

**CAP. 28.**

**THE LAWS OF ZANZIBAR**

**CHAPTER 28**

**LEGAL PRACTITIONERS**

**(PRINCIPAL LEGISLATION)**

**CHAPTER 28****LEGAL PRACTITIONERS****ARRANGEMENT OF SECTIONS**

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8 of 1941.  
12 of 1953.

**A Decree to prohibit the drawing or preparation of certain Legal Documents by unqualified persons and to regulate the Remuneration of Advocates**

[17TH MAY, 1941.]

Short title.

Interpreta-  
tion.  
12 of 1953,  
s.2.

1. This Decree may be cited as the Legal Practitioners Decree.
2. In this Decree unless the context otherwise requires—
  - “advocate” means any person, other than a vakil, admitted to practise before the High Court under the provisions of the law regulating the mode of admitting persons so to practise;
  - “contentious business” includes any business done by a legal practitioner in any court or in the course of any suit or legal proceedings;
  - “costs” includes fees, charges, disbursements, expenses and remuneration;
  - “document” means any document relating to any legal proceeding or any document purporting or operating to create, declare, assign, limit, or extinguish any right, title or interest, whether vested or contingent to, in or over immovable property other than—

- (i) a will or other testamentary instrument;
- (ii) a document relating to immovable property drawn up on a printed form being the appropriate form prescribed by the Registration of Documents Rules;
- (iii) a document relating to immovable property the registration whereof is optional under the provisions of section 6 of the Registration of Documents Decree;

Cap. 99.

“legal practitioner” means any advocate or vakil;

“legal proceeding” means any proceeding before the High Court or any court subordinate thereto;

“non-contentious business” includes any business connected with sales, purchases, leases, mortgages, settlements and other matters of conveyancing;

“vakil” means a person admitted to practise as such and licensed to practise as such under rule 6 of the Legal Practitioners Rules.

3. Any person other than an advocate who for, or in expectation of, any fee, gain, or reward, either direct or indirect, draws or prepares any document shall be guilty of an offence against this Decree, and shall on conviction be liable to a fine not exceeding one thousand shillings, and in default of payment thereof to imprisonment for a term not exceeding three months:

Drawing of documents and penalty.

Provided that this section shall not apply to a vakil drawing or preparing any document relating to any legal proceeding before a court before which he is licensed to practise.

12 of 1953, s.3.

4. Every document drawn or prepared by a legal practitioner shall be indorsed with the name of the legal practitioner by whom such document shall have been drawn up or prepared.

Indorsement of documents. 12 of 1953, s.4.

5. This Decree shall not apply to—

Exceptions.

- (a) any public officer in the service of the Government drawing or preparing documents in the course of his official duties; and
- (b) any person employed merely to engross or copy any document.

6.—(1) There shall be a committee consisting of the Chief Justice, the Administrator-General and an advocate to be nominated by the Chief Justice to serve thereon, and the committee may make orders, subject to the approval of the British Resident, prescribing and regulating in such manner as they think fit the remuneration of advocates in respect of non-contentious business.

Power to make orders as to remuneration in non-contentious business.

(2) So long as any order under this section is in operation the taxation of bills of costs of advocates in respect of such business shall, subject to the provisions of section 7, be regulated by that order.

Agreements with respect to remuneration for non-contentious business.

7.—(1) Whether or not any order is in force under section 6, an advocate and his client may, either before or after or in the course of the transaction of any non-contentious business by the advocate, make an agreement in writing as to the remuneration of the advocate in respect thereof.

(2) The agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of an advocate:

Provided that if on any taxation of costs the agreement is relied on by the advocate and objected to by the client as unfair or unreasonable, the taxing officer may inquire into the facts and certify them to the High Court and if on that certificate and after giving opportunity for the advocate and the client to be heard it appears just to the court that the agreement should be cancelled, or the amount payable thereunder reduced, the court may make such order and give such consequential directions as it may think fit.

(3) Every such agreement shall be deemed to exclude any claim by the advocate in respect of the business to which it relates other than—

- (i) a claim for the agreed costs; and
- (ii) a claim for such costs as are expressly excepted therefrom.

Power to make agreements as to remuneration for contentious business.  
12 of 1953,  
s.4.

8.—(1) A legal practitioner may make an agreement in writing with his client as to his remuneration in respect of any contentious business done, or to be done, by him providing that he shall be remunerated either by a gross sum or otherwise and at either a greater or a lesser rate than that to which he would otherwise have been entitled to be remunerated.

(2) Such an agreement—

- (a) shall not affect the amount of any costs payable by the client to, or to the client by, any person other than the legal practitioner and that person may, unless he has otherwise agreed, require any such costs to be taxed according to the rules for the time being in force for the taxation thereof:

Provided that the client shall not be entitled to recover from any other person under any order for the payment of any costs to which the agreement relates more than the amount payable by him to the legal practitioner thereunder;

- (b) shall be deemed to exclude any claim by the legal practitioner in respect to the business to which it relates other than—
  - (i) a claim for the agreed costs; or
  - (ii) a claim for such costs as are expressly excepted therefrom.

9.—(1) No action shall be brought upon any such agreement as is mentioned in section 8, but the court before which the suit or proceeding has been brought may, on the application of any person who is a party thereto, or who is, or who is alleged to be, liable to pay, or who is or who claims to be entitled to be paid the costs due or alleged to be due, in respect of the business to which the agreement relates, enforce or set aside the agreement and determine every question as to the validity or effect thereof.

