

MEMORANDUM FOR THE CABINET

by the Hon. Minister of Justice and Parliamentary Affairs relating to (a) general amendments of Tariffs G,H,K and N of Schedule A annexed to the Code of Organization and Civil Procedure (Cap.15) in respect of fees payable to Advocates, Legal Procurators, etc., and to Architects and Civil Engineers, and (b) the new regulation of fees payable to Advocates, Legal Procurators and qualified Accountants in Income Tax cases.

A. Fees payable to Advocates, Legal Procurators etc. under Tariffs G,H. and N. (Cap.15).

1. The fees payable to Advocates, Legal Procurators and Official Curators, as well as those payable to Supplementary Judges and Supplementary Magistrates and the fees payable in connection with Sea Protests or proceedings concerning average before Her Majesty's Commercial Court Tariffs G,H and N of Schedule A annexed to the Code of Organization and Civil Procedure (Cap.15), at present in force were last amended in 1953 by Government Notice No.33 of 1953.

2. In 1963 the Chamber of Advocates submitted for consideration new revised tariffs. The amendments to the more general tariff, Tariff G, submitted by the Chamber of Advocates were not merely limited to modify existing fees but aimed at redrafting and regrouping certain itemised services adding thereto certain other professional services which were being taxed by analogy on the basis of similarity with other professional services. As regards the other two tariffs H and N dealing with the fees payable to Supplementary Judges and Supplementary Magistrates and the fees payable in connection with Sea Protests or proceedings covering average before Her Majesty's Commercial Court, the Chamber merely increased the fees stated in the existing tariffs against each item of service.

3. Several meetings were held under the chairmanship of the Hon. Minister of Justice and Parliamentary Affairs between officials of the Ministry for Justice and representatives of the Chamber of Advocates to study and examine the proposed new tariffs. Agreement was eventually reached and the attached new tariffs are now being proposed for approval by Cabinet.

4. The salient innovations in the proposed Tariff G - Fees payable to Advocates, Legal Procurators and Official

Curators/....

Curators, are the following:-

a) There is a general increase in the fees payable to Advocates and Legal Procurators, Official Curators, etc.

There are cases where the fees have been increased by 100 per cent to 900 per cent over the existing fees, cases where the fees have been increased by 50 and 33 1/3 per cent and a few isolated cases where the fees have been actually reduced. The overall effect is of course one of a marked general increase of fees.

These increases however are to be viewed in their proper perspective. For instance in respect of actions for any necessary declaration containing the decision of any point of fact or of law not determinate or determinable according to law or from the records of the proceedings, a fluctuating fee from £4 to £50 has been established. Now this represents an approximately 900 per cent increase on the previous fee of £2, and yet the proposed new fee does not adequately provide in respect of certain important Civil, Constitutional and Administrative cases where a £100 to a £400 fee would be properly claimed by an Advocate for his services.

b) A fluctuating fee between a minimum and a maximum is in many cases indicated in the tariffa so that a proper fee would be payable according to the services rendered by the Advocate and the responsibility assumed by him in the particular case. It has now been provided that all fees so assessed by the Registrar shall be subject to revision by the competent Court at the instance of any person interested in accordance with the provisions of section 62 of the Code of Organization and Civil Procedure.

c) In actions for the partition of property, independently of the number of demands contained in the summons there shall now be taxed only one ad valorem fee on the greater sum between the assets and the liabilities of the property to be divided - provided that in actions of partition of property "causa mortis" the fee is to be taxed on the value as stated of each particular estate to be divided between the parties.

d)....

d) Certain other innovations have been introduced in the tariff to provide for fees in respect of professional work given by an Advocate where subsequent action is not taken, such as when a judicial letter, a judicial protest or a writ of summons has been actually drafted by the Advocate and subsequently not filed, or an application or the presentation of documents entails more work in a particular case than is ordinarily required.

e) Whilst the fees for drafting and/or perusal of a deed for publication by a Notary Public including fees due for advice, research into liabilities and transfers, tracing of root of immovables, perusal of contract, fees due for conferences and for attendance at publication have been increased, the Chamber of Advocates has accepted  $\frac{3}{4}$  of the proposed fees if the deed refers to a lease agreement, commodatum, precarium, marriage settlement, promise of marriage, inventory, donation, separation of spouses (so long as the community of acquests is not involved) deposit or waiver.

B. Fees payable to Architects and Civil Engineers under Tariff K (Cap.15)

1. The Tariff of Fees payable to Architects and Civil Engineers at present in force was last amended in 1929 and the need for its revision has been felt for long.

2. The Chamber of Architects and Civil Engineers submitted for consideration a new revised tariff: this draft however rather limited itself to scale up the existing fees in Tariff K in relation to increased cost of living and to incorporate in the Tariff fees for some services which were not contemplated previously.

