

Seychelles

## Court Fees (Supreme Court) and Costs Act Chapter 53

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## Seychelles

# Court Fees (Supreme Court) and Costs Act

## Chapter 53

Commenced on 7 March 1964

*[This is the version of this document as it was from 12 November 2021 to 9 January 2022.]*

*[Note: The original publication document is not available and this content could not be verified.]*

*[Amended by [Court Fees \(Supreme Court\) and Costs \(Amendment of First Schedule\) Rules, 2014 \(Statutory Instrument 16 of 2014\)](#) on 24 February 2014]  
[Amended by [Court Fees \(Supreme Court\) and Costs \(Amendment of Schedules\) Rules, 2020 \(Statutory Instrument 16 of 2020\)](#) on 10 February 2020]  
[Amended by [Statute Law Revision \(Miscellaneous Amendments\) \(No. 2\) Act, 2021 \(Act 49 of 2021\)](#) on 12 November 2021]*

*[Act 8 of 1914; Act [6 of 1921](#); Act [3 of 1959](#); Act [17 of 1969](#); S.I. 59 of 1975; S.I. 95 of 1975; S.I. 72 of 1976; Act [23 of 1976](#); S.I. 7 of 1980; S.I. 37 of 1990; S.I. 38 of 1990; S.I. 71 of 1997; \*S.I. 9 of 2009; S.I. 16 of 2014]*

### 1. Short title

This Act may be cited as the Court Fees (Supreme Court) and Costs Act.

### 2. Definitions

In this Act unless the context otherwise requires

"**Registrar**" means the Registrar of the Supreme Court, and includes the Assistant Registrar in the absence of the Registrar;

"**cause**" shall include any action, suit or other original proceedings in the Supreme Court between a plaintiff and a defendant;

"**matter**" shall include every proceeding in the Supreme Court not in a cause;

"**counsel**" includes any barrister at law, attorney or advocate whose name is on the roll of members of the legal profession admitted to practice in Seychelles;

"**attorney**" means an attorney at law and includes a barrister or advocate when acting as an attorney at law;

"**judgment creditor**" means a party to a cause or matter in whose favour a judgment or order of the court has been given;

"**judgment debtor**" means a party to a cause or matter against whom a judgment or order of the court has been given.

\*

*[Note: The rule that repealed the First Schedule and brought in the new First Schedule in [SI 9 of 2009](#) should have been made in the exercise of powers conferred on the Chief Justice under section 22 of this Act, but instead purported to be made under section 110(3) of the International Business Companies Act ([Cap 100A](#)). The unofficial revised edition of this Cap published by the Department of Legal Affairs in March 2012 proceeds on the assumption that [SI 9 of 2009](#) is valid.]*

## Part I

### 3. Fees to be taken

The several fees specified in the first schedule hereto (including \*usher's fees) shall be payable in the office of the Registrar on proceedings in the Supreme Court, or before a Judge in chambers or the president of the family council as the case may be. A table of the aforesaid fees shall be posted in a conspicuous place in the Court House and in the office of the Registrar of the Supreme Court, and such fees shall be paid in the first instance by the party on whose behalf such proceeding is to be taken, on or before such proceeding.

### 4. Power to alter or add to First Schedule

The Chief Justice, in consultation with the Minister responsible for finance, may alter, amend or add to the fees contained in the First Schedule.

*[section 4 substituted by section 29 of [Act 49 of 2021](#)]*

## Part II – Taxation of costs in the Supreme Court in its civil jurisdiction

### 5. Registrar to be taxing master

The Registrar shall be the taxing master and shall tax in manner hereinafter provided by this Act, all bills of costs

- (a) between party and party in a cause or matter;
- (b) between attorney and client for work done in a cause or matter;
- (c) between attorney and client for work done other than in a cause or matter; and
- (d) counsel's fees.

### 6. Fees to be allowed on taxation

Counsel's fees and attorneys' bills of costs shall, subject to the provisions of [section 17](#), be taxed in accordance with the provisions of this Act and of the second schedule hereto and no counsel, attorney or party shall be entitled to recover any larger sum by way of fees or costs than that allowed on taxation except, that in the case of an agreement enforceable under the provisions of [section 17](#), an attorney shall be entitled to recover from a person liable thereunder the amount payable by that person under the terms thereof adjusted where necessary pursuant to review under subsections (3) and (4) of [section 17](#).

### 7. Discretionary power of court as regards costs

Nothing in this Act shall detract from the discretionary power of the court to grant or disallow costs in causes or matters or to grant costs only on the amount awarded by the judgment of the court, or to apportion the costs as the court may deem fit.

