceedings arise.

(2) If it appears to the Court when making an order for costs that all or any part of the costs ought to be taxed at an earlier stage it may order accordingly.

(3) In the case of an appeal the costs of the proceedings giving rise to the appeal, as well as the costs of the appeal, may be dealt with by the Court hearing the appeal.

(4) In the case of any proceedings transferred or removed to the High Court from any other court, the High Court may (subject to any order of the court ordering the transfer or removal) deal with the costs of the whole proceedings (including the costs before the transfer or removal).

(5) Notwithstanding anything in Part III of this Order, but subject to paragraph (7) below, where the Court makes an order as to the costs of any proceedings before another court under paragraphs (4) or (5), the order -

(a) shall specify the amount of the costs to be allowed; or shall direct that the costs be assessed by the court before which the proceedings took place; or

(b) be taxed by an officer of that court; or

(c) may direct that the costs be taxed by a taxing officer.

(6) Where it appears to a taxing officer on application that there is no likelihood of any further order being made in a cause or matter, he may tax forthwith the costs of any interlocutory proceedings which have taken place.

*Matters to be taken into account in exercising discretion (O. 62, r. 9)*

9. -(1) The Court in exercising its discretion as to costs shall take into account -

(a) any offer of contribution brought to its attention in accordance with Order 16, rule 10;

(b) any payment of money into court and the amount of such payment;

(c) any written offer made under Order 33, rule 5(2).

*Misconduct or neglect in the conduct of any proceedings (O. 62, r. 10)*

10. -(1) Where it appears to the Court in any proceedings that any thing has been done or that any omission has been made, unreasonably or improperly by or on behalf of any party the Court may order that the costs of that party in respect of the act or omission, as may be, shall not be allowed and that any costs occasioned by it to any other party paid by him to that other party.

(2) Instead of making an order under paragraph (1) the Court may refer the taxing officer, in which case the taxing officer shall deal with the matter under rule 28(1).

*Personal liability of legal representative for costs (O. 62, r. 11)*

11. -(1) Subject to the following provisions of this rule, where it appears to the Court that costs have been incurred unreasonably or improperly in any proceedings or have been wasted by failure to conduct proceedings with reasonable competence and expedition, the Court may -

(a) order -

(i) the legal representative whom it considers to be responsible (whether personally or through a servant or agent) to repay to his client costs which the client has been ordered to pay to any other party to the proceedings; or

(ii) the legal representative personally to indemnify such other parties against costs payable by them; and

(iii) the costs as between the legal representative and his client to be disallowed; or

(b) direct a taxing officer to inquire into the matter and report to the Court, and upon receiving such a report the Court may make such order under sub-paragraph (a) as it thinks fit.

(2) When conducting an inquiry pursuant to a direction under paragraph (1) (b) the taxing officer shall have all the powers and duties of the Court under paragraphs (4), (5), (6) and (8) of this rule.

(3) Instead of proceeding under paragraph (1) of this rule the Court may refer the matter to a taxing officer, in which case the taxing officer shall deal with the matter under paragraph (2) and (3) of rule 28.

(4) Subject to paragraph (5), before an order maybe made under paragraph (1) (a) of this rule the Court shall give the legal representative a reasonable opportunity to appear and cause why an order should not be made.

(5) The Court shall not be obliged to give the legal representative a reasonable opportunity to appear and show cause where proceedings fail, cannot conveniently proceed adjourned without useful progress being made because the legal representative -

(a) fails to attend in person or by a proper representative;

(b) fails to deliver any document for the use of the Court, which ought to have been delivered or to be prepared with any proper evidence or account; or

(c) otherwise fails to proceed.

(6) The Court may direct the Solicitor-General to attend and take part in any proceedings or inquiry under this rule and the Court shall make such order as to the payment of the Solicitor-General's costs as it thinks fit.

(7) If in any proceedings a party who is represented by a legal representative fails to pay the fees or any part of the fees prescribed by the Orders as to Court fees then, on the application of the Solicitor-General by summons, the Court may order the legal representative personally to pay that amount in the manner so prescribed and to pay the Solicitor-General's costs of the application.

(8) The Court may direct that notice of any proceedings or order against a legal representative under this rule be given his client in such a manner as may be specified in the direction.

### **Part III - TAXATION AND ASSESSMENT OF COSTS**

#### *Basis of taxation (O. 62, r. 12)*

12. -(1) On a taxation of costs on the standard basis there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the taxing officer may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party; and in these rules the term "the standard basis" in relation to the taxation of costs shall be construed accordingly.

(2) On a taxation on the indemnity basis all costs shall be allowed except insofar as they are of an unreasonable amount or have been unreasonably incurred and any doubts which the taxing officer may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the receiving party; and in these rules the term “the indemnity basis” in relation to the taxation of costs shall be construed accordingly.

(3) Where the Court makes an order for costs without indicating the basis of taxation or an order that costs be taxed on basis other than the standard basis or the indemnity basis, the costs shall be taxed on the standard basis.

*Standard Costs (O. 62, r. 13)*

13. -In determining the scale of standard costs to be awarded as provided by Order 1 r.9 (3) (a) The Taxing Officer shall have regard to be complexity of the proceedings in respect of which costs are taxed and in particular to:

(a) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;

(b) the skill, specialised knowledge and responsibility required of, and the time and labour expended by, the solicitor;

(c) the number and importance of the documents (however brief) prepared or perused;

(d) the place and circumstances in which the business involved is transacted;

(e) the importance of the cause or matter to the client;

(f) where money or property is involved, its amount or value;

(g) any other fees and allowances payable to the solicitor in respect of other items in the same cause or matter, but only where work done in relation to those items has reduced the work which would otherwise have been necessary in relation the item in question.