3. It was felt however that the revision should not limit itself to modify existing fees and provide for services not previously included in the Tariff, but that the opportunity should be taken to amplify the Tariff where necessary in the light of modern needs and to do away with the difficulties which had been encountered in the application of the Tariff since its coming into force.

4. With this end in view several meetings were held under the chairmanship of the Hon. Minister of Justice and Parliamentary Affairs between officials of the Ministry for Justice and representatives of the Chamber of Architects, and a new Tariff was eventually agreed to. In the revision of the fees proper, although the existing rates were acknowledged by all to be utterly disproportionate to present monetary values, account was taken of the fact that, since in most cases the Architect's fee is a percentage on the value involved, the inadequacy of the fee was in part compensated by the rise in value of property, material etc.

5. The salient innovations in the proposed new Tariff are:-

a) Survey of Lands

Provision has been made to distinguish between surveys of "level land", "terraced land and/or level land with obstacles" and "terraced land with obstacles". This distinction did not exist in the previous Tariff. Fees for the survey of streets and taking of spot levels have also been included.

b) Survey and plotting of buildings.

The opportunity has been taken to amend the Tariff to comply with modern requirements.

c) Valuations.

This section of the Tariff has been enlarged to embrace all possible contingencies and items which previously gave rise to doubt in their application, are now clarified.

d) Assessing damage, dilapidations etc.

Again here the Tariff has been revised in the light of present day requirements, and fees fixed on a more equitable basis.

e) Design and erection of buildings.

The fees have been fixed in relation to current market values. This section also lays down the services required of the Architect which are covered by the fees and provides for the eventuality of the employment of consultants and clerks of work.

f)/....

- f) Fees in cases where the architect abandons or is abandoned by the client or works remain unexecuted.

This is a new provision, the need for which has long been felt. A corresponding provision exists in the Tariff of Fees of Advocates.

- g) Miscellaneous

New sections included in the Tariff provide for cases where building work is executed with old material; provision is also made in respect of statically indeterminate structures and time-fees.

C. Income Tax Act - Fees payable to Advocates, Legal Procurators and qualified Accountants.

1. Rule No. 23 of the Appeals (Board of Special Commissioners) Rules 1949, provides that the fee payable to any Legal Practitioner or Accountant, assisting the appellant or his agent, shall be from 10s/- to £1 for every sitting as may be fixed by the Chairman of the Board.

2. The Chamber of Advocates has made strong representations regarding the fees that should be payable to Legal Practitioners pleading before the Board of Special Commissioners in Income Tax cases. It is well to quote from the original memorandum submitted by the Chamber of Advocates:-

"It is evident that appeals before the Board of Special Commissioners have developed an importance far beyond the original thought and scope of the Legislator. This consideration applies not only from the financial impact and consequence of these appeals but also - and mainly so - from the nature of the business which is brought to appeal involving the examination and evolution of novel points of law, the study of comparative fiscal legislation, the lengthy, intricate and complicated points of fact especially when the appeal concerns the proper keeping of commercial books, companies' statements of accounts and other related points. From the point of view of judicial procedure and organization the Board is to be compared to a Court of First Instance and appeals from its decision, when allowed by law, are made directly to the Court of Appeal".

3. The amendment to the appeals (Board of Special Commissioners) (Amendment) Rules, 1967 will now provide for the same fees to be payable as under Tariff G of Schedule A annexed to the Code of Organization and Civil Procedure (Cap.15) according to the amount of tax in contestation.

4. This amendment will necessarily involve additional costs to the Department of Inland Revenue as the Commissioner of Inland Revenue appears in contestation of the taxpayer in all cases.

5. Qualified accountants who by law may assist the appellant or his agent in Income Tax cases will equally benefit from the provisions of this Amendment as an Advocate or Legal Procurator.

Hon. Ministers are asked to concur with the new tariffs of fees mentioned above and the amendment to be made to the Appeals (Board of Special Commissioners) Rules, under the Income Tax Act, copies of which are attached hereto for reference.

Additional:

Rent Regulation Board

A draft bill providing for an increase of fees payable to Advocates and Legal Procurators is also being submitted for approval by Cabinet. An increase of fees in the cases established in the bill, particularly in eviction cases, can hardly be questioned. The representations of the Chamber of Advocates in this respect are fully justified.

18th February, 1967.

A B I L L  
entitled

AN ACT further to amend the Reletting of  
Urban Property (Regulation) Ordinance (Cap. 109).

BE IT ENACTED by the Queen's most  
Excellent Majesty, by and with the advice and  
consent of the House of Representatives of Malta,  
in this present Parliament assembled, and by  
the authority of the same, as follows:-

Short title.

1. This Act may be cited as the Reletting  
of Urban Property (Regulation) (Amendment) Act,  
1967, and shall be read and construed as one  
with the Reletting of Urban Property (Regulation)  
Ordinance, hereinafter referred to as "the  
principal law".

Amends section  
40 of the  
principal law.