### 8. Taxation of bill of costs. When judgment creditor may apply

A judgment creditor may apply to the taxing master to have his bill of costs taxed, if the judgment debtor fail to pay the amount of such bill within twenty four hours after due delivery of the bill and demand for payment made, unless the judgment debtor has admitted in writing owing the amount of such bill.

*[Note: See section 23(3) of the Courts Act]*

## 9. When an attorney may apply

An attorney who has done work for a client in a cause or matter or otherwise may apply to the taxing master to have his bills of costs for such work taxed, if the client fail to pay the amount of such bill within twenty four hours after due delivery of the bill and demand for payment made; and except as provided in [section 17](#) no attorney shall sue a client for the recovery of his costs until after his bill of costs has been taxed.

## 10. Application to tax bill

Every application to tax a bill of costs shall be in writing signed by the applicant or his attorney, if any and shall be accompanied by one copy of the bill to be taxed and a certified copy of the letter of demand. Such application shall be brought by the applicant or his attorney to the taxing master who must satisfy himself that service of the bill and letter of demand was duly made. In every bill of costs the professional charges shall be entered in a separate column from the disbursements and every column shall be cast before the bill is brought for taxation.

## 11. Taxing master to fix date for taxation

The taxing master on receipt of such application shall fix a date and time for the taxation and shall give a note thereof to the applicant and shall notify the adverse party in writing by a registered letter sent through the post, or in such other manner as the taxing master shall direct, of the time and date fixed for the taxation:

Provided that it shall not be necessary for the taxing master to give such notice as aforesaid, when the bill to be taxed is for work done in a cause or matter and the adverse party has not appeared at the hearing of such cause or matter.

## 12. When taxing master may proceed *ex parte*

If either the applicant for the taxation or the adverse party fail to attend before the taxing master at the time fixed for the taxation, after due notice thereof and without sufficient excuse, the taxing master may tax the bill *ex parte*.

## 13. Procedure on taxation

The taxing master shall retain one copy of every bill of costs brought to him for taxation, and, if the taxation is for work done in a cause or matter, he shall attach such copy to the record of the case. He shall strike out all items disallowed and, if less than the amount of any item claimed is allowed he shall note on the bill the difference not allowed; he shall certify at the foot of the bill over his signature the total amount allowed and the date of taxation. The taxing master shall not allow any claims for disbursements unless receipts for the amounts disbursed are produced to him, or, if it be impossible or highly inconvenient to obtain receipts, unless he is satisfied by affidavit or otherwise that the disbursements have been made, and in every case that such disbursements were necessary.

## 14. Costs of taxation when one sixth of bill disallowed

If a bill of costs when taxed be less by a sixth part than the bill delivered, then the judgment creditor or the attorney by whom the application to tax the bill was made, shall not be allowed the costs of the taxation.

## 15. Excessive number of witnesses, costs may be disallowed

If the taxing master be of opinion that more witnesses have been summoned for the purpose of proving any particular fact or facts than the circumstances of the case required, he may disallow the costs of such witnesses.

## 16. Review of taxation by Judge

Any party to a cause or matter and any attorney or client who is dissatisfied with the taxation of the taxing master may apply by petition to a Judge to review such taxation and the Judge on receipt of such application shall fix a date for reviewing the taxation in his chambers. The Registrar shall give a note of the date and time so fixed to the applicant and shall send to the adverse party or person notice thereof by a registered letter sent through the post, or in such other manner as the Judge may direct. If any party to whom notice has been duly given fail without sufficient excuse to attend at the time fixed by such notice, the Judge may review the taxation in the absence of such party. The Judge after hearing the parties attending shall either confirm the taxation of the taxing master or shall alter it as he may consider fit. The decision of the Judge shall be final and not subject to appeal.