(3) The bill of costs shall consist of such items specified in Appendix 4 as may appropriate, set out in chronological order: each such item (other than an item relating only to time spent in travelling and waiting) may include an allowance for general care and condition having regard to such of the circumstances referred to in paragraph (2) above as may relevant to that item.

*Costs payable to a trustee or personal representative out of any fund (O. 62, r. 14)*

14. -(1) This rule applies to every taxation of a trustee’s or personal representative’s costs where -

(a) he is or has been a party to any proceedings in that capacity; and

(b) he is entitled to be paid his costs out of any fund which he holds in that capacity.

(2) On a taxation to which this rule applies, costs shall be taxed on the indemnity basis but shall be presumed to have been unreasonably incurred if they were incurred contrary the duty of the trustee or personal representative as such.

*Costs payable to a solicitor by his own client (O. 62, r. 15)*

15. -(1) This rule applies to every taxation of a solicitor's bill to his own client.

(2) On a taxation to which this rule applies costs shall be taxed on the indemnity basis but shall be presumed -

(a) to have been reasonably incurred if they were incurred with the express implied approval of the client; and

(b) to have been reasonable in amount if their amount was expressly or impliedly approved by the client; and

(c) to have been unreasonably incurred if in the circumstances of the case they of an unusual nature unless the solicitor satisfies the taxing officer that prior to their being incurred he informed his client that they might not be allowed a taxation of costs inter partes.

*Costs payable to a solicitor where money claimed by or on behalf of a minor or a patient (O. 62, r. 16)*

16. -(1) This rule applies to any proceedings in which -

(a) money is claimed or recovered by or on behalf of, or adjudged, or ordered, or agreed to be paid to, or for the benefit of, a minor or a patient; or

(b) money paid into court is accepted by or on behalf of a minor or patient.

(2) The costs of proceedings to which this rule applies which are payable by any plaintiff to his barrister and solicitor shall, unless the Court otherwise orders, be taxed under rule 15(1) and (2).

(3) On a taxation under paragraph (2), the taxing officer shall also tax any costs payable to that plaintiff in whose proceedings and shall certify -

(a) the amount allowed on the taxation of the solicitor's bill to his own client; and

(b) the amount allowed on the taxation of any costs payable to that plaintiff in those proceedings; and

(c) the amount (if any) by which the amount mentioned in sub-paragraph (a) exceeds the amount mentioned in sub-paragraph (b); and

(d) where necessary, the proportion of the amount of such excess payable by, or out of money belonging to, respectively any claimant who is a minor or patient and any other party.

(4) Nothing in the foregoing provisions of this rule shall prejudice a solicitor's lien for costs.

(5) This rule shall apply *mutatis mutandis* to counterclaims.

*Provisions for ascertaining costs on a taxation (O. 62, r. 17)*

17. -(1) Subject to the following provisions of this rule, the provisions contained in Order 62 rule 37 to this Order for ascertaining the amount of costs to be allowed on a taxation of costs shall apply to the taxation of all costs with respect to contentious business.

(2) Where the amount of a barrister and solicitor's remuneration in respect of non-contentious business connected with sales, purchases, leases, mortgages and other matters of conveyancing or in respect of any other non-contentious business is regulated (in the absence of agreement to the contrary) by any enactment or rules made thereunder for the time being in force, the amount of the costs to be allowed on taxation in respect of the like contentious business shall be the same.

(3) Notwithstanding paragraph (1), costs shall be allowed in the cases to which Appendix 4 applies in accordance with the provisions of that Appendix unless the Court otherwise orders.

*Litigants in person (O. 62, r. 18)*

18. -(1) Subject to the provisions of this rule, on any taxation of the costs of a litigant in person there may be allowed such costs as would have been allowed if the work and disbursements to which the costs relate had been done or made by a solicitor on the litigant's behalf together with any payments reasonably made by him for legal advice relating to the conduct of or the issues raised by the proceedings.

(2) The amount allowed in respect of any item shall be such sum as the taxing office thinks fit but not exceeding, except in the case of a disbursement, two-thirds of the sum which in the opinion of the taxing officer would have been allowed in respect of that item if the litigant had been represented by a solicitor.

(3) Where it appears to the taxing office that the litigant has not suffered any pecuniary loss in doing any item of work to which the costs relate, he shall be allowed in respect of the time reasonably spent by him on that item not more than F\$4.00 per hour.

(4) A litigant who is allowed costs in respect of attending court to conduct his case shall not be entitled to a witness allowance in addition.

(5) For the purposes of this rule a litigant in person does not include a litigant who a practicing solicitor.

**Part IV - POWERS OF TAXING OFFICERS**

*Who may tax costs (O. 62, r. 19)*

19. -(1) Subject to paragraphs (2) and (3), a taxing officer shall have power to tax -

(a) the costs of or arising out of any proceedings to which this Order applies;

(b) the costs ordered by an award made on a reference to arbitration under any Act or payable pursuant to an arbitration agreement; and

(c) any other costs the taxation of which is ordered by the Court.

*Supplementary powers of taxing officers (O. 62, r. 20)*

20. -A taxing officer may, in the discharge of his functions with respect to the taxation of costs,-

(a) take an account of any dealings in money made in connection with the payment of the costs being taxed, if the Court so orders;

(b) require any party represented jointly with any other party in any proceeding before him to be separately represented;

(c) examine any witness in those proceedings; and

(d) order the production of any document which may be relevant in connection with those proceedings.