2. For subsection (2) of section 40 of the  
principal law there shall be substituted the  
following subsection:

"(2) There shall be payable to  
any such Advocate or Legal Procurator  
for any proceedings before the Board -

(a) in any case of assessment  
of rent -

(i) in respect of a dwelling  
house let as unfurnished  
which is an old house  
within the meaning of  
section 2 of the Rent  
Restriction (Dwelling  
Houses) Ordinance, 1944,  
and in which no  
structural alteration  
and/or addition has been  
made after the first day  
of April, 19<sup>39</sup>~~44~~, a fee  
of £1.0.0d.

Ord. XVI  
of 1944

(ii) in respect of any other  
tenement, a fee equal to  
one month's rent or a fee

of £2, whichever shall be the greater amount;

(b) in any case for the resuming of possession of premises, a fee equal to one month's rent or a fee of £5, whichever shall be the greater amount;

(c) in respect of any act filed before the Board, not being an application filed in accordance with sections 8, 9, 15 or 43, or a reply filed in accordance with section 31, a fee chargeable in accordance with Tariff "G" of Schedule A annexed to Cap.15. the Code of Organization and Civil Procedure."

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Objects and Reasons

The object of this Bill is to increase the fees due to advocates and legal procurators in connection with proceedings before the Rent Regulation Board.

/rn.



L.N. of 1967

INCOME TAX ACT, 1948  
(ACT NO. XLIV OF 1948)

Appeals (Board of Special Commissioners)  
(Amendment) Rules, 1967

Date of commencement:

IN exercise of the powers conferred by subsection (10) of section 56 of the Income Tax Act, 1948, the Honourable Minister of Finance, Customs and Port has made the following rules:

Citation.

1. These rules may be cited as the appeals (Board of Special Commissioners) (Amendment) Rules, 1967, and shall be read and construed as one with the appeals (Board of Special Commissioners) Rules, 1949, hereinafter referred to as "the principal rules".

Substitutes  
rule 23 of  
the prin-  
cipal rules

2. For rule 23 of the principal rules there shall be substituted the following:

"23. The fee payable to any Advocate or Legal Procurator or qualified Accountant assisting an appellant or his agent before the Board shall be taxed on the amount of tax in contestation in accordance with Tariff G of Schedule A annexed to the Code of Organization and Civil Procedure".

CODE OF ORGANIZATION AND CIVIL  
PROCEDURE (CAP. 15)

Code of Organization and Civil Procedure (Schedule A)  
(Amendment) Regulations, 1967.

Date of commencement:

IN Exercise of the powers conferred by section 1003 of the Code of Organization and Civil Procedure, the Honourable Minister of Justice and Parliamentary Affairs has made the following regulations:-

Citation and commencement.

1. (1) These regulations may be cited as the Code of Organization and Civil Procedure (Schedule A) (Amendment) Regulations, 1967 and shall be read and construed as one with Schedule A annexed to the Code of Organization and Civil Procedure, hereinafter referred to as "Schedule A".

(2) These regulations shall come into force on the ..... (3 weeks after publication).

Substitutes  
Tariff G, H,  
and N  
of Schedule  
A.

2. For Tariff G, H, K and N of Schedule A there shall be substituted respectively the first, second, third and fourth Schedules to these regulations.

/Schedules.....

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SCHEDULES

Regulation 2

FIRST SCHEDULET A R I F F " G "Fees payable to Advocates, Legal Procurators, and Official Curators:

	s.	d.
1 (a) For each note of appeal, for each note of acceptance of banns and for each protest against the sufficiency of a bail for costs, even if such protest is not filed separately...-	10.	0
(b) For each note required to be filed in Her Majesty's Commercial Court under the provisions of the Commercial Code (Chapter 17).-	15.	0
2 (a) For each application for summoning of witnesses .....	15.	0
(b) For each first application for sale of immovables (including research in the Public Registry, the ordering of certificates of hypothec, and perusal of relative deeds)..... 1.	15.	0
(c) For each other application .....	1.	0. 0
(d) For any application filed after office . . hours or on a Sunday or public holiday, there shall be taxed an additional fee of .....	-	15. 0
3. For each application filed in the Court of Voluntary Jurisdiction:		
i) if it concerns the admission of minors to an industrial school or to an approved school.....-	5.	0
ii) if it concerns the candidature in a marriage legacy or the renewal of an authorization previously given, or the taxing of fees .....	-	10. 0

iii) in all other cases (including notes of acceptance or waiver of an inheritance) .....from - 15. 0  
to 1 0. 0

Provided that an additional fee shall be taxed when the drawing up of the application, and/or the preparation and/or the filing of the relative documents, entails more work than is ordinarily required.