Provisions as to agreements with respect to cost of contentious business.

(2) On any such application the court—

- (a) if it is of opinion that the agreement is in all respects fair and reasonable, may enforce it;
- (b) if it is of opinion that the agreement is in any respect unfair or unreasonable, may declare it void and may order it to be given up to be cancelled and may order the costs covered thereby to be taxed as if the agreement had never been made;
- (c) in any case, may make such order as to the costs of the application as it thinks fit.

10.—(1) Where any such agreement as is mentioned in sections 8 and 9 is made by a client as the guardian of, or as the manager of the estate of, or as a trustee under a deed or will for, any person whose property will be chargeable with the whole or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the taxing officer of the court and that officer shall examine the agreement and may disallow any part thereof, or may require the opinion of the court to be taken thereon.

Agreements made in capacity of guardian, manager or trustee.

(2) Any such client as is mentioned in subsection (1) who pays the whole or any part of the amount payable under the agreement without the agreement having been allowed by the taxing officer or the court shall be liable at any time to account to the person whose property is charged for the amount so paid and the legal practitioner who accepts such payment may be ordered by the court to refund the amount received by him.

12 of 1953, s.4.

11.—(1) A legal practitioner may with respect to both non-contentious and contentious business to be done by him take security from his client for the payment of his costs to be ascertained by taxation or otherwise and for interest on such amount but so that interest is not to commence until the amount due is ascertained by agreement or taxation:

Security from client for advocate's costs. 12 of 1953, s.4.

Provided that for the purpose of this section the amount of such costs shall be deemed to have been agreed unless the client shall within one month from the delivery of the bill have disputed the same or required the legal practitioner to have the same taxed.

(2) A legal practitioner may charge interest at the rate of six per centum per annum on his costs whether by scale or otherwise from the expiration of one month from the delivery of his bill to the client.

(3) In cases where the bill is payable by an infant, or person of unsound mind, or out of a fund not presently available, delivery of the bill may be made to the parent or guardian or trustee or other person liable.

(4) Upon every taxation of costs with respect to both non-contentious and contentious business the taxing officer may allow interest at such rate and from such time as he thinks just on moneys disbursed by the legal practitioner for the client, and on moneys of the client in the hands of, and improperly retained by, the legal practitioner.

Provisions as to recovery from advocate of costs paid in excess of amount payable on taxation or under agreement.

12.—(1) No advocate shall be entitled directly or indirectly to receive or recover from his client, or from any person other than the client, by way of realisation of any security obtained from the client or from any person other than the client, or otherwise howsoever, any sum, arising from, or in relation to, the costs of any business whether contentious or non-contentious done, or to be done, by him for the client, exceeding that which he would be entitled to be paid upon taxation of his bill of costs in the ordinary course or under an agreement made in accordance with the provisions of this Decree.

(2) In the event of a decree being passed in any court against the client on a suit by his advocate for recovery of remuneration, or by any person other than the advocate, by which it is ordered that the client shall pay to the advocate or to such other person, any sum, arising out of, or relating to, the costs of any business done by the advocate on his behalf, which shall exceed, together with any other sum recovered or received from him by the advocate or any other person on behalf of the advocate on account of such costs, the total sum to which the advocate would be entitled as aforesaid, the client upon proof that the said sum so ordered to be paid in fact arose out of, or was related to, such costs, directly or indirectly, shall be entitled to recover from the advocate the difference between the sum to which the advocate would have been so entitled and the total sum recovered or received from the client by the advocate and such other person:

Provided that no decree obtained against the advocate in such case shall be executed without leave of the court unless the first mentioned decree has been fully satisfied.

Miscellaneous provisions as to invalidity of certain agreements and dealings. 12 of 1953, s.4.

13. Nothing in this Decree shall give validity to—

- (a) the acquisition by purchase, or assignment, or by any agreement made between the legal practitioner and his client, of the interest, or any part of the interest, of the client in any suit or other contentious proceedings; or
- (b) any agreement by which a legal practitioner stipulates for payment only in the event of success in any suit or proceeding or, subject to any rule of court, which provides that the legal practitioner shall receive for costs any percentage or other proportionate part of the sum recovered by his client in any suit or proceeding; or

- (c) any dealing which is invalid against the Official Assignee or any creditor under the law relating to insolvency.

14. Subject to the provisions contained in sections 4 to 25 (both inclusive) of the *Limitation Decree*, a court shall (in the absence of any express agreement as to the time when such costs are to be paid) dismiss every suit by a legal practitioner for his costs of a suit or a particular business instituted after a period of three years from the date of the determination of such suit or business, or (where the legal practitioner has properly discontinued such suit or business) from the date of such discontinuance, notwithstanding that limitation has not been set up as a defence.

Limitation of proceedings.  
Cap. 12.

**CAP. 28.**

**THE LAWS OF ZANZIBAR**

**CHAPTER 28**

**LEGAL PRACTITIONERS**

**(SUBSIDIARY LEGISLATION)**



[Subsidiary]

## CHAPTER 28

## LEGAL PRACTITIONERS

## Rules of Court

G.N.  
166 of 1923.  
Vol. IV, 1934,  
pp. 158-159.  
G.N.  
239 of 1946.

*Under article 56 of the Zanzibar Order in Council, 1914, and section 24 of the Courts Decree, Cap. 3*

## The Legal Practitioners Rules

Title.