*Extensions of time (O. 62, r. 21)*

21. -(1) A taxing officer may -

(a) extend the period with which a party is required by or under this Order or by the Court to begin proceedings for taxation or to do any thing in or in connection with those proceedings on such terms (if any) as he thinks just; or

(b) where no period is specified by or under this Order or by the Court for the doing of any thing in or in connection with such proceedings, specify the period within which the thing is to be done.

(2) A taxing officer may extend any such period as if referred to in paragraph (1) of this rule although the application for extension is not made until after the expiration of that period.

*Certificates (O. 62, r. 22)*

22. -(1) A taxing officer -

(a) shall, at the conclusion of taxation proceedings before him, issue a certificate for the costs allowed by him;

(b) may from time to time in the course of the taxation issue an interim certificate for any part of the costs which have been taxed or for any part of the amount of which is not in dispute;

(c) may amend or cancel an interim certificate issued by him;

(d) may correct any clerical mistake in any certificate issued by him or any error arising therein from any accidental slip or omission; and

(e) may set aside a certificate issued by him in order to enable him to extend the period provided by rule 33(2).

(2) If, in the course of the taxation of a solicitor's bill to his own client, it appears to the taxing officer that in any event the solicitor will be liable in connection with that bill to pay money to the client, he may from time to time issue an interim certificate specifying an amount which in his opinion is payable by the solicitor to his client.

(3) On the filing of a certificate issued under paragraph (2) the Court may order the amount specified in it to be paid forthwith to the client or into court.

*Power of taxing officer where party liable to be paid and to pay costs (O. 62, r. 23)*

23. Where a party entitled to be paid costs is also liable to pay costs, the taxing officer may

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(a) tax the costs which the party is liable to pay and set off the amount allowed against the amount he is entitled to be paid and direct payment of any balance; or

(b) delay the issue of a certificate for the costs the party is entitled to be paid until he has paid or tendered the amount he is liable to pay.

*Taxation of bill of costs comprised in an account (O. 62, r. 24)*

24. -(1) Where the Court orders an account to be taken and the account consists in part of costs, the Court may direct a taxing officer to tax those costs and the taxing officer shall after taxation of the bill of costs return it, together with his report on it, to the Court.

(2) A taxing officer taxing a bill of costs in accordance with a direction under paragraph (1) shall have the same powers, and the same fee shall be payable in connection with the taxation, as if an order for taxation of the costs had been made by the Court.

*Taxing officer to fix certain fees payable to conveyancing counsel (O. 62, r. 25)*

25. -(1) Where the Court refers any matter to the conveyancing counsel of the Court or obtains the assistance of any other person under Order 32, rule 13, the fees payable to counsel or that other person in respect of the work done by him in connection with the reference or, as the case may be, in assisting the Court shall be fixed by a taxing officer.

(2) An appeal from a decision of a taxing officer under paragraph (1) shall lie to the Court and the decision of the Court thereon shall be final.

*Powers of taxing officers on taxation of costs out of a fund (O. 62, r. 26)*

26. -(1) Where any costs are to be paid out of a fund the taxing officer may give directions as to the parties who are entitled to attend on the taxation of those costs and may disallow the costs of attendance of any party not entitled to attend by virtue of the directions and whose attendance he considers unnecessary.

(2) Where the Court has directed that a bill of costs be taxed for the purpose of being paid out of a fund, the taxing officer may direct the party whose bill is to be sent to any person

having an interest in the fund a copy of the bill, or of any part thereof, free of charge together with a letter containing the following information, that is to say -

(a) that the bill of costs, a copy of which or of part of which is sent with the letter has been referred to a taxing officer for taxation;

(b) the name of the taxing officer and the address of the office at which the taxation is proceeding;

(c) the time appointed by the taxing officer at which the taxation will be continued; and

(d) such other information, if any, as the taxing officer may direct.

*Powers of taxing officers in relation to costs of taxation proceedings (O. 62, r. 27)*

27. -(1) Subject to the provisions of any Act and this Order, the party whose bill is being taxed shall be entitled to his costs of the taxation proceedings.

(2) Where it appears to the taxing officer that in the circumstances of the case some other order should be made as to the whole or any part of the costs, the taxing officer shall have, in relation to the costs of taxation proceedings, the same powers as the Court has in relation to the costs of proceedings.

(3) Subject to paragraph (5), the party liable to pay the costs of the proceedings which gave rise to the taxation proceedings may make a written offer to pay a specific sum in satisfaction of those costs which is expressed to be “without prejudice save as to the costs of taxation” at any time before the expiration of 14 days after the delivery to him of a copy of the bill of costs under rule 30(3) and, where such an offer is made, the fact that it has been made shall not be communicated to the taxing officer until the question of the costs of the taxation proceedings falls to be decided.

(4) The taxing officer may take into account any offer made under paragraph (3) which has been brought to his attention.

(5) No offer to pay a specific sum in satisfaction of costs may be made in a case where the person entitled to recover his costs is an assisted person within the meaning of the statutory provisions relating to legal aid.

(6) In this rule any reference to the costs of taxation proceedings shall be construed as including a reference to any fee which is prescribed by the Orders as to Court fees for the taxation of a bill of costs.

*Powers of taxing officer in relation to misconduct, neglect etc. (O. 62, r. 28)*

28. -(1) Where, whether or not on a reference by the Court under rule 10(2), it appears to the taxing officer that anything has been done, or that any omission has been made, unreasonably or improperly by or on behalf of any party in the taxation proceedings or in the proceedings which gave rise to the taxation proceedings, he may exercise the powers conferred on the Court by rule 10(1).