## 17. Taxation of agreements between attorneys and clients

- (1) Notwithstanding any provision of this Act, an attorney may make an agreement in writing with his client respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements, including counsel's fees, in respect of work done or to be done by such attorney, either by a gross sum, or by commission or percentage, or by salary or otherwise and either at the same rate as, or at a greater or less rate than, the rate at which he would otherwise be entitled to be remunerated.
- (2) No such agreement that provides for remuneration at a rate, or in a manner, which either generally or in respect of any item, is different from that at or in which the attorney would otherwise be entitled to be remunerated, shall be enforceable or upheld on taxation, unless
  - (a) it is in writing, dated, and authenticated by signature, mark or other sign by, or on behalf of, the client and any other person liable to make payment thereunder; and
  - (b) the attorney has lodged an authenticated copy of such agreement in the chambers of the Chief Justice, and, in the case of any agreement in this paragraph hereinafter mentioned, has so lodged such copy within fourteen days of the authentication thereof that is to say any such agreement which concern work done or to be done
    - (i) in respect of any cause, matter or proceeding of any kind in any court, whether or not such cause, matter or proceeding is actually commenced; or
    - (ii) for a minor or an interdicted person; or
    - (iii) payment for which may fall to be made by a minor or an interdicted person, or out of any moneys (including the proceeds of any litigation) in which a minor or an interdicted person has any interest.
- (3) The Chief Justice may of his own motion, and shall upon the petition of any party to any agreement the making of which is authorised by subsection (1) of this section, at any time order that such agreement be reviewed by a Judge and thereupon the provisions of such agreement shall be reviewed by a Judge in the same manner, and in accordance with the same procedure, as a taxation may be reviewed under the provisions of [section 16](#) except that no petition, or further petition, as the case may be, shall be required.
- (4) Upon such review, a judge may
  - (a) if of opinion that the agreement is in all respects fair and reasonable having regard to all relevant circumstances, including those existing at the time at which it was made, refuse to review the agreement;
  - (b) if of opinion that the agreement is in any respect unfair or unreasonable, either vary any part of the agreement in such manner as the Judge may see fit and order the amount payable thereunder to be adjusted accordingly, or declare it to be void, and may order the costs covered thereby to be taxed as if the agreement had never been made.

- (5) If the provisions of subsection (2) have been complied with in respect of any agreement referred to in subsection (1), such agreement shall, subject to review as provided for in subsection (3) of this section, be enforceable as if any amount payable in terms thereof (adjusted where necessary pursuant to review in manner aforesaid) were the amount owing under a bill of costs which has been duly taxed in accordance with the provisions of this Act, provided that, if the party sought to be made liable disputes the amount payable, the court before which it is sought to enforce such agreement, shall, if there has been no such review as aforesaid, inform such party of his right to petition for a review and, if such party signifies his intention of so petitioning, afford him a reasonable opportunity for so doing and obtaining a decision on such petition before pronouncing judgment on the claim.

## **18. Agreement to exclude any further claim for costs**

Such an agreement shall be deemed to exclude any further claim of the attorney beyond the terms of the agreement in respect of any services, fees, charges or disbursements in relation to the conduct and completion of the work in reference to which the agreement is made, unless any such services, fees, charges or disbursements are expressly excepted by the agreement.

## **19. Void agreements**

Any provisions or conditions in any such agreement with respect to any purchase by an attorney of the interest, or any part of the interest of his client in any suit or other contentious proceeding to be brought or maintained or whereby the attorney may be relieved from any responsibility to which he would otherwise be subject as such attorney shall be null and void.

## **20. Change of attorney, taxation of agreement**

If after any agreement as aforesaid shall have been made, the client shall change his attorney before the conclusion of the work to which such agreement shall relate (which he shall be at liberty to do notwithstanding such agreement) the attorney, party to such agreement, shall no longer be entitled to act under such agreement, but he may apply by petition to a Judge in chambers to tax such agreement and upon such taxation, the attorney shall not be deemed entitled to the full amount of the remuneration agreed to be paid to him, unless it shall appear that there has been no default, negligence, improper delay or other conduct on his part affording reasonable ground to the client for such change of attorney, and the Judge shall decide having regard to all the circumstances under which the change of attorney has taken place, how such attorney is entitled to be paid. The decision of the Judge shall be final and not subject to appeal.

## **21. Costs of the Republic**

- (1) The Republic shall be entitled to have and to recover costs and costs may be given and recovered against the Republic in all causes and matters of the Supreme Court, to the like extent and in the same manner as costs may be had and recovered by and against any other party.
- (2) Such costs shall include counsel's fees when the Attorney General or any barrister has appeared as counsel on behalf of the Republic.
- (3) All costs awarded to the Republic may be recovered by the Attorney General and shall be paid into the Consolidated Fund and form part of revenue of the Republic of Seychelles.

## **22. Power to alter or add to Second Schedule**

The Chief Justice, in consultation with the Minister responsible for finance, may alter, amend or add to the fees contained in the Second Schedule and make rules for more effectually carrying out the purposes and provisions of this Part.

*[section 22 substituted by section 30 of [Act 49 of 2021](#)]*

### First Schedule (Section 3)

#### **Fees to be taken in the office of the Registrar of the Supreme Court (Civil side) under section 3**

*[First Schedule repealed and replaced by section 2 of [Statutory Instrument 16 of 2020](#)]*

1. In any case where no fee has been provided under a particular heading, the fee prescribed for the corresponding item under the general heading shall be payable.
2. In addition to the fees hereinafter prescribed, the Court may allow fees to interpreters, costs of conveyance and such other necessary incidental expenses as the circumstances of the case may require.
3. The Chief Justice may permit the filing of a suit, action, cause or matter without the payment of the court fees detailed in Part 1 to this Schedule where—
  - (a) the request is made in the prescribed Form 1; and
  - (b)
    - (i) the requesting party is the Attorney General, a ministry, department or body of the Government of Seychelles; or
    - (ii) it is in the interests of ensuring access to justice that court fees be waived.