4. For each attendance during sittings before the Court of Voluntary Jurisdiction... - 15. 0

5 (a) For each lodgment schedule, even if such lodgment is made with or following a schedule of redemption:

i) when the value does not exceed £200 ..... 2 0. 0

ii) when the value exceeds £200, but not £1,000 the fee shall be increased by 1% for every additional £100 or part thereof;

iii) when the value exceeds £1,000, the fee shall be increased by fifteen shillings (15s/-) for each additional £100 or part thereof.

(b) For each schedule of set-off or redemption:

i) when the value does not exceed £200 .....2. 0. 0

ii) when the value exceeds £200 but not £1,000, the fee shall be increased by £1.10.0 for each additional £100 or part thereof;

/iii).....

(ii) when the value exceeds £1,000, the fee shall be increased by £1 for each additional £100 or part thereof.

These fees are inclusive of advice concerning the right to claim set-off or exercise redemption.

6.(a) For advice to a party against whom the right of redemption is exercised concerning the validity of the schedule and the right of the party exercising redemption and about procedure to be followed, including assistance thereat, the fees established in sub-paragraph (b) of paragraph 5 shall apply.

(b) For advice to the depositor concerning a request for the withdrawal in whole or in part of the money or other thing deposited:

i) when the value does not exceed £200 2 0. 0

ii) when the value exceeds £200, the fee shall be increased by ten shillings (10s) for every additional £100 or part thereof.

7. For private letters ..... from - 5. 0  
to - 10. 0

8. (a) For the drafting of a judicial letter, whether filed or not ..... - 15. 0

(b) For the drafting of a judicial protest, whether filed or not ..... 1. 10. 0

Provided that when the above acts are not followed by judicial proceedings a fee, to be assessed by the Registrar, shall be allowed for the advice leading to the drafting of the said acts. On request, the fee shall be registered on the act itself by the Registrar.

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9. For the drafting of each hypothecary protest ..... 1. 10. 0.

Provided that a fee shall be assessed for the perusal of entries of hypothec and of relative deeds, taking into consideration the number of entries and deeds perused, their importance and/or the amount involved ..from 1. 10. 0 to 5. 0. 0

10. For every attendance, before a referee or before a Supplementary Judge and for every attendance at an inspection "in facien loci", whether ordered by the Court or required by the client:

i) if the attendance does not last more than two hours..... 1. 0. 0

ii) if it lasts more than two hours, and provided this circumstance is expressly noted in a proces-verbal signed by the referee, the Supplementary Judge or the Deputy Registrar, the fee shall be increased by 15s/- in respect of each additional hour or part thereof.

11. When the attendance referred to at paragraph 10 takes place outside Valletta, the fee shall be:

i) if the attendance does not last more than two hours..... 1. 10. 0

ii) if it lasts more than two hours, and provided this circumstance is expressly noted in a proces-verbal signed by the referee, the Supplementary Judge or the Deputy Registrar the fee shall be increased by 15s/- in respect of each additional hour or part thereof.

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12. For the drawing up of a libel, writ of summons, or petition which have not been filed (including conferences with the client, perusal of relative documents, etc.) ...from 2. 0. 0  
to 8. 0. 0

13. (1) For drafting and/or perusal of a deed for publication by a Notary Public, including fees due for advice, research into liabilities and transfers, tracing of root of immovables, perusal of contract fees due for conferences and for attendance at publication,

(a) if the value of the interest concerned -

i) does not exceed £200 .....from 5. 0. 0  
to 10. 0. 0

ii) for each additional £100 or part thereof, up to a maximum of £1,500 ..... 2. 0. 0

iii) for each further £100 or part thereof ..... 1. 0. 0

(b) if the value of the interest concerned is not expressed in money the fee shall be .....from 5. 0. 0  
to 100. 0. 0

(c) if the deed refers to a lease agreement, commodatum, precarium, marriage settlement, promise of marriage, inventory, donation, separation of spouses (so long as the community of acquests is not involved), deposit or waiver, three-fourths of the fee established under (a) or (b) of this sub-paragraph.

(2) When, in connection with the <sup>drafting</sup> and/or perusal of a deed to be published by a Notary Public, an advocate does not perform all the services referred to in sub-paragraph (1) of this paragraph, the fees due for the services actually performed shall be assessed on the basis of that sub-paragraph.

14. For perusal of a draft deed including  
 fee due for conference .....from 3. 0. 0  
 to 10. 0. 0

But if including attendance at publica-  
 tion such fee shall be increased by ..... 2. 0. 0

15. Curators appointed to attend at publica-  
 tion of a deed on behalf of absentees or  
 defaulters shall have right to the fees  
 mentioned under the previous paragraph.

16. For advice concerning the drawing up of  
 notices for purposes of the Succession and  
 Donation Duties Ordinance (Chapter 70),  
 including the actual drawing up of such  
 notices .....from 2. 0. 0  
 to 30. 0. 0

When the value exceeds £5,000 such fee  
 shall be increased by 10s/- for every  
 additional £100 or part thereof.