(2) Where, whether or not on a reference by the Court under rule 11(3), it appears to the taxing officer that costs have been wasted in the taxation proceedings or in the proceeding which gave rise to the taxation proceedings, he may, subject to paragraph (3) of this rule, disallow, or (as the case may be) order the legal or other representative concerned to meet, the whole of any wasted costs or such part of them as may be determined in accordance with rules of court.

(3) In relation to the exercise by a taxing officer of the powers of the Court under paragraph 2 of this rule, paragraphs (4) to (6) and (8) of rule 11 shall apply as if for references to the Court there were substituted references to the taxing officer.

(4) Where a party entitled to costs -

(a) fails without good reason to commence or conduct proceedings for the taxation of those costs in accordance with this Order or any direction; or

(b) delays lodging a bill of costs for taxation, the taxing officer may -

(i) disallow all or part of the costs of taxation that he would otherwise have awarded that party; and

(ii) after taking into account all the circumstances (including any prejudice suffered by any other party as a result of such failure or delay, as the case may be, and any additional interest payable because of the failure or delay), allow the party so entitled less than the amount he would otherwise have allowed on taxation of the bill or wholly disallow the costs.

(5) An appeal shall lie to a judge in chambers from the exercise by a taxing officer of the powers conferred by this rule.

(6) In exercising his powers under this rule the taxing officer shall have all the powers available to the Court in the exercise of its discretion under rules 10 and 11.

(7) In paragraph (2) “wasted costs” means any costs incurred by a party -

(a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or

(b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.

## **Part V-PROCEDURE ON TAXATION**

### *Commencement of proceedings (O. 62, r. 29)*

29. -(1) Subject to paragraph (2), where a party is entitled to recover taxed costs or to require any costs to be taxed by a taxing officer by virtue of-

(a) a judgment direction or order given or made in proceedings in the Court; or

(b) rule 5(3), (4) or (5); or

(c) an award made on an arbitration under any Act or pursuant to an arbitration agreement; or

(d) an order, award or other determination of a tribunal or other body constituted by a or under any Act, he must begin proceedings for the taxation of those costs either within three months after the judgment, direction, order, award or other determination was entered, signed or otherwise perfected or, in cases to which subparagraph (b) applies, within three months after service of the notice to him under Order 21, rule 2 or Order 22, rule 3.

(3) Where a party entitled to costs fails to begin proceedings for taxation within the time limit specified in paragraph (1), any other party to the proceedings which gave rise to the taxation proceedings may with the leave of the taxing officer begin taxation proceedings.

(4) Where leave has been granted under paragraph (3), the party to whom it has been granted shall proceed as if he were the person entitled to begin taxation proceedings.

(5) Proceedings for the taxation of costs shall be begun by producing the requisite document at the appropriate office.

(6) For the purpose of this rule -

(a) the requisite document shall be ascertained by reference to Order 62 r. 36; and

(b) the appropriate office is the Divisional High Court Registry.

(7) A party who begins proceedings for taxation must, at the same time, lodge in the appropriate office -

(a) a copy of the requisite document produced under paragraph (5); and

(b) a statement containing the following particulars:-

(i) the name of every party, and the capacity in which he is a party to the proceedings, his position on the record of the proceedings which gave rise to the taxation proceedings and, if any costs to which taxation proceedings relate are to be paid out of a fund, the nature of his interest in the fund; and

(ii) the address of any party to the proceedings who acknowledged service that person or who at the conclusion of the proceedings which gave rise to taxation proceedings was acting in person and the name or firm and business address, telephone number and office reference of the solicitor of any party who did not so acknowledge service or was not so acting in person and also (if the solicitor is the agent of another) the name of firm and business address of his principal; and

(c) unless the taxing officer otherwise orders, a bill of costs -

(i) in which the professional charges and the disbursement are set out in separate columns and each column is cast; and

(ii) which is endorsed with the name, or firm and business address of the solicitor whose bill it is; and

(iii) which is signed by that solicitor or, if the costs are due to a firm, by a party of that firm; and

(d) unless the taxing officer otherwise orders, the papers and vouchers specified below in the order mentioned -

(i) a bundle comprising all civil legal aid certificates and amendments thereto, notices of discharge or revocation thereof and specific legal aid authorities;

(ii) unless the relevant information is included in the judgment or order or the parties have agreed the times of the hearings, a certificate of times or a copy of the associate's certificate;

(iii) a bundle comprising fee notes of counsel and accounts for other disbursements;

(iv) one complete set of pleadings arranged in chronological order, with any interlocutory summonses and lists of documents annexed to it;

(v) cases to counsel to advise with his advice and opinions, and instructions to counsel to settle documents and briefs to counsel with enclosures, arranged in chronological order;

(vi) reports and opinions of medical and other experts arranged in chronological order;

(vii) the solicitor's correspondence and attendance notes; and

(viii) any other relevant papers duly bundled and labelled.

(8) In this rule and in this Part of this Order - "proper officer" means an officer of the appropriate office within the meaning of paragraph (6)(b), and "party entitled to be heard on the taxation" means -

(a) a person who has acknowledged service or taken any part in the proceedings which gave rise to the taxation proceedings and who is directly liable under an order for costs made against him; or

(b) a person who had begun proceedings for taxation in accordance with this rule; or

(c) a person who had given the party taxing and the proper officer written notice that he has a financial interest in the outcome of the taxation; or

(d) a person in respect of whom a direction has been given under rule 26.