1. These Rules may be cited as the Legal Practitioners Rules.

Crown Law  
Officers  
entitled to  
appear in  
any court.  
G.N.  
239 of 1946,  
r.2(a).

2. Every person holding the office of Attorney-General or Crown Counsel shall, so long as he continues to hold such office, be entitled to practise before Her Britannic Majesty's Court for Zanzibar, or any court subordinate thereto, and before any of the courts of His Highness the Sultan.

Persons who  
may be  
admitted to  
practise.  
G.N.  
239 of 1946,  
r.2(b).

3. The following persons may be admitted to practise before Her Britannic Majesty's Court for Zanzibar, or any court subordinate thereto, (other than Mudirial Courts) and before any of the courts of His Highness the Sultan (other than Mudirial Courts) upon the terms and subject to the conditions hereinafter contained—

- (a) members of the Bar of England, Scotland or Northern Ireland;
- (b) solicitors of the Supreme Court in England or Northern Ireland, Law Agents admitted to practise in Scotland, and Solicitors, Attorneys, or Law Agents of a superior court in a British Possession to which section 35 of the Solicitors Act, 1932, is applied by Order in Council;
- (c) persons who have been admitted and are entitled to practise as pleaders or advocates before the Supreme Courts of any Dominion, Commonwealth or Self-governing Colony in the British Empire, or before one of the High Courts in India or Pakistan.

Qualifica-  
tions.  
G.N.  
239 of 1946,  
r.2(c).

4. Any of the persons referred to in rule 3 upon producing to the Chief Justice satisfactory proof of his qualifications and such other testimonials as to character as the Chief Justice may require, and upon satisfying the Chief Justice that he has continuously resided in the Protectorate for a period of not less than six months, or that he has been in continuous practice as an advocate in Kenya, Uganda, Tanganyika or Nyasaland for a period of not less than five years preceding his application for admission to practise, and upon payment of the prescribed fee, and upon signing the Roll provided for the purpose, shall be admitted to practise in the courts aforesaid. Such person shall thereupon become and be styled an advocate of the High Court and shall continue to be an advocate so long as he takes out an annual certificate to practise in accordance with these Rules and is not struck off the Roll:

Provided that the Chief Justice may on payment of the fee herein-after prescribed admit to practise for the purposes of any one case any person who possesses the qualifications set out in rule 3 and who has come to the Protectorate for the purpose of appearing in such case:

Provided also that where an advocate was in practice in Kenya, Uganda, Tanganyika, or Nyasaland before the outbreak of war on the 3rd day of September, 1939, and ceased to practise upon undertaking service during the war in the armed forces of the Crown or in the Merchant Navy he shall be deemed, for the purpose of this rule, to have continued in practice during the period of such service.

5. Advocates will take precedence as between themselves according to the date of their signing the Roll:

Precedence.  
G.N.  
239 of 1946,  
r.2(d).

Provided that the Attorney-General, Crown Counsel, or any advocate appointed to represent the Government under whatever designation shall take precedence of all other advocates.

6. The Chief Justice of Her Britannic Majesty's Court for Zanzibar may in his discretion admit other persons of good character and sufficient ability to practise before all or any of the courts hereinbefore referred to. Such persons shall be known as vakils and shall on signing the Roll provided for the purpose and on payment of the prescribed fee be licensed to practise only during the pleasure of the Chief Justice and in such courts as may be specified in the licence.

Admission of  
other persons  
to practise.

7. Vakils shall take precedence after advocates and as between themselves in accordance with their seniority, or with any special directions which may be given by the Judge.

Precedence of  
vakils.

8. Advocates and vakils shall on admission be granted a certificate to practise up to the 31st December next following the date of their admission, and no advocate or vakil shall be entitled to practise unless he shall take out yearly an annual certificate and pay the prescribed fee.

Annual  
certificates.

9. An advocate may be suspended from practising or his name may be struck off the Roll by order of a Judge of Her Britannic Majesty's High Court for any of the following causes:

Misconduct.  
G.N.  
239 of 1946,  
r.2(e).

Provided that no such order shall be made until the advocate has had opportunity of showing cause against such order—

(1) If he takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognised agent of such party within the meaning of the Civil Procedure Decree and Rules thereunder for the time being in force, or some servant, relation, or friend authorised by the party to give such instructions.

Cap. 8.

(2) If he is guilty of fraudulent or improper conduct in the discharge of his professional duty, or misleads the court or allows the court to be misled, so that the court makes an order which he knows to be wrong or improper.

## [Subsidiary]

- (3) If he tenders, gives or consents to the retention out of any fee paid or payable to him for his services of any gratification for procuring or having procured the employment in any legal business of himself or any other advocate.
- (4) If he directly or indirectly procures, or attempts to procure, the employment of himself as such advocate, through or by the intervention of any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given.
- (5) If he accepts any employment in any legal business through a person who has been proclaimed as a tout, as defined in the Courts (Prevention of Touting) Rules.

Cap. 3, p. 47.

Proceedings  
for  
misconduct.  
G.N.  
239 of 1946,  
r.2(f).

- (6) If he is otherwise guilty of unprofessional conduct.

10.—(1) Proceedings to suspend or strike an advocate off the Roll shall be commenced by an application to a Judge in Chambers for a rule to issue to the advocate named to show cause why he should not be suspended or struck off the Roll.

(2) Such application may be made by the Attorney-General or by the person aggrieved by the action of the advocate complained against.