When the liquidation of the community  
 of acquests is necessary for the drawing up  
 of a Notice, and the value of the community  
 of acquests exceeds the value of the estate to  
 be declared, such fee shall be taxed on the  
 value of the community of acquests:

Provided that in all cases the value shall  
 be taken to be the greater sum between the  
 assets and the liabilities of the estate or  
 of the community of acquests.

17 (a) For the drawing up of private writings  
 containing an agreement of a promise of sale,  
 betrothal, commodatum or use, arbitration  
 or the drawing up of a power of attorney or  
 any declaration, sworn or otherwise, and

/including.....

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including any necessary authentication of  
 signatures or marks .....from 1. 0. 0  
 to 3. 0. 0

(b) For the drawing up of any other private  
 writing containing an agreement which,  
 according to law, is as valid as if it had  
 been carried out in virtue of a public deed,  
 the fees mentioned in paragraphs 14 and 16  
 shall apply.

(c) For authentication of signatures or  
 marks, in respect of each individual  
 signature or mark ..... - 5. 0

18. For the drawing up of Income Tax  
 Returns .....from 1. 0. 0  
 to 5. 0. 0

Provided that when for the drawing up of  
 such returns extraordinary calculations,  
 examination of deeds or private instruments,  
 balance sheets or insurance policies are  
 necessary, an additional fee shall be taxed.

19. For the drawing up of a note of  
 registration and for attendance at the Public  
 Registry in connection with the filing of  
 same ..... 1. 0. 0

20 (a) For advice given verbally .....from - 10. 0  
 to 2. 0. 0

(b) For an opinion in writing ..... from 3. 0. 0  
 to 15. 0. 0

The fees established hereby may for a  
 good reason be increased in specific cases  
 by the Court of Voluntary Jurisdiction, by  
 means of a decree given on application of  
 the party interested.

21. For each definite judgment:-

i)	in respect of the first £200, per £100 .....	5.	0.	0
ii)	in respect of any value in excess of the first £200 up to £500, per £100..	3.	0.	0
iii)	in respect of any value in excess of the first £500 up to £1,500, per £100 .....	2.	0.	0
iv)	in respect of any value in excess of £1,500, per £100 .....	1.	0.	0

Provided that in respect of the claims referred to in No. 7 (b) of Tariff "A", the fee shall be taxed on one-half of the maximum fixed by law for the penalty contemplated therein.

22. When a declaration containing a decision of any point of law or of fact, concerns a value determinate or determinable according to law or from the records of the proceedings, the fee in respect of that decision shall be taxed in accordance with paragraph 21.

23. For any other necessary declaration containing the decision of any point of fact or of law.....from 4. 0. 0  
to 50. 0. 0

24. In causes for the partition of property, independently of the number of demands contained in the writ of summons there shall be taxed only one fee "ad valorem" as in paragraph 21 on the greater sum between the assets and liabilities of the property to be divided - provided that in causes of partition of property "causa mortis" such fee shall be taxed on the value established as above of each particular estate to be divided between the parties, saving that such fee shall in no case be less than ..... 10. 0. 0

25. In causes for the partition of property where the partition of all property involved cannot be carried out except by way of licitation, provided that such a demand is made in the writ of summons and upheld in the final judgment, the fees due to each Advocate in the cause shall be taxed at the rate of one per centum (1%) on the value of the property in licitation saving that in no case shall such fee be less than ..... 5. 0. 0
26. In actions respecting the payment of annuities, allowances and the like, if the amount be indeterminate the fee shall be taxed as provided in paragraph 21 on the amount awarded in the final judgment, provided that in no case shall such fee be less than .. 5. 0. 0.
27. In actions of maintenance the fee taxed shall be one half per centum ( $\frac{1}{2}\%$ ) on the amount of maintenance awarded in the judgment equivalent to a period of ten years, provided that if the order refers to provisional maintenance the fee shall be .....from -. 15. 0  
to 3. 0. 0
28. In actions of filiation, in other actions concerning the status of individuals and in actions relating to the separation of married persons, there shall be allowed a fee ....from 5. 0. 0  
to 20. 0. 0
29. In actions relating to the ranking of creditors the minimum fee shall be ..... 10. 0. 0

Provided that:

i) when there is contestation of the claim either as to the amount or as to ranking the fee shall be as at paragraph 21;

ii) when there is admission of the claim, but such claim does not result from a previous executive title, the fee shall be as at

paragraphs 36, 37, 38 and 39, as the case may be.

30. To the Advocate of the party making the lodgment there shall be allowed the fee of... 2. 0. 0

But if there be contestation as to the amount lodged, the provisions contained in paragraph 21 shall apply.

31. In bankruptcy proceedings, where there is no contestation concerning the proof of a claim, the fee in respect of that proof of a claim shall be that established for a declaration.