*Subsequent procedure (O. 62, r. 30)*

30. -(1) Subject to rules 31 and 32, where a party has begun proceedings for taxation in accordance with rule 29, the proper officer shall give to that party and to any other party entitled to be heard on the taxation not less than 14 days' notice of the day, time and place appointed for the taxation.

(2) Subject to rule 32, where a party has begun proceedings for taxation in accordance with rule 29, the proper officer shall as soon as practicable give notice to any other party whose costs are to be taxed in the proceedings of the period within which his bill of costs (together with all necessary papers and vouchers) are to be sent to the taxing officer by whom the bill is to be taxed.

(3) A party whose costs are to be taxed must within 7 days after beginning the proceedings for taxation or, as the case may be, receiving notice under paragraph (2), -

(a) send a copy of his bill of costs to every other party entitled to be heard on the taxation; and

(b) notify the proper officer that he has done so.

(4) Where, in beginning or purporting to begin any taxation proceedings or at any stage in the course of or any connection with those proceedings, there has been a failure to comply with the requirements of this Order, whether in respect of time or in any other respect, the failure shall be treated as an irregularity and shall not nullify the taxation proceedings or any step taken in those proceedings.

(5) The taxing officer may, on the ground that there has been such a failure as is mentioned in paragraph (4), and on such terms as he thinks just, set aside either wholly or in part the taxation proceedings or exercise his powers under this Order to make sure any) dealing with the taxation proceedings generally as he thinks fit.

*Provisional taxation (O. 62, r. 31)*

31. -(1) Where in taxation proceedings duly begun in accordance with rule 29, only the party who commenced the proceedings is entitled to be heard on the taxation, the proper officer shall, unless the taxing officer otherwise directs, send to that party a notice specifying the amount which the taxing officer proposes to allow in respect of the bill of costs and requiring him to inform the proper officer, within 14 days after receipt of the notice, if he wishes to be heard on the taxation.

(2) If the party referred to in paragraph (1) informs the proper officer within the limited that he wishes to be heard on the taxation, the proper officer shall fix a day and time for the taxation and give not less than 14 day's notice thereof to that party.

(3) Except on the taxation of a solicitor's bill to his own client and where paragraph (1) applies, where in taxation proceedings begun in accordance with rule 29 -

(a) the party lodging the bill so requests and the taxing officer considers it to be appropriate; or

(b) the taxing officer so decides, the taxing officer may, instead of proceeding under rule 30(1), proceed under paragraphs (4) to (7) of this rule.

(4) Where the taxing officer decides to proceed under this and the following paragraphs of this rule, the proper officer shall send to each party entitled to be heard on the taxation (except the party whose bill it is), a notice requiring him to inform the proper officer within 14 days after the receipt of the notice if he wishes to be heard on the taxation.

(5) If any party to whom notice has been given under paragraph (4) informs the proper officer within the time limited that he wished to be heard on the taxation, the proper officer shall fix an appointment for the taxation and give not less than 14 days' notice of the appointment to every party entitled to be heard.

(6) If no party to whom notice has been given under paragraph (4) informs the proper officer within the time limited that he wishes to be heard on the taxation, the proper officer shall, unless the taxing officer otherwise directs, send to the party lodging the bill a notice specifying the amount which the taxing officer proposes to allow in respect of the bill and requiring that party to inform the proper officer within 14 days after receipt of the notice if he wishes to be heard on the taxation.

(7) If the party lodging the bill informs the proper officer within the time limited under paragraph (6) that he wishes to be heard on the taxation, the proper officer shall fix an appointment for the taxation and give not less than 14 days' notice of the appointment to that party.

*Short and urgent taxations (O. 62, r. 32)*

32. -(1) Where a party entitled to require the taxation of any costs of or arising out of proceedings to which this Order applies begins proceedings for the taxation of those costs in accordance with rule 29 then if, when he begins such proceedings, he satisfies the proper officer -

(a) that, in view of the amount of any bill of costs to be taxed, the time required for taxation is likely to be short; and

(b) that the speedy completion of the taxation is necessary in the interests of any person concerned in the taxation, the proper officer shall enter the proceedings for taxation in a list kept for the purposes of this rule and shall forthwith give notice of the day and time appointed for the taxation to the party whose costs are to be taxed.

(2) A party whose costs are to be taxed in proceedings entered in the list referred to in paragraph (1) must not less than 4 days before the day appointed for the taxation send a copy of his bill of costs to every other party entitled to be heard on the taxation with a notice of the day and time appointed for the taxation.

**Part VI - REVIEW OF TAXATION**

*Application to taxing officer for review (O. 62, r. 33)*

33. -(1) Any party to any taxation proceedings who is dissatisfied with any decision of a taxing officer (other than a decision on a provisional taxation or a decision under rule 28) may apply to the taxing officer to review his decision.

(2) An application under this rule for review of a taxing officer's decision must be made within 21 days after that decision or within such other period as may be fixed by the taxing officer.

(3) Every applicant for review under this rule must at the time of making his application deliver to the taxing officer his objections in writing specifying what is objected to and stating concisely the nature and grounds of the objection in each case, and must deliver a copy of the objections to any other party who was entitled to receive notice of the appointment for the taxation pursuant to rules 30 and 31.

(4) Any party to whom a copy of the objections is delivered under this rule may, within 21 days after delivery of the copy to him or such other period as may be fixed by the taxing officer, deliver to the taxing officer answers in writing to the objections stating concisely the grounds on which he will oppose the objections, and must at the same time deliver a copy of the answers to the party applying for review and to any other party who was entitled to receive notice of the appointment for the taxation pursuant to rules 30 and 31.