**Part I – General**

		<b>Fee (SCR)</b>
1.	Where, on entering plaint, the value of the claim or demand	
(a)	Does not exceed R.10,000	1000
(b)	Exceeds R.10,000 but does not exceed R.5000	Additional 1.5% on surplus
(c)	Exceeds R.50,000	Additional 1% on surplus
2.	On filing a petition for divorce or separation where damages are claimed against any co-respondent with item 1	1000
3.	Where an injunction or other judicial relief is sought in addition to damages, an extra fee of	200
4.	On issuing summons to be served with plaint, for each party summoned	75
5.	On issuing writ of execution, or any other writ on the issue of which no separate court fee is payable	200
6.	On issuing order for attachment, warrant or other on the issue of which no separate fee is payable	200
7.	On filing any petition, motion or application originating proceedings on the filing of which no other fee is payable	500
8.	On filing any other petition, motion or application to be heard before the court on the filing of which no other fee is payable	300
9.	On filing any petition or application to a Judge in Chambers	200
10.	On filing an <i>ex parte</i> petition, motion or application not originating from proceedings	200
11.	On filing petition for unsatisfied judgment	300
12.	On issue of summons to give personal answers	150

13.	On issue of summons to judgment debtors	150
14.	On issue of summons of garnishee	150
15.	On issue of summons to show cause	150
16.	On filing application for interpleader summons	150
17.	On issue of interpleader summons, for each party summoned	75
18.	On summons to witness, for each witness	75
19.	On attendance of any officer of the court to produce documents to be given in evidence	200
20.	On issue of any summons for the issue of which no separate fee is payable	75
21.	On order amending any pleadings	200
22.	On sealing commissions to take evidence	
(a)	out of the jurisdiction	300
(b)	within the jurisdiction	150
23.	On drawing up any order, decree, judgment, warrant, memorandum or notice or any other document for the drawing up of which no separate fee is payable	200
24.	On taking any bond, recognisance or security for the taking of which no separate fee is payable	200
25.	On holding any enquiry ordered to be made or taking any account by an officer of the court for each day or part thereof (including report)	300
26.	On hearing of every plaint or other original proceeding before the court for each day or part thereof (to be paid before the hearing by the party originating the proceedings)	500
27.	On every adjournment of the hearing of a cause or matter at the request of either party where no hearing fee has become payable provided that, for extraordinary cause beyond the control of any	500

	party requesting the adjournment, the court may exempt such party from payment of this fee	
28.	On hearing before the court of <i>ex parte</i> petitions, motions or applications or where an order is made by consent	300
29.	On moving the Court for judgment or making any incidental applications to the court or a Judge for which no separate fee is payable	300
30.	On sealing any document with the embossed seal of the court unless otherwise provided	100
31.	On every certificate, including apostille, including drawing same	250
32.	On taking any affidavit affirmation, declaration, etc. for use in a proceeding before the court or a Judge in Chambers, for each deponent	100
33.	For any other purpose, for each deponent	100
34.	On making any exhibit referred to therein	50
35.	On filing, or taking off the file, by document for the filing or taking off which no separate fee is payable	100
36.	On every visa of a legal document	100
37.	On every search in any book or records	
(a)	for the first hour or part thereof	100
(b)	for each subsequent hour or part thereof	150
38.	On every extract made by a party searching	100
39.	On entering any final judgment or order in any cause, matter or suit	150
40.	On entering any other judgment or order	150
41.	On entering withdrawal of action upon the record	150
42.	In the case of money paid into court, on the same being paid out	

(a)	when amount is less than R 10,000	2% on the amount
(b)	when amount is equal to or exceeds R. 10,000	5%
43. (a)	On physical copy of any document, record, evidence or other proceedings	100
(b)	On digital copy of whole document	50
44.	On filing petition or application for the appointment of an expert, appraiser, notary, surveyor, etc.	150
45.	On filing petition for the authorisation of the marriage of a minor	300
46.	On filing petition for amendment of acts of civil status	300
47.	On taking acceptance or renunciation to succession and acts of similar nature	300
48.	On every act of emancipation of a minor	300
49.	On registering instruments of partnership and acts of a similar nature for page thereof	50
50.	For posting up every such instrument or act	50
51.		
(a)	on deposit of will	150
(b)	on endorsing will (including envelope)	200
(c)	on drawing up memorandum of deposit and endorsement	200
52.	On reference of a case to arbitration	200
53.	On entry of any caveat, opposition to the fixing or breaking of seals or special defence	200
<b>Appeals</b>		
54.	On filing notice of appeal	700