32. In any other action of adjudication upon competing claims, referred to in section 429 of the Code of Organization and Civil Procedure, there shall be taxed a fee as provided in paragraphs 21, 26 and 44.

33. In causes concerning the validity of a pre-emption or redemption or the implementation of a promise of conveyance, the value in the cause for purposes at paragraph 21 shall be the value of the property pre-empted or redeemed or of which the conveyance was promised.

34. For each decree in the cause .....from 1. 0. 0  
to 3. 0. 0

35. In cases of judgments of non-suit, if the judgment is given on pleas touching the principal merits of the cause, there shall be allowed to the Advocate the fee established in paragraph 21; in any other case one half of the fee aforesaid shall be allowed.

36. When a cause is discontinued in first or in second instance:

i) after the libel or the writ of summons or the petition has been filed, there shall be allowed to the Advocate of the plaintiff, one third of the fee established in paragraph 21 when the case is taxable "ad valorem";

ii) after the statement of defence or the answer has been drafted, there shall be allowed to the Advocate of the defendant one third of the fee established at paragraph 21 when the case is taxable "ad valorem".

37.

In cases of compromise or discontinuance at any other stage of the proceedings subsequent to contestation but prior to the hearing of the case, or in case of admission at any stage prior to the commencement of the hearing, there shall be allowed one half of the fees established at paragraph 21 when the case is taxable "ad valorem".

38.

If the compromise or discontinuance or admission takes place after the commencement of the hearing of the cause, two-thirds of the fee established in paragraph 21 shall be allowed when the case is taxable "ad valorem".

39.

If the compromise or discontinuance or admission takes place after the cause has been adjourned for judgment the whole fee established in paragraph 21 shall be allowed, when the cause is taxable "ad valorem".

40 (a)

If more than one Advocate is briefed by the same party in the same action, each of the Advocates shall be entitled to the whole of the established fee:

Provided that the party in whose favour the head of costs is decided, although he may have briefed more than one Advocate, shall not be entitled to claim for the party cast more than one whole fee.

(b) Where there are two or more plaintiffs or two or more defendants to a suit, each of the parties is entitled to have his own Advocate or Advocates even if the merit is similar in respect of all the plaintiffs or in respect of all the defendants; and the party ordered to pay the costs shall be bound to pay the proper fees of all the Advocates on the prevailing side so long as no one party claims costs in respect of more than one Advocate.

41. If an Advocate abandons or is abandoned by his client:

i) after the libel, the application, the writ of summons or the petition or the statement of defence or the answer has been filed, he shall be entitled to one third of the normal fee;

ii) after the above stages but before the cause has been adjourned for judgment he shall be entitled to two-thirds of the normal fee.

42. The fee due to an Advocate whose services have been engaged after the former one has been abandoned by or has abandoned his client before the cause is concluded shall be equal to the difference between the full fee and the fee taxed to the former Advocate.

43. In every case covered by paragraphs 41 and 42, the fee due to an Advocate shall not be less than that fixed under paragraph 12, provided that the party engaging the services of more than one Advocate, one after the other, who happens to be on the prevailing side, cannot claim from the party cast more than one whole fee.

44. Fees due to Advocates in connection with professional services requiring pleadings shall in no case be less than ..... 3. 0. 0
45. On appeal the fees laid down in paragraphs 21 to 44 inclusive, shall be increased by one third.
46. In regard to causes before the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino in its superior jurisdiction, there shall be taxed the same fees established in respect of causes before Her Majesty's Superior Courts and the provisions contained in this Tariff in paragraph 45 shall also apply.
47. Legal Procurators shall receive one third of the fees allowed to Advocates as regards those judicial acts which bear their signature together with that of an Advocate, and as regards services at paragraphs 9 and 10. No fees however are taxable to them for any of the services mentioned under sub-paragraph (b) of paragraph 3 and paragraphs 4 and 8. For those judicial acts which do not require also the signature of an Advocate and which are signed only by a Legal Procurator, the fee shall be that due to an Advocate.
- 48 (a) The fees of official curators shall be those established in this Tariff.
- (b) Official curators when served with a copy of a judicial act, in connection with which they are not expected to file any written pleading shall be entitled to the same fee due to an Advocate and Legal Procurator for the same judicial act.
49. An additional fee of £3 shall be taxed for every attendance, when an Advocate is required to appear before any Superior Court for any pleadings at an hour when the Registry is ordinarily closed.

50.

Advocates and Legal Procurators, when required to appear before the Court of Magistrates of Judicial Police for the Island of Malta, or before the Court of Magistratures of Judicial Police for the Island of Gozo and Comino in its inferior jurisdiction shall be entitled to the following fees:

(a) For every decision of any point of fact or of law contained in a judgment where the amount in issue does not exceed £5..... 1. 0. 0  
where it exceeds £5 ..... 2. 0. 0

(b) In the case of compromise or discontinuance of the action before the hearing where the amount in issue does not exceed £5 .... -. 10. 0  
where it exceeds £5 ..... 1. 0. 0

(c) In the case of compromise or discontinuance of the action after the hearing, the whole fee shall be allowed.