*Review by taxing officer (O. 62, r. 34)*

34. -(1) A review under rule 33 shall be carried out by the taxing officer who conducted the taxation.

(2) On a review under rule 33, a taxing officer may receive further evidence and may exercise all the powers which he might exercise on an original taxation, including the power to award costs of the proceedings before him; and any costs awarded by him to any party may be taxed by him and may be added to or deducted from any other sum payable to or by that party in respect of costs.

(3) On a hearing of a review under rule 33 a party to whom a copy of objections was delivered under paragraph (3) of the rule shall be entitled to be heard in respect of all or any of the objections notwithstanding that he did not deliver written answers to the objections under paragraph (4) of that rule.

(4) A taxing officer who issues his certificate pursuant to rule 22(1) (a) or (b) after he has conducted a review under this rule, if requested to do so by a party to the proceedings before him, shall state in the certificate or otherwise in writing by reference to the objections the reasons for his decision on the review, and any special facts or circumstances relevant to it.

(5) A request under paragraph (4) must be made within 14 days after the review or such other period as may be fixed by the taxing officer.

*Review by a judge (O. 62, r. 35)*

35. -(1) Any party who is dissatisfied with the decision of a taxing officer on a review under rule 33 may apply to a judge for an order to review that decision either in whole or in part, provided that one of the parties to the taxation proceedings has requested that officer to state the reasons for his decision in accordance with rule 34(4).

(2) An application under this rule may be made at any time within 14 days after the taxing officer has issued a certificate in accordance with rule 34(4).

(3) An application under this rule shall be made by summons and shall unless the judge thinks fit to adjourn it into Court, be heard in chambers.

(4) Unless the judge otherwise directs, no further evidence shall be received on the hearing of an application under this rule, and no ground of objection shall be raised which was not raised on the review by the taxing officer but, save as aforesaid, on the hearing of any such application the judge may exercise all such powers and discretion as are vested in the taxing officer in relation to the subject matter of the application.

(5) On an application under this rule the judge may make such order as the circumstances may require and in particular may order the taxing officer's certificate to be amended or, except where the dispute as to the item under review is as to amount only, order the item to be remitted to the same or another taxing officer for taxation.

*Requisite Document For Purposes of Rule 29 (O. 62, r. 36)*

36. -(1) Where a party is entitled to require any costs to be taxed by virtue of a judgment or order given or made in any proceedings in the Court, the requisite document for the purposes of rule 29 is the judgment or order as the case may be.

(2) Where the entitlement arises by virtue of a direction of the Court given under these rules, the requisite document is that direction.

(3) Where a party is entitled by virtue of rule 5(3), (4) or (5) to require any costs to be taxed, the requisite document for the purposes of rule 29 is: -

(a) where he is entitled by virtue of rule 5(3), the notice given to him under Order 21, rule 2;

(b) where he is so entitled by virtue of rule 5(4) or (5) a certified copy of the notice given by him under Order 22, rule 3.

(4) Where a party is entitled to require taxation by a taxing officer of the costs directed to be paid by an award made on the arbitration under any Act or pursuant to an arbitration agreement and no order of the Court for the enforcement of the award has been made, the requisite document for the purposes of rule 29 is the award.

(5) Where apart from any order of the Court a party is entitled to require taxation by a taxing officer of the fees and charges payable to a sheriff or an officer of his, the requisite document for the purposes of rule 29 is the sheriff's bill of fees and charges.

(6) Where a party is entitled to require taxation by a taxing officer of any costs directed to be taxed or paid by an order, award or other determination of a tribunal or other body constituted by or under any Act, the requisite document for the purposes of rule 29 is the order, award or other determination, as the case may be.

*Amount of Indemnity costs (O. 62 r. 37)*

37. -(1) The amount of costs to be allowed shall (subject to rule 18 and to any order of the Court) be in the discretion of the taxing officer."

*Replacement of Appendix 2*

5. Appendix 2 to the principal Rules is replaced by Appendix 2 set out in the schedule to these Rules.

*Replacement of Appendix 4*

6. Appendix 4 to the principal Rules is replaced by Appendix 4 set out in the schedule to these Rules.

Made at Suva this 1st day of May 1998.

T. U. TUIVAGA  
Chief Justice

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**SCHEDULE**

**APPENDIX 2**

**GENERAL REGISTRY FEES**

NOTE - The fees prescribed in this Part shall be taken in all causes and matters save where different fees are prescribed for the same item in any other part of this Appendix or any Act or rule.

PROVIDING THAT - all or part of the fees prescribed may upon good cause being shown be waived in whole or in part by the Court or by the Chief Registrar.