(3) In the event of a rule being granted, further proceedings thereunder shall be in open court.

Appeals.  
G.N.  
239 of 1946,  
r.2(f).

11.—(1) In the event of any advocate being suspended or struck off the Roll under rule 10 he shall be at liberty to appeal against the order of suspension or striking off to Her Majesty's Court of Appeal for Eastern Africa, but pending the hearing of his appeal he shall not be entitled to practise in the Protectorate, except where a period of suspension lapses before the hearing of the appeal, in which event he shall be at liberty to resume his practice after the period of suspension has expired.

(2) Nothing in this rule shall be held to deprive an advocate of an ultimate right of appeal to the Privy Council.

Vakil must  
file written  
authority to  
appear.

12. No vakil shall appear or shall be heard in any judicial proceeding unless or until he has filed in the court a written authority (Wakalatnama) signed by the person whom he represents, setting forth the full name and description of such person, particulars of the judicial proceeding, the name of the vakil and the date upon which it is given.

Persons  
entitled to  
practise  
before the  
coming into  
force of  
these Rules.

13. Advocates and vakils who, before the coming into force of these Rules, were entitled to practise in any courts shall be deemed to have been duly admitted or licensed to practise in all courts of corresponding jurisdiction subject to taking out an annual certificate and to paying the prescribed fee in accordance with rule 8.

Fees.

14. The fees set out in the Schedule are prescribed as payable in respect of the matters therein specified.

SCHEDULE

Admission of Advocates and Vakils

G.N.  
239 of 1946.

FEEs

(Rule 14)

I. ADVOCATES

Shs. cts.

On admission to practise (except as hereinafter provided) ..	300	00
On admission to practise in a special case under the first proviso to rule 4 .. .. .	100	00
Annual certificate .. .. .	45	00

II. VAKILS

On licence to practise in all courts .. .. .	300	00
Annual certificate .. .. .	45	00
On licence to practise in all subordinate courts and to appear in appeals therefrom .. .. .	150	00
Annual certificate .. .. .	30	00
On licence to practise in Kathis Courts only and to appear in appeals therefrom .. .. .	75	00
Annual certificate .. .. .	15	00

In all other cases such proportion of the above fees as the Judge may think fit.

Under article 40 of the Zanzibar Order in Council, 1924, and section 24 of the Courts Decree, Cap. 3

G. N.  
131 of 1925.  
Vol. IV, 1934,  
pp.167-173.  
G.N.  
102 of 1950.  
89 of 1953.

The Advocates' Remuneration and Taxation of Costs Rules

1. These Rules may be cited as the Advocates' Remuneration and Taxation of Costs Rules. Title.

2. In these Rules, unless the context otherwise requires—

Interpretation.

“advocate” means an advocate or vakil who has been admitted to practise under the Legal Practitioners Rules;

“folio” means and shall be taken to comprise one hundred words, a single figure or group of figures up to five or an item in accounts being counted as one word.

3. Subject to the provisions of any law for the time being in force and these Rules the costs of or incidental to any suit, matter or issue shall follow the event unless the court shall, for good cause to be recorded on the minutes, otherwise order.

Costs to follow the event.

## [Subsidiary]

Application  
of Rules.

4. The remuneration of an advocate by his client, and the payment and taxation of costs as between party and party shall be in accordance with these Rules and the First and Second Schedules.

Agreement  
between  
advocate and  
client for a  
fixed fee.

5.—(1) Notwithstanding anything contained in these Rules an advocate may make an agreement with his client before, after or in the course of the transaction of any legal business for the remuneration of the advocate to such an amount and in such manner as the advocate and client may think fit:

Provided always that no such agreement shall give the advocate an interest in the result of litigation and that any agreement purporting to give such an interest shall be wholly void.

Memoran-  
dum to be  
made.

(2) No agreement for the remuneration of an advocate by a client shall be enforceable unless a sufficient note or memorandum thereof has been made in writing and signed by the client or his agent in that behalf authorised.

Power of  
court to vary  
agreement.

(3) When a suit is brought to enforce any such agreement, if the agreement appears to the court to be harsh and unconscionable, the court may reduce the amount payable thereunder or order it to be set aside, and the costs, fees, charges and disbursements in respect of the business done to be ascertained in the same manner as if no such agreement had been made.

Security from  
client for  
advocate's  
costs.

6.—(1) An advocate may accept from his client and a client may give to his advocate security for the amount to become due to the advocate for business to be transacted by him and for interest on such amount but so that interest is not to commence until the amount due is ascertained either by agreement or taxation:

Provided that for the purpose of this rule, the amount of such costs and disbursements shall be deemed to have been agreed unless the client shall within one month from delivery of the bill have disputed the same or required the advocate to have the same taxed.

Interest may  
be charged.

(2) An advocate may charge interest at six per cent. on his disbursements and costs whether by scale or otherwise from the expiration of one month from the delivery of his bill to the client.

Recourse to  
trustee of  
infant, etc.

(3) In cases where the bill is payable by a minor or a person of unsound mind or out of a fund not presently available such demand may be made on the parent or guardian or trustee or other person liable.

Costs  
improperly  
incurred.