(d) For the drawing up of a writ of summons or notice, the filing of which has not taken place ..... -. 10. 0

(e) For each subpoena and relative application ..... -. 10. 0

(f) For every warrant, counter-warrant, application or note of consent ..... -. 15. 0

(g) For each lodgment schedule where the value does not exceed £5 ..... -. 15. 0  
where the value exceeds £5 ..... 1. 0. 0

(h) For a note of registration of a judgment or of any other executive title ..... -. 10. 0

(i) For each attendance before a referee or Supplementary Magistrate and for each attendance "in faciem loci"..... -. 10. 0



(j) When the attendance referred to at sub-paragraph (i) of this paragraph takes place outside the area of the town or village where the Court ordinarily holds its sittings ..... -. 15. 0

(k) For each attendance before a Court required for the hearing of a cause at an hour when the Registry is ordinarily closed, or on a Sunday or public holiday, in addition to the fees mentioned in this rule an additional fee of 15s/- shall be taxed, in respect of each attendance.

51 (a) Fees taxable to Advocates who are appointed as Legal Referees shall be those mentioned in sub-paragraph (b) of paragraph 20 above for each opinion dealt with in the report.

(b) An additional fee in accordance with No. 1 of Tariff "I" shall be taxed to Advocates appointed as Legal Referees when, besides stating an opinion, they shall have, in order to fulfil their appointment, make out computations and calculations.

(c) The above fees shall also apply to Advocates who are appointed to report to the Court of Voluntary Jurisdiction.

52 (a) Saving any agreement reached between the administrator and the parties concerned, and saving the fees due in respect of each particular service performed by the administrator, the fees due for the management of property and for the withdrawal and/or payment of monies and other effects shall be assessed at the following rates calculated on the greater amount between the income and the expenditure as will result to be more favourable to the administrator, namely -

i) at eight per centum (8%) in respect of rents, dividends, fruits, etc.; and

ii) at two per centum (2%) in respect of receipts or payments of a capital nature.

- (b) In any other case not covered by subparagraph (a) hereof, a fee of not less than two per centum (2%) and not more than ten per centum (10%) shall be due to any advocate on the amount of money collected by him on instructions by his client: provided that, in fixing the percentage, consideration shall be given to the services involved.

53.

In every case where a fluctuating fee is indicated in this Tariff by a minimum and a maximum, the fee payable in a particular instance shall be established by the Registrar, according to the importance of the particular case:

Provided that all such fees so assessed shall be <sup>subject</sup> to revision by the competent Court at the instance of any person interested in accordance with the provisions of section 62 of the Code of Organization and Civil Procedure.

SECOND SCHEDULE

T A R I F F "H"

Fees allowed to Supplementary Judges and Supplementary Magistrates.

- |       |   |         |
|-------|---|---------|
| 1 (a) | For examining witnesses, taking answers on a reference to oath, for each sitting .....  | 2. 0. 0 |
| (b)   | For attendance at the publication of a deed .....   | 3. 0. 0 |
| (c)   | If, for any reason whatsoever, the sitting does not take place or the deed is not published, a fee is due for the simple attendance on the spot ..... | 1. 0. 0 |

/(d)....

(d) If the sitting lasts more than two hours and provided that the circumstance is expressly noted in the procsa-verbal signed by the Supplementary Judge or Supplementary Magistrate, the fee shall be increased by ten shillings (10s/-) for every half-hour or part thereof.

(e) If a Supplementary Judge or a Supplementary Magistrate besides attending at the publication of a notarial deed has to peruse the said deed upon an order of the Court, he shall have the right to an additional fee of from 3. 0. 0  
to 10. 0. 0

Supplementary Judges and Supplementary Magistrates are not bound to make known the result of their work until the amount of their taxed fees has been paid or deposited.

THIRD SCHEDULE

T A R I F F "K"

Fees payable to Architects and Civil Engineers

1. SURVEY OF LANDS

a) Survey without the submission of a plan showing boundaries only:

	Level land	Terraced Land or Level land with trees and/or other obstacles	Terraced Land with trees and/or obstacles
If the area does not exceed 4 Tmien	£4. 0. 0	£5. 0. 0	£6. 0. 0
If the area exceeds 4 Tmien but does not exceed 8 Tmien	£7. 0. 0	£9. 0. 0	£10.0. 0

/If the area.....