|  | \$     |
|--|--------|
| 1. On filing a writ, petition, summons or motion for the commencement of any action<br>.....   | 100.00 |
| 2. On filing an acknowledgement of service<br>.....  | 10.00  |
| 3. On filing a Defence, Defence and Counter-claim, reply and Defence to Counter-claim or affidavit filed under order 28 rule 2(4) or in answer to an affidavit filed under order 53 rule 3(2) (b)<br>.....   | 50.00  |
| 4. On filing of any application for summary judgment under Order 14, leave to issue third party proceedings, relief by way of interpleader, entry of judgment in default of pleadings, amendment of pleadings with leave, security for costs, order for discovery, interrogatories and summons for directions<br>..... | 50.00  |
| 5. On filing any application, summons or notice of motion before a Judge other than 4. above<br>.....  | 50.00  |
| 6. On filing from the Magistrates Court in the High Court a notice of appeal   | 100.00 |

|   |  |
|---|--|
| .....   |  |
| 7. On filing a notice of appeal from the Chief Registrar or a Deputy Registrar to a judge in chambers<br>.....  | 50.00  |
| 8. On filing summons to set down for trial in Court before a judge for court hearing per day or part thereof.....   | 100.00   |
| 9. On the examination of a witness before an officer of the Court or a special examiner (including the examination of a judgment debtor) or before trial by a judge:  |  |
| In any action, cause, matter of proceedings pending in the High Court<br>.....  | 50.00  |
| In any other matter<br>.....  | 20.00  |
| 10. On issuing a summon under the Reciprocal Enforcement of Judgments Act or the Foreign Judgments (Reciprocal Enforcement) Act for leave to have judgment registered<br>.....  | 20.00  |
| 11. On entering or sealing a judgment, decree or order of the Court<br>.....  | 10.00  |
| 12. On sealing a writ of execution (including a writ of attachment)<br>.....  | 10.00  |
| 13. On sealing a garnishee order nisi or a charging order nisi<br>.....   | 10.00  |
| (a) On filing any document unless otherwise provided for<br>.....<br>(This fee is not payable on filing a document already stamped with a fee prescribed in this Appendix or on filing a legal submission, skeleton argument or list of authorities or on filing a notice withdrawing a cause or an appeal) | 20.00  |
| (b) Late filing fee (provision to Order 3 rule 4(3))<br>.....   | 20.00  |
| 14. On any one search<br>.....  | 10.00  |
| 15. (a) For supplying a typed, carbon or duplicated copy of any judgment, order decree, document or proceedings-per page (with a minimum fee of \$0.50)<br>.....  | 0.50   |
| (b) For a copy, other than a photocopy, in a foreign language or for a copy of a plan,  | The reasonable Costs thereof as certified by the Chief Registrar |

|   |        |
|---|--------|
| map, section, drawing, photograph or<br>diagram<br>.....  |        |
| 16. For supplying a transcript of notes of proceedings per typed page (with a minimum<br>fee of \$5.00)<br>.....  | 5.00   |
| 17. For a supplying a photocopy of any document, per page<br>.....  | 1.00   |
| 18. Upon an application for the production of records or document to be given in<br>evidence:   |        |
| (a) where the records or documents are sent by post<br>.....  | 5.00   |
| (b) where an officer is required to attend whether on subpoena or not his<br>reasonable expenses and in addition for each day or part of a day he is<br>necessarily absent from his office<br>..... | 20.00  |
| 19. On filing a bill of costs and obtaining an appointment to tax:  |        |
| For a bill not exceeding \$100<br>.....   | 20.00  |
| For a bill exceeding \$100 but not exceeding \$200<br>.....   | 30.00  |
| For a bill exceeding \$200<br>.....   | 40.00  |
| (This fee is to be paid on the amount claimed in the bill. No additional fee is payable<br>for the taxation)  |        |
| 20. For the supply of a certificate<br>.....  | 10.00  |
| 21. For preparation by the Chief Registrar of an apostile in pursuance of the Hague<br>Convention 1961.....   | 25.00  |
| 22. Wasted hearing fee:   |        |
| (a) in Court not exceeding<br>.....   | 200.00 |
| (b) in chambers not exceeding<br>.....  | 100.00 |

**APPENDIX 4**

## SCALE OF COSTS

(STANDARD BASIS - O. 62 r. 13)

(DISCRETION OF TAXING OFFICER)

|  | <i>Lower<br/>Scale<br/>\$</i> | <i>Higher<br/>Scale<br/>\$</i> |
|--|-------------------------------|--------------------------------|
| 1. Instructions to sue inclusive of writing letters preparation, issue, service on one party and affidavit of service of a writ of summons .....   | 50.00                         | 100.00                         |
| 2. On judgment in default of appearance or defence where no application to the Court or a judge is required including entry of a consent judgment or a judgment after discontinuance .....   | 15.00                         | 25.00                          |
| 3. On any judgment whether in default of appearance or defence or under 0.14 application to the Court or a judge is required .....   | 30.00                         | 60.00                          |
| 4. (a) Instructions to defend inclusive of preparation, filing and service of appearance in respect of one defendant .....   | 50.00                         | 100.00                         |
| (b) For each additional defendant represented .....  | 10.00                         | 20.00                          |
| 5. In addition to Item 4 for each defendant for whom a guardian <i>ad litem</i> is appointed .....   | 10.00                         | 15.00                          |
| 6. Instructions for Statement of Claim inclusive of preparation, filing and service.....   | 100.00                        | 250.00                         |
| 7. Instructions for Statement of Defence or Counterclaim or Defence and Counter-claim inclusive of preparation, filing and service .....   | 50.00                         | 200.00                         |
| 8. Instructions for Reply or subsequent pleading or Defence to Counterclaim or Reply and Defence to Counter-claim inclusive of preparation filing and service .....  | 20.00                         | 50.00                          |
| 9. Instructions for Summons for Directions inclusive of preparation filing, service, appearance and order, and also subsequent incidental notices such as a notice requiring discovery of documents: but not including a notice for further directions which if certified for it to be treated as a fresh summons for directions ..... | 25.00                         | 50.00                          |
| 10. (a) Instructions for and preparation of list of documents and service thereof .....  | 50.00                         | 100.00                         |
| (b) Affidavit verifying list if required .....   | 15.00                         | 25.00                          |