7. If in any case it shall appear to the court or a Judge that costs have been improperly or without reasonable cause incurred, or that by reason of any undue delay in proceeding under any judgment or order, or of any misconduct or default of the advocate, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the court or a Judge may call on the advocate by whom such costs have been so incurred to show cause why such costs should not be disallowed as

between the advocate and his client, and also (if the circumstances of the case shall require) why the advocate shall not repay to his client any costs which his client may have been ordered to pay to any other person, and thereupon may make such order as the justice of the case may require. The court or Judge may if they or he think fit, refer the matter to the taxing officer for inquiry and report.

8. Where upon the trial of any suit or the hearing of any matter or issue it appears that the same cannot conveniently proceed by reason of the advocate having neglected to attend personally, or by some proper person on his behalf, or having omitted to deliver any paper necessary for the use of the court or Judge, and which according to the practice ought to have been delivered, such advocate shall personally pay to all or any of the parties such costs as the court or Judge shall think fit to award.

Personal liability of advocate to pay costs.

9. An order for delivery of a bill of costs by an advocate and for the taxation of such bill may be made by the High Court notwithstanding that such bill relates to non-contentious business.

Non-contentious costs.

10. Where a suit founded on a contract is instituted in the High Court if the plaintiff recovers a sum not exceeding the pecuniary limits of the jurisdiction of a competent subordinate court or where a suit founded on tort is instituted in the High Court if the plaintiff recovers a sum of less than seven hundred and fifty shillings he shall not be entitled to any more costs than he would have been entitled to if the suit had been instituted in a subordinate court:

Costs of suits in High Court which might have been brought in a subordinate court.

Provided that the High Court may, if satisfied that there was sufficient reason for instituting the suit in the High Court or that the defendant or one of the defendants objected to the transfer of the suit to a subordinate court, make an order allowing the costs or part of the costs on the High Court scale.

11. In any case when the court awards costs to any party the court may by the order direct taxation of the costs of such party and payment of a proportion thereof or direct payment of a sum in lieu of taxed costs and direct by and to whom such proportion or sum shall be paid.

Fractional or gross sum for costs.

12. The taxing officer shall be a Registrar or District Registrar of the British Court or such other officer as the Chief Justice may either specially or generally appoint.

Taxing officer.

13. In all suits and proceedings there may be allowed in the High Court the fees set out in the First Schedule in the column headed "Ordinary Scale" and no higher fees shall be allowed except as are in these Rules otherwise provided for:

Scale of fees.

Provided that the fees set out in the column headed "Higher Scale" in the First Schedule may be allowed if, on special grounds arising out of the nature, importance or difficulty of the case, the court shall so order or if in the case of a taxation between advocate and client the taxing officer on such special grounds as aforesaid shall think that such allowance ought to be made.

**[Subsidiary]**

Fees in subordinate courts.

**14.** In all suits and proceedings there may be allowed in subordinate courts the fees set out in the Second Schedule:

Provided that a Judge of a subordinate court of the first class may on special grounds arising out of the nature, importance or difficulty of the case order that the fees provided for the High Court in the column of the First Schedule headed "Ordinary Scale" be allowed and taxed in the same manner as if the suit had been instituted in the High Court.

Pending suits.

**15.** In suits and proceedings pending at the time these Rules come into force the scale of fees previously in force shall continue to be applied.

Particulars to be given to taxing officer by party entitled to receive costs.  
G.N. 102 of 1950, r.2.

**16.** In any case in which the court awards costs (not being a sum in lieu of taxed costs) to any party, the advocate of such party shall (except as hereinafter provided by this rule) within seven days after the order of the court awarding such costs leave at the office of the taxing officer (or within such further time as the taxing officer may allow for reasons to be certified by him) a statement setting forth the award made by the court in respect of costs, the names and addresses of the parties appearing in person, and of the advocates of the parties not appearing in person, and in case of default no costs of drawing and copying the bill, nor of attending taxation, shall be allowed to the advocate so failing:

Provided that, where an application is refused by the court or a Judge with costs to any party in any event, the advocate of the party entitled to such costs shall not be required to comply with the provisions of this rule until the expiration of seven days (or such further time as the taxing officer may allow for reasons to be certified by him) after the final determination of the suit or proceeding in which such application was refused.

Notice of time for leaving bills of costs to be given by taxing officer.  
G.N. 102 of 1950, r.2.

**17.** On receipt of such statement the taxing officer shall forthwith send to the parties appearing in person, and to the advocates of the parties not appearing in person, a notice fixing a date before which the bills, the taxation whereof is directed by the court, shall (with all necessary papers and vouchers) be left for taxation, and a subsequent date on which the taxation shall be proceeded with. Such notice may be verbal or in writing.

Notice of adjournment of taxation.  
G.N. 102 of 1950, r.2.

**18.** The taxation shall, if possible, be continued without interruption till completed, but if adjourned for any reason notice of adjournment shall be sent by the taxing officer to any advocate not present at the time of the adjournment, whose attendance he may desire at the next appointment.

Powers of taxing officer where advocate neglects to leave bill of costs within time fixed or impedes or delays taxation.  
G.N. 102 of 1950, r.2.

**19.** Any advocate who shall fail to leave his bill of costs (with the necessary papers and vouchers) within the time or the extended time fixed by the taxing officer for that purpose, or who shall in any way delay or impede the taxation shall, unless the taxing officer otherwise directs, forfeit the fees to which he would otherwise be entitled for drawing his bill of costs and for attending the taxation, and the taxing officer may also, if he thinks fit, exercise all or any of the powers vested in him by rule 20 or paragraph (14) of rule 23.