55.	On taking recognizance of appellant	250
56.	On setting record of appeal	500
57.	On typing record of appeal, for page thereof, in respect of each copy required	50
58.	On sealing and certifying record of appeal	200
<b>Judicial sales</b>		
59.	On filing every petition or application (unless the fee prescribed under item 69 is payable)	300
60.	On filing memorandum of charges	300
61.	On considering each production	300
62.	On drawing provisional scheme of distribution	400
63.	On closing provisional scheme	
(a)	if not objected to	200
(b)	if objection made	300
64.	On drawing final judgment and copy	200
65.	On drawing notice of posting (with copy)	100
66.	On every certificate of Registrar	200
67.	On each warrant for payment	200
68.	On conduct of sale before the Court where the sale price, or if no sale results, the <i>mise a prix</i>	
(a)	does not exceed R.10,000	300
(b)	exceeds R.10,000 but does not exceed R.30,000	500
(c)	exceeds R.30,000	700

69.	On hearing any question of amendment of conditions of sale and for making amendment if ordered	350
70.	On a declaration de command	500
71.	On each surenchere	500
72.	On all moneys received or paid or distributed by the Court	5%
<b>Partition</b>		
73.	On filing any petition for partition, whether or not proceedings for sale by licitation are pending	500
<b>Bankruptcy</b>		
74.	On filing bankruptcy	700
75.	On order of adjudication	200
76.	On filing declaration of insolvency	100
77.	On issue of search warrant, warrant of arrest or commitment or other warrant	200
78.	On examination of bankrupt before the court (no other hearing fee to be charged)	700
79.	On appointment of public sitting for audit or dividend (including hearing)	200
80.	On every application or petition on which no other fee is payable	500
81.	On grant of certificate of conformity (including seal of court)	200
82.	On moving for composition after bankruptcy	700
83.	On filing petition by trader for arrangement	200
<b>Taxation of bills of costs</b>		
84.	On taking of costs on taxed amount of whole bill	3%

85.	On filing notice of appeal from taxation	200
86.	On hearing appeal from taxation	200

**Part II – Process officer's fees**

87.	For calling any cause	50
88.	For serving any summons, warrant, subpoena notice or other document	
(a)	On Mahe, within five kilometres of the Court House	75
(b)	On Mahe, when above five kilometres of the Court House, for every extra kilometre (to be charged both ways)	50
(c)	On Praslin, La Digue and other inner islands	1000
89.	For each person to be served	100
90.	For posting up each notice not exceeding three	100
91.	For conveying any person committed to prison	300
92.	For calling and taking bids on sale of immovable property before the Court when the sale price, or if no sale results, the <i>mise a prix</i>	
(a)	does not exceed R.10,000	300
(b)	exceeds R.10,000 but does not exceed R.30,000	500
(c)	exceeds R.30,000	700
<b>Seizure of movable property</b>		
93.	For every execution of a judgment, order or warrant against goods, including memorandum of seizure	
(a)	within five kilometres of the court house	150.00



(b)	above five kilometres for every extra kilometre (to be charged one way only):	50.00
94.	On making inventory, per hour or part thereof	150
95.	Attendance to deposit money	100
96.	Return of examination of goods	500
97.	Return of money deposited	150
98.	Return of <i>nulla bona</i>	150
99.	Drawing notice of sale to be posted	150
100.	Each copy of notice	100
101.	Return of posting up notice	100
102.	Posting up each notice	100
103.	Attendance at printing office to deposited	100
104.	Attendance at sale for each hour or part thereof	100
105.	Attendance to deposit proceeds of sale	100
106.	On amount of proceeds of sale	2%
107.	For the person in custody of goods seized per diem (including night)	200
	(a) to meet this charge, the execution creditor shall deposit R.200 with the Registrar before appointment of custodian; and	200 deposit

	(b) a further R.500 every seven days after first deposit goods sold or released)	500/7 days
108.	For each witness to seizure (in addition there shall be paid by the execution creditor in advance, and allowed as costs of execution, all reasonable expenses for the removal of goods seized and other expenses incidental to such seizure)	100
<i>Provided that the total cost charged under this part shall not exceed 10 per cent of the total value of the judgment debt or court award.</i>		
<b>Seizure of immovable property</b>		
109.	Return of seizure of immovable property	
(a)	for first three hours	500
(b)	every subsequent hour	100
110.	Declaration of seizure to execution debtor	100
111.	Copy of Memorandum	100
<b>Tenders</b>		
112.	Memorandum of tenders made	150
113.	Copy of return to in item 116	100
114.	Return of amount or object tendered	150
115.	Copy	100
<b>Protests</b>		
116.	Original of protest and copies	200