|     |  |        |        |
|-----|--|--------|--------|
| 11. | (a) Instructions for interrogatories inclusive of preparation of application and proposed interrogatories, filing and service of same, attendance in support, preparing, filing and serving order and perusing answers ..... | 50.00  | 100.00 |
|     | (b) Instructions to oppose application for interrogatories and attendance in chambers .....  | 35.00  | 50.00  |
| 12. | If the interrogatories settled by the order exceed 2 pages then for each additional page or part thereof .....   | 5.00   | 10.00  |
| 13. | Instructions for answers to interrogatories inclusive of preparation swearing, filing and service of affidavit .....   | 30.00  | 50.00  |
| 14. | If foregoing answers exceed 2 pages then for each additional page or part thereof .....  | 5.00   | 10.00  |
| 15. | Instructions for notice to produce documents or admit facts or documents or any similar notice not otherwise provided for inclusive of preparation filing and service .....  | 20.00  | 40.00  |
| 16. | If any such notice shall exceed 2 pages then for each additional page or part thereof .....  | 5.00   | 10.00  |
| 17. | Production or inspection of documents pursuant to notice inclusive of all services incidental thereto .....  | 20.00  | 40.00  |
| 18. | (a) Application for entry of action for trial and attendance thereat .....   | 40.00  | 80.00  |
|     | (b) If pleadings exceed 5 pages for each page of pleadings in excess .....   | 1.00   | 3.00   |
| 19. | Instructions for and preparing for trial inclusive of instructions for and preparation of brief .....  | 100.00 | 200.00 |
| 20. | Attendance at trial of an action or proceeding per day .....   | 200.00 | 500.00 |
| 21. | Brief fee to extra barrister and solicitor in respect of any proceeding if certified for per day .....   | 200.00 | 500.00 |
| 22. | Originating summonses or petitions inclusive of all services from instructions to completion as certified for and inclusive of barrister and solicitor's fee thereon for first day of hearing .....                          | 200.00 | 500.00 |
| 23. | Instructions to defend originating summons inclusive of all services from appearance to completion and inclusive also of barrister and solicitor's fee thereon for first day of hearing .....                                | 150.00 | 400.00 |
| 24. | (a) Instructions for and attendance on summonses, motions and other application inclusive of all services from instructions to completion not otherwise provided for in this scale .....                                     | 75.00  | 150.00 |

|     |  |        |        |
|-----|--|--------|--------|
|     | (b) In addition for each adjourned hearing (unless a refresher fee is allowed) .....   | 30.00  | 50.00  |
|     | (c) In addition if necessary affidavit exceed 3 pages then for each additional page or part thereof .....  | 4.00   | 10.00  |
| 25. | Preparing and settling a special case .....  | 75.00  | 150.00 |
| 26. | Arguments on special case or question of law as certified for .....  | 200.00 | 400.00 |
| 27. | Taking accounts, making inquiries and other similar proceedings before the Chief Registrar or in chambers per hour .....   | 30.00  | 50.00  |
| 28. | Matrimonial suits. In accordance with each step in action of this scale, <i>mutatis mutandis</i> .....   |        |        |
| 29. | Appeals from inferior courts or from Chief Registrar or deputy Registrar or other persons or bodies not otherwise provided for inclusive of all services from instructions to completion (but excluding special applications such for a stay of execution in an appeal ..... | 200.00 | 400.00 |
| 30. | Payment into or out of Court .....   | 10.00  | 20.00  |
| 31. | Instructions for taxation of costs as between party and party inclusive of all services from instructions to completion .....  | 50.00  | 100.00 |
| 32. | Instructions for any form of execution authorised by any rule of Order 45, 46 and 47 where no application to the Court or a judge is required inclusive of all services from instructions to completion .....  | 30.00  | 50.00  |
| 33. | Instructions for execution where an application to the Court or a judge is required inclusive of all services from instructions to completion .....  | 50.00  | 70.00  |
| 34. | Instructions for attachment of debts under Order inclusive of all services from instructions to completion but exclusive of execution under Rule 4 or of any trial under Rule 5 or 6 the costs of which execution or trial may be separately allowed .....                   | 30.00  | 50.00  |
| 35. | <i>Subpoena ad testificandum</i> and <i>duces tecum</i> including issue and service for each witness .....   | 15.00  | 30.00  |
| 36. | For preparing and entering a caveat or preparing and issuing a warning thereto .....   | 20.00  | 40.00  |
| 37. | Service fees: in addition to the above fees the following fees for service may be added in appropriate cases and where service by post is not authorised:  |        |        |
|     | (a) for service at a distance of more than 3 km from the nearest place of business of the serving barrister and solicitor, per km in excess of 3 km .....  | 0.35   |        |

(b) If a bailiff is employed-all necessary and reasonable charges properly incurred and paid

(c) Where in consequence of the distance involved it is necessary to instruct another barrister and solicitor to arrange for service to be effected .....

10.00            20.00

- 38. In any case a judge of the High Court either at the trial or on notice if made within 14 days after judgment is pronounced may certify for an increase in any of the above charge. Of such amount as he thinks fit having regard to all the circumstances of the case.
- 39. Fees which may be taken by Commission for Oaths shall be as in Item 30 of Appendix 2.
- 40. For any business not covered by the above scales such as instructions, letters, telephone calls, attendances, air fares etc the charges in respect thereof shall be as the Chief Registrar may determine.
- 41. Where a Judge, Chief Registrar or Deputy Registrar is required to perform any duties away from his/her office for travelling, lodging and subsistence .....

-reasonable allowance.

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