[Subsidiary]

20. Where in any proceedings before the taxing officer, any party is guilty of neglect or delay, or puts any other party to any unnecessary or improper expense relative to such proceedings, the taxing officer may direct such party or his solicitor to pay such costs as he may think proper, or deal with them under paragraph (12) of rule 23.

Delay before taxing officer.

21. Three days' notice of taxing costs together with a copy of the bill of costs shall be given by the advocate of the party whose costs are to be taxed to the other party or his advocate; unless neither such other party nor anyone on his behalf has appeared at any stage of the proceedings, or unless the taxing officer shall for good cause dispense with such notice.

Notice of taxation.

22. Bills of costs shall be prepared in five columns.

Manner of preparing bills for taxation.

The first or left hand column for dates showing the year, month and days.

The second for the number of the items.

The third for the particulars of the services charged for.

The fourth for the professional charges.

The fifth for the taxing officer's deductions.

Disbursements shall be shown separately at the foot of the bill.

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

23. The following special allowances and general regulations shall apply to all proceedings and all taxations.

Special allowances and general regulations.

(1) As to drawing any pleading or other document, the fees allowed shall include any copy made for the use of the advocate, agent, or client.

Drawing pleadings.

(2) As to instructions to sue or defend, or the preparation of briefs, if the taxing officer shall on special grounds consider the fee in either scale provided inadequate, he may make such further allowances as he shall in his discretion consider reasonable.

Instructions to sue or defend, etc.

(3) As to affidavits, when there are several deponents to be sworn, or it is necessary for the purpose of an affidavit being sworn to go to a distance or to employ an agent, such reasonable allowances may be made as the taxing officer in his discretion may think fit.

Swearing affidavit.

(4) The allowance for instructions and drawing an affidavit in answer to interrogatories and other special affidavits, and attending the deponent to be sworn, include all attendances on the deponent to settle and read over.

Drawing affidavit and attending deponent.

(5) As to delivery of pleadings, services and notices, the fees are not to be allowed when the same advocate is for both parties, unless it be necessary for the purpose of making an affidavit of service.

Delivery of pleadings.

(6) As to perusals, the fees are not to apply where the same advocate is for both parties.

Perusals.



## [Subsidiary]

Separate  
answers or  
proceedings.

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

Evidence.

(8) As to evidence, such just and reasonable charges and expenses as appear to have been properly incurred in procuring evidence, and the attendance of witnesses, are to be allowed.

Inspection of  
documents.

(9) The costs of inspection of documents shall be in the discretion of the taxing officer, but no allowance is to be made for any inspection unless it is shown to the satisfaction of the taxing officer that there were good and sufficient reasons for making such inspection.

Allowance  
for copies of  
documents.

(10) As to taking copies of documents in possession of another party, or extracts therefrom, under Rules of Court or any special order, the party entitled to take the copy or extract is to pay the advocate of the party producing the document for such copy or extract as he may by writing, require, at the rate of thirty-five cents per folio; and if the advocate of the party producing the document refuses or neglects to supply the same, the advocate requiring the copy or extract is to be at liberty to make it, and the advocate for the party producing is not to be entitled to any fee in respect thereof.

Disallowance  
of costs of  
improper,  
vexatious or  
unnecessary  
matter in  
documents or  
proceedings.

(11) The court or Judge may, at the hearing of any suit or matter, or upon any application or proceeding in any suit or matter in court or at chambers, and whether the same is objected to or not, direct the costs of any pleadings, summons, application, affidavit, evidence, notice requiring a statement of claim, notice to produce, admit, or cross-examine witnesses, account, statement, procuring discovery by interrogatories or order, application for time, bill of costs, or other proceeding, or any part thereof, which is improper, vexatious, unnecessary, or contains vexatious or unnecessary matter, or is of unnecessary length, or caused by misconduct or negligence, to be disallowed, or may direct the taxing officer to look into the same and to disallow the costs thereof, or of such part thereof as he shall find to be improper, unnecessary, vexatious, or to contain unnecessary matter, or to be of unnecessary length, or caused by misconduct or negligence; and in such case the party whose costs are so disallowed shall pay the costs occasioned thereby to the other parties; and in any case where such questions shall not have been raised before and dealt with by the court or Judge, it shall be the duty of the taxing officer to look into the same (and, as to evidence, although the same may be entered as read in any decree or order) for the purpose aforesaid, and thereupon the same consequence shall ensue as if he had been specially directed to do so.