<b>Attendances</b>		
117.	Endorsements of any act	200
118.	Attendance at Registration Office	100
<b>General provision</b>		
119.	Drawing documents for page or fraction part thereof	50
120.	Cost per kilometre (to be charged both ways)	75

### **Part III – Attendance of court or Registrar outside the Court House**

121.	On attendance of court (including attendance of Registrar or his deputy) where necessary at any place outside the court house	
(a)	within Victoria, the actual cost of conveyance plus per day or part thereof	300
(b)	outside Victoria, the actual cost of conveyance plus per day or part thereof	500
122.	On attendance of Registrar of his deputy	
(a)	within Victoria, the actual cost of conveyance plus per day or part thereof	300
(b)	outside Victoria, the actual cost of conveyance plus per kilometre or part thereof	500
123.	On attendance of Registrar or his deputy at the Registration Office.	200

When the Court or a Judge or the Registrar or his deputy is required to travel outside Victoria, there shall be paid in addition to any other reasonable fee payable any amount under Public Service Orders for refund of accommodation, subsistence or travel expenses.

**Form 1 (Paragraph 3)**

Between \_\_\_\_\_ Plaintiff / Petitioner/Applicant and \_\_\_\_\_ Defendant/Respondent

**Request for waiver of court fees**

**To the Honourable Chief Justice**

\_\_\_\_\_

The Plaintiff/Petitioner/Applicant/Defendant/Respondent in the above mentioned matter hereby requests permission for the waiver of court fees on the following grounds:

- (a) That the the requesting party is the Attorney General, a ministry, department or body of the Government of Seychelles

Or

- (b) That it is in the interests of ensuring access to justice that court fees be waived as detailed in the attached affidavit.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_

Requesting party

FOR COURT USE ONLY:

The Request is hereby granted/denied.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_

Chief Justice

**Second Schedule****Fees**

*[Second Schedule repealed and replaced by section 2 of [Statutory Instrument 16 of 2020](#)]*

## Part I – Party and party costs

### Attorney's costs

		Fee (SCR)
1.	Instructions to sue or defend any cause or matter before the Supreme Court not elsewhere provided for, including letter before action, when the value of the subject in litigation or of the claim or demand	
(a)	does not exceed R.10,000	500
(b)	exceeds R.10,000 but does not exceed R.30,000	750
(c)	exceeds R.30,000 but does not exceed R.50,000	1000
(d)	exceeds R.50,000	1500
When the value is not determined, the fee for instruction shall be chargeable according to one of the above scales to be fixed by the Court or the Taxing Master.		
2.	Instructions to appeal from any interlocutory or final order or judgment	300
3.	Instructions to appeal from any order or judgment given in the Magistrates' Court	200
<p>Items 1, 2 and 3 are intended to cover the doing of any work for which no specific provision is made elsewhere, necessarily or properly done in preparing for a trial, hearing or appeal, or before a settlement of the matter in dispute, including:</p> <ul style="list-style-type: none"> <li>(a) taking instructions to sue, defend, or appeal or for any pleading, particular of pleading or affidavit or matter referred to the Registrar;</li> <li>(b) considering the facts and law;</li> <li>(c) attending on and corresponding with client;</li> <li>(d) arranging to obtain reports or advice from experts and plans, photographs and models;</li> <li>(e) making search in public records or elsewhere for relevant documents;</li> <li>(f) inspecting any property or place material to the proceedings;</li> <li>(g) perusing pleading, affidavits and other relevant documents;</li> </ul>		

- (h) where the cause or matter does not proceed to trial or hearing, work done in connection with the negotiation of a settlement; and
- (i) the general care and conduct of the proceedings.

The amount to be allowed under titles 1, 2 and 3 may be increased in appropriate cases in accordance with the order or certificate of the Court or a Judge.

4.	Preparing a notice/letter of demand ( <i>mise en demeure</i> ) when necessary	150
5.	Drawing any plaint, statement of defence, petition, answers, reply or summons to show cause not elsewhere provided	300
6.	Every other pleading (tender of inspection, notice to produce documents etc.) not elsewhere provided for	200
7.	Praecipe to summon witnesses or a party on personal answer	50
8.	For copy of document, per page	10
9.	Drawing any affidavit, affirmation, declaration, etc. for use in proceedings before the Supreme Court or in Chambers	100
10.	Drawing notice of denunciation or other notices	100
11.	Drawing application to Court not elsewhere provided for	100
12.	Drawing issue for trial of facts by agreement	100
13.	Drawing brief (to be allowed only when attorney briefs self/TEMte counsel)	100
14.	Conference with witness, other than instructing clients, and recording evidence of witnesses, etc.	100