## [Subsidiary]

- (12) In any case in which under paragraph (11) or under any other Rules of Court, or by the order or direction of a court or Judge, or otherwise, a party entitled to receive costs is liable to pay costs to any other party, the taxing officer may tax the costs which such party is so liable to pay, and may adjust the same by way of deduction or set off, or may, if he shall think fit, delay the allowance of the costs which such party is entitled to receive until he has paid or tendered the costs which he is liable to pay; or such officer may allow or certify the costs to be paid, and direct payment thereof, and the same may be recovered by the party entitled thereto in the same manner as costs ordered to be paid may be recovered.
- Set off of costs. G.N. 102 of 1950, r.3.
- (13) The taxing officer shall have authority to arrange and direct what parties are to attend before him on the taxation of costs to be borne by a fund or estate, and to disallow the costs of any party whose attendance such officer shall in his discretion consider unnecessary.
- Attendance of parties on taxation.
- (14) When any party entitled to costs refuses or neglects to bring in his costs for taxation, or to procure the same to be taxed, and thereby prejudices any other party, the taxing officer shall be at liberty to certify the costs of the other parties, and certify such refusal or neglect, or may allow such party refusing or neglecting a nominal or other sum for such costs, so as to prevent any other party being prejudiced by such refusal or neglect.
- Refusal or neglect to procure taxation.
- (15) On every taxation the taxing officer shall allow such costs, charges and expenses, as shall appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same no costs shall be allowed which appear to the taxing officer to have been incurred or increased through over-caution, negligence or mistake or by payment of special fees to counsel or special charges or expenses to witnesses or other persons, or by other unusual expenses.
- Costs to be allowed on taxation.
- (16) Where an action or petition is dismissed with costs, or a motion or application is refused with costs, or any costs are by any general or special order directed to be paid, the taxing officer may tax such costs without any order referring the same for taxation, unless the court or a Judge upon the application of the party alleging himself to be aggrieved prohibits the taxation of such costs.
- Taxation where action, etc., dismissed with costs.
- (17) As to all fees or allowances which are discretionary, the same are, unless otherwise provided, to be allowed at the discretion of the taxing officer, who, in the exercise of such discretion, is to take into consideration the other fees and allowances to the advocate in respect of the work to which any such allowance applies, the nature and importance of the cause or matter, the amount involved, the interest of the parties the fund or persons to bear the costs, the general conduct and costs of the proceedings, and all other circumstances.
- Considerations by which taxing officer's discretion must be influenced.

## [Subsidiary]

Power to taxing officer to assess costs at a gross sum.

(18).—(a) If upon any taxation it shall appear that the costs have been increased by unnecessary delay or by improper, vexatious, prolix or unnecessary proceedings, or by other misconduct or negligence, or that from any other cause the amount of the costs is excessive having regard to the nature of the business transacted or the interests involved or the money or value of property to which the costs relate, or to the other circumstances of the case, the taxing officer shall allow only such an amount of costs as may be reasonable and proper, and may assess the same at a gross sum, and shall (if necessary) apportion the amount among the parties if more than one.

(b) The provisions as to the review of taxations shall apply to allowances and certificates under this rule.

Disallowances when bill reduced by a sixth.

(19) If on the taxation of a bill of costs the amount of the professional charges and disbursements contained in the bill is reduced by a sixth part, no costs shall be allowed to the advocate leaving the bill for taxation for drawing and copying it, nor for attending the taxation.

Objections to taxation review.

(20) Any party who may be dissatisfied with the allowance or disallowance by the taxing officer, in any bill of costs taxed by him, of the whole or any part of any items, may, at any time before the certificate is signed, or such earlier time as may in any case be fixed by the taxing officer, deliver to the other party interested, and carry in before the taxing officer, an objection in writing to such allowance or disallowance, specifying therein by a list, in a short and concise form, the items or parts thereof objected to, and the grounds and reasons for such objections, and may thereupon apply to the taxing officer to review the taxation in respect of the same. The taxing officer may, if he shall think fit, issue, pending the consideration of such objections, a certificate of taxation for or on account of the remainder of the bill of costs and such further certificate as may be necessary shall be issued by the taxing officer after his decision upon such objections.

Review of taxing officer's certificate by Judge.

(21) Any party who may be dissatisfied with the certificate of the taxing officer, as to any item or part of an item which may have been objected to as aforesaid, may within fourteen days from the date of the certificate or such other time as the court or a Judge, or taxing officer, at the time he signs his certificate, may allow, apply to a Judge in Chambers for an order to review the taxation as to the same item or part of an item, and the Judge may thereupon make such order as he may think just, but the certificate of the taxing officer shall be final and conclusive as to all matters which shall not have been objected to in manner aforesaid.

Evidence on review.

(22) Such application shall be heard and determined by the Judge upon the evidence which shall have been brought in before the taxing officer, and no further evidence shall be received upon the hearing thereof, unless the Judge shall otherwise direct.

[Subsidiary]

(23) When a summons for the commencement of an action shall be issued from a district registry, and when a suit proceeds in a district registry, all fees and allowances, and Rules and directions relating to costs, which would be applicable to such proceeding if the summons were issued, and if the suit proceeded in Zanzibar shall apply to such summons issued or other proceedings. Costs in proceedings in district registries.

FIRST SCHEDULE  
COSTS IN THE HIGH COURT  
(Rule 13)

G.N.  
89 of 1953.  
r.2.

	<i>Ordinary scale</i>	<i>Higher scale</i>
	<i>Shs. cts.</i>	<i>Shs. cts.</i>
<i>Letters</i>		
Letter before action .. .. .	10 00	15 00
Necessary letters .. .. .	10 00	15 00
Necessary circular letters:		
For first letter .. .. .	7 50	—
For remainder each .. .. .	1 00	—
<i>Instructions</i>		
To sue or defend .. .. .	60 00	100 00
To apply for Probate or Letters of Administration or to lodge or oppose a Caveat in Probate proceedings .. .. .	40 00	60 00
To present or oppose a debtor's or creditor's petition in insolvency to include drawing petition and Schedule .. .. .	60 00	100 00
For interrogatories for the examination of a witness .. .. .	20 00	30 00
For affidavits .. .. .	10 00	15 00
For petition of appeal or to oppose appeal ..	60 00	100 00
To execute a Decree .. .. .	10 00	—
To consent to Judgment .. .. .	10 00	—
For an Originating Summons .. .. .	30 00	60 00
To file objection to an Arbitrator's Award or Commissioner's Report .. .. .	30 00	60 00
<i>Undefended Suits</i>		
In Civil Suits in the High Court in which no order is made for a written statement or granting leave to defend—If the amount does not exceed Shs. 6,000 an inclusive fee of .. .. .	—	175 00
Over Shs. 6,000 an inclusive fee of .. .. .	—	250 00
in addition to court costs.		