15.	Attendance in Court when matter is called but no hearing takes place, if attorney does not appear as counsel	100
16.	Attendance in Court during trial of a cause or matter, if attorney does not appear as counsel, R.100 per hour not to exceed per diem	500
17.	Attending in Court when reserved judgment is delivered, if attorney does not appear as counsel	200
18.	Conference with co-counsel when necessary, R100 per hour or part thereof but not to exceed per diem	300
19.	Copy of bill of costs to opposite party, per page	50
20.	Conference with adverse attorney, when necessary, per hour	100
21.	Ordinary attendance in Chambers, not to exceed	100
22.	Attendance on a contested application, R.100 per hour not to exceed	500
23.	Attendance to swear affidavit	100
24.	Attendance at taxation of bill of costs before the Taxing Master	100
	If long in the taxing Master's discretion not to exceed	200
25.	Attendance before the Judge in appeal from taxation	150
26.	In undefended causes or matters, and any defended cause in which judgment is given without	from 200 to 1000

	a contested hearing, at the discretion of the Taxing Master	
27.	In defended causes in which there is a contested hearing	
(a)	for the first day or part thereof	1500
(b)	for each subsequent day or part thereof	750
28.	In ordinary motions and applications for unsatisfied judgments before the Supreme Court, at the discretion of the Taxing Master	from 200 to 750
29.	In contested motions before the Supreme Court and in appeals from the Magistrates' Court, per day or part thereof when case taken	1000
30.		
(a)	On any adjournment when case not taken	300
(b)	for attendance when judgment is delivered on a future day after consideration	
31.	In any case where Counsel attend at Chambers, no further costs for such attendance shall be allowed, as between party and party, than the sum that would be allowed for the attendance of an attorney, unless the Judge shall certify for such further allowance. The same rule shall apply to attendance before the Registrar except where he shall, in his discretion, think fit to certify for allowance as for counsel.	
32.	For appearance before any Arbitrator, Commissioner or Referee, when necessary, at the discretion of the Taxing Master, per day	from 500 to 1500
33.	For settling special affidavit, in any case in which the Taxing Master may consider the	150



	assistance of counsel to be absolutely required	
34.	For drawing or settling grounds of appeal at the discretion of the Taxing Master	from 500 to 1500
35.	For consultation:	
(a)	when the matter at issue does not exceed R.10,000 in value,	from 500 to 750
(b)	when it exceeds R.10,000 but does not exceed R.30,000	from 750 to 1000
(c)	when it exceeds R.30,000 but does not exceed R.50,000	from 1000 to 1500
(d)	when it exceeds R.50,000	2000
(e)	when the value of the matter at issue is not determined, the fee shall be chargeable according to one of the above scales at the discretion of the Taxing Master, but in no case shall exceed	1000

## Part II – Costs as between attorney and client

Sales by Licitation or Levy		
(A)	Where the property has not been sold before the Court.	
1.	Instructions	300
2.	Drawing petitions, affidavit, or other necessary document for	100
3.	Drawing particulars of sale (memorandum of charges)	at the discretion of the Taxing Master from 200 to 1000
4.	Drawing notice for Government <i>Gazette</i>	100
5.	Drawing notice for local newspaper	100
6.	Drawing notice for placards	100
7.	Attendance at reading of memorandum of charges ( <i>Cashier des Charges</i> )	300
8.	Attendance in Court on objections	300
9.	Attendance to require certificate that purchase has not complied with the conditions of sale ( <i>Folle Enchère</i> )	100
10.	Any other necessary attendance	100
11.	Perusal of any necessary document	100
12.	Drawing petition praying for a subrogation	200
13.	Copies of petition including Judge's order	50
14.	Petition to withdraw from intended sale any object or property comprised in the seizure ( <i>Demande en Distraction</i> )	100
15.	Copies of petition referred to in item 14 with Judge's order. For each copy	50

16.	Petition setting forth alleged grounds of nullity in the proceedings by levy	100
<p>Before admitting any party to proceed in his alleged grounds of nullity he shall, if required by the Judge, be bound to furnish security for the costs of such proceedings and in no case shall the costs of either party fall upon the estate. When the valuation or reserved price (<i>mise à prix</i>) of the property to be sold does not exceed R.100,000 only two thirds of the above costs will be allowed. When an attorney is substituted by another before the sale takes place, each attorney will be allowed fees in accordance with the foregoing scale in respect of the work done by that attorney.</p>		
(B)	When the property is actually sold in Court, the attorney prosecuting the sale shall not be allowed any of the above fees, but he shall only be entitled to claim the fees allowed by the Immovable Property (Judicial Sales) Act.	
(C)	Other Costs at or after Sale.	
17.	Attendance at the bidding by the attorney of party levied on	200
18.	Attendance to bid if an attorney be so employed and does not become purchaser	200
19.	Attendance to bid if an attorney be so employed and becomes purchaser	300
20.	Attendance to declare name of purchaser ( <i>déclaration de command</i> )	100
21.	Attendance to open biddings ( <i>Surenchère</i> )	200
22.	Notice with summons to the party to whom the property was adjudicated, to the party having the carriage of the sale, and to the party levied on, or their respective attorneys	150
	For each copy	50
<b>Attorney's costs in attribution of price and order</b>		
23.	Taking instructions	500
24.	Attendance with praecipe to obtain order to summon parties	100
25.	Attendance at Mortgage Office for certificate of inscription	100
26.	Renewal of certificate when required	100