[Subsidiary]

*Drawing*

	<i>Ordinary scale Shs. cts.</i>	<i>Higher scale Shs. cts.</i>
Concise Statement, Interlocutory Application, Notice of Motion or Chamber Application, Affidavit, Interrogatories, Agreement for Com- promise, Adjustment or Satisfaction of Suit or for Reference to Arbitration (under 2 folios) ..	15 00	—
The like, over two folios, additional per folio after the first two .. .. .	4 00	—
Plaint, Written Statement, Originating Summons or Memorandum of Appeal .. .. .	30 00	60 00
All other necessary documents under two folios	5 00	—
The like over two folios, per folio .. .. .	4 00	—
Every Agreement raising questions of law or fact for the decision of the court .. .. .	40 00	60 00
Bill of Costs, per folio .. .. .	2 00	—

*Copies*

Necessary copies of documents whether for the  
use of the court or for the opposite party per  
folio .. .. .

1 00

—

*Attendances*

On any necessary application to or attendance on  
the Registrar .. .. .

10 00

—

Where there are several deponents or it is  
necessary for the purpose of having an affidavit  
sworn to go a distance or employ an Agent  
reasonable allowance may be made on special  
grounds by the Taxing Officer.

To inspect or produce for inspection, pursuant  
to notice per half-hour or part thereof ..

15 00

—

At office of court or upon opposite party or his  
Advocate, not otherwise provided for, which  
may be necessary, such fee as is reasonable, not  
less than .. .. .

5 00

—

Where, in consequence of anything done by the  
opposite party, it becomes necessary to advise  
or receive instructions from a client in the pro-  
gress of an action or matter, for each necessary  
attendance such fee as is reasonable not less  
than .. .. .

10 00

—

At court conducting cause (every whole day) ..

120 00

180 00

	<i>Ordinary scale</i>	<i>Higher scale</i>
	<i>Shs. cts.</i>	<i>Shs. cts.</i>
Half-day (two hours or less) .. .. .	70 00	100 00
At court on settlement of issues or for orders ..	15 00	—
In Chambers to make or oppose application for Letters of Administration .. .. .	30 00	50 00
If application is adjourned into court the same fee as on the hearing of an ordinary suit.		
To make or oppose any application or motion before the Judge in Chambers .. .. .	30 00	50 00
At court on hearing petition in insolvency ..	30 00	50 00
If the petition is opposed the same fees as would be allowed at the hearing of an ordinary suit.		
At court at the Public Examination of a debtor per hour or part of an hour .. .. .	20 00	30 00
At meeting of creditors of an insolvent per half-hour or part thereof .. .. .	15 00	—
In court or in Chambers on any matter on a date fixed by the court for hearing when case cannot be taken and notice has been given on the previous day that case will not be taken, if in court	30 00	—
If in Chambers .. .. .	15 00	—
To hear a deferred judgment or to obtain judgment on an Arbitrator's Award or Commissioner's Report when the Award or Report is not disputed .. .. .	15 00	20 00
In court on Order day when summons unserved or case adjourned .. .. .	15 00	20 00
At Offices of court or Registrar to bespeak or receive copies of proceedings or approving draft Decree .. .. .	10 00	—
With Judge on a view if in court hours the same fee as for attendance in court conducting case, if out of court hours, per hour in addition to expenses properly incurred in getting to and from the place viewed .. .. .	20 00	30 00
Before a Commissioner for adjustment of accounts per hour or a portion thereof ..	30 00	—
Before Taxing Officer on taxation per hour or part thereof .. .. .	15 00	—
Special not otherwise provided for, at Taxing Officer's discretion.		

[Subsidiary]

*Minutes of Evidence*

	<i>Ordinary scale Shs. cts.</i>	<i>Higher scale Shs. cts.</i>
Examining and taking minutes for evidence of each witness afterwards allowed on taxation ...	20 00	—
If exceeding five folios, for each additional folio	2 00	—
In special cases, in addition for preparing and making copies of any accounts or other documents not being notes or observations relating to the evidence of witnesses only, which may be necessary for the Judge's or Advocate's use at the trial, such sum as may be reasonable, not exceeding .. .. .	20 00	—

*Perusals*

Of pleadings, Memorandum of Appeal, interrogatories and answers thereto, notices to admit or produce, Petition in Insolvency, Notices of Motion in Court, Originating Summons or other necessary document not specially provided for .. .. .	10 00	—
Of per folio .. .. .	0 50	—
Of Affidavit per folio 25 cents but not less than ..	4 00	—
Of notices and other formal documents ..	4 00	—
Of necessary letters .. .. .	2 00	—
Exhibits attached to Affidavits will not as a rule be allowed for unless they are required to be read in detail as part of the Affidavit.		
For reading and correcting proofs of printed matter per folio .. .. .	0 50	—

*Plans, Models, etc.*

Plans, charts, photographs or models for use of Judge at trial, such sum as may be reasonable.

*Translation*

Of necessary documents or accounts per folio ..	12 00	—
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