27.	Every act of production including attendances	300
28.	Notice to each creditor or his attorney	100
29.	Every copy	50
30.	Attendance to oppose claim produced	300
31.	Notice to inscribed creditor and the party levied on of claims produced after the time prescribed by law	100
32.	Attendance to strike off one or more mortgages comprised in the same judgment or order if an attorney be employed	100
33.	Petition for substitution of another person with the carriage of the proceedings	100
34.	Petition for substitution of a plaintiff or defendant	100
35.	Drawing extract of deed of sale or donation to be notified to registered mortgagees by the purchaser or mortgagee	200
36.	For every mortgage extracted	50
37.	For perusal of any document	50
38.	For every necessary attendance	100
39.	Drawing notice for Government <i>Gazette</i>	100
40.	Drawing notice for local newspaper	100
41.	Drawing notice for placards	100
<b>Costs in distribution by way of contribution</b>		
42.	Attendance with praecipe to obtain order	100
43.	Every act of production (including attendance)	300
44.	Drawing notices with summons to opposite party	100

45.	For each copy, per page	50
46.	Attendance to oppose scheme of distribution (including petition)	300
47.	For every necessary attendance	100
48.	For perusal of any document	50
<b>General items</b>		
49.	Any necessary attendance not provided for or allowed under any other item	100
	If long, per hour	200
50.	Letter not included under any other item	200
	If long	300
	If similar	50

### Miscellaneous

In respect of any work for which a fee allowable on taxation as between party and party is prescribed in Part I of the Schedule (including counsel's fees) the Taxing Master shall on taxation allow the same fee on a taxation as between attorney and client, provided that the Taxing Master may in his discretion in a taxation as between attorney and client allow costs—

- (a) in relation to items not mentioned in Part I, or
- (b) of an amount higher than that prescribed in Part I.

In respect of any work, contentious or non-contentious, for which fees allowable on taxation or otherwise are not prescribed in this Schedule or otherwise by law, the Taxing Master shall on taxation have regard to any fee allowable on taxation in this Schedule or otherwise by law in so far as he is satisfied that the work and responsibility involved can be reasonably compared with the work and responsibility involved in the work for which any such fee is claimed.

In respect of any other work, contentious or non-contentious, of any kind performed by an attorney for his client for which fees allowable on taxation or otherwise are not prescribed in this Schedule or otherwise by law, the Taxing Master shall allow such sum as may be fair and reasonable having regard to all the circumstances of the case, the fees prescribed elsewhere in this Schedule for work of a general nature and the other provisions of this Schedule.

## **Part III – General**

### **Disbursements**

In addition to fees for work done by an attorney, the bill of costs may include costs payable in discharge of a liability properly incurred by the attorney on behalf of the party to be charged with the bill, including counsel's fees where the attorney has not himself performed work usually performed by counsel—

- (i) unless before taxation its amount has been agreed by the attorney instructing counsel; and
- (ii) before the Taxing Master issues his certificate a receipt for the fee signed by counsel is produced to him.

When, under this Schedule or otherwise, any fee is fixed according to the amount claimed or in issue and the party supporting that claim or issue has succeeded thereon, the fee allowed to that party shall be fixed in accordance with the amount awarded or assessed by the Court or Judge in respect of that claim or issue.

When in any proceedings in the Supreme Court the subject matter of the claim or the amount recovered is within the jurisdiction of the Magistrates' Court, the fees allowed as between party and party shall not exceed the total amount that would have been allowed between party and party had proceedings been brought in the Magistrates' Court, except in accordance with the order or certificate of the Court or a Judge.

### **Taxing Master's discretion**

In exercising any discretion under this Schedule or otherwise vested in him, the Taxing Master shall have regard to all relevant circumstances, 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 of, and the time and labour expended by, the attorney or counsel;
- (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 attorney or counsel 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 to the item in question.

### **Matters not provided for**

Upon any taxation where any question arises as to any matter for which provisions is not made in this Act or Schedule or otherwise by law, or as to the proper application of any such provision as is so made, the principles to be applied in England for the time being in deciding similar questions, shall, subject to the provisions of this Act and Schedule and of any other law for the time being applicable, be applied in deciding such questions.