	Level land	Terraced Land or Level Land with trees and/or other obstacles	18. Terraced Land with trees and/or obstacles
If the area exceeds 8 Tmien but does not exceed 12 Tmien	£10.0. 0	£13. 0. 0	£16. 0. 0
If the area exceeds 12 Tmien but does not exceed 16 Tmien	£15. 0. 0	£18. 0. 0	£22. 0. 0
If the area exceeds 16 Tmien but does not exceed 24 Tmien	£20. 0. 0	£23. 0. 0	£30. 0. 0
If the area exceeds 24 Tmien, for each additional Tonna or part thereof there shall be added	£ - 15. 0	£ 1. 0. 0	£ 1. 5. 0

## b) Survey with detailed plan:

- (i) If the area does not exceed 8 Tmien the fees specified in sub-paragraph (a) shall be increased by £1 per Tonna or part thereof.
- (ii) If the area exceeds 8 Tmien the fees specified in sub-paragraph (a) shall be increased by £1 per Tonna in respect of the first 8 Tmien and by 10s/- in respect of each additional Tonna or part thereof.

## c) Survey of streets including plans showing outlines:

In this sub-paragraph the word "street" means any street and includes any road, alley, square or other place of public passage.

For every 50 yards or part thereof of the length of the street shown on the plan £2. 0. 0

## d) Levels:

Where spot levels with or without contours are required the fees payable under sub-paragraphs (a), (b) and (c) shall be increased by:

150%	if levels are taken at intervals of	5 feet
100%	" " " " " " " "	10 "
90%	" " " " " " " "	20 "
80%	" " " " " " " "	30 "
70%	" " " " " " " "	40 "
60%	" " " " " " " "	50 "
50%	" " " " " " " "	60 "
40%	" " " " " " " "	70 "
30%	" " " " " " " "	80 "
20%	" " " " " " " "	90 "
10%	" " " " " " " "	100 "

## 2. SURVEY AND PLOTTING OF BUILDINGS

a) Buildings of simple disposition and regular in plan:

- i) if of not more than 6 areas £2. 10.0
- ii) if of more than 6 areas, the above fee shall be increased by 10s/- in respect of each additional area.

b) Buildings with irregular walls:

The fees specified in sub-paragraph (a) shall be increased by 50%.

Note: The above fees shall be in respect of one floor only. For the survey and plotting of each other floor the fees shall be reduced by 50%.

c) Buildings of a special character:

For every 100 square feet or part thereof of the gross area £-. 5. 0

## 3. PLANS OF BUILDING SITES AND RELATIVE DIVISION INTO BUILDING PLOTS

For surveying a building site, preparing detailed plans and dividing the site into building plots:

- i) if the area does not exceed 200 square canes £5. 0. 0
- ii) if the area exceeds 200 square canes, for every additional 100 square canes or part thereof £3. 0. 0

4. MEASUREMENT OF EXCAVATIONS AND ENBANKMENTS

Up to 500 cubic feet, per 100 cubic feet or part thereof:	£-. 12. 0
Over 500 and up to 1000 cubic feet, per 100 cubic feet or part thereof:	£-. 9. 6
Over 1000 cubic feet, per 100 cubic feet or part thereof:	£-. 7. 0

5. MEASUREMENT OF WORKS OR PREPARATION OF BILLS OF QUANTITIES

a) For measurement of works including pricing	2%
b) For detailed bills of quantities by trade including pricing	2½%
c) For measurement of works and pricing which require calculations other than the measurement of actually existing quantities and the assessment of the relative prices	3%

6. VALUATIONS

	£	s.	d.
a) <u>Rural Property</u>			
If the value does not exceed £100	3.	0.	0.
If it exceeds £100 but not £200	3.	18.	0
" " " £200 " " £300	5.	2.	0
" " " £300 " " £400	6.	0.	0
" " " £400 " " £500	6.	18.	0
" " " £500 " " £600	7.	10.	0
" " " £600 " " £700	8.	2.	0
" " " £700 " " £800	8.	14.	0
" " " £800 " " £900	9.	6.	0
" " " £900 " " £1000	9.	18.	0

If the value exceeds £1000 the fee shall be increased by 6s/- per £100 or part thereof.

b) Urban Property

	£	s.	d.
If the value does not exceed £100	3.	0.	0

/If it exceeds.....

	£	s.	d
If it exceeds £100 but not £200	3.	5.	0
" " " £200 " " £300	3.	12.	0
" " " £300 " " £400	4.	1.	0
" " " £400 " " £500	4.	10.	0
" " " £500 " " £600	4.	19.	0
" " " £600 " " £700	5.	8.	0
" " " £700 " " £800	5.	17.	0
" " " £800 " " £900	6.	6.	0
" " " £900 " " £1000	6.	16.	0

If the value exceeds £1000 the fee shall be increased by 6s/- per £100 or part thereof.

c) Emphyteutical Property and Property subject to Usufruct, Burdens or Easements

The fee payable shall be assessed on the value of the property as free.

In the valuation of a directum dominium <sup>in perpetuity</sup> of any tenement ~~in perpetuity~~ or of any perpetual burden, the fee shall be assessed in accordance with paragraph 15.

d) Usufruct

In the valuation of a Usufruct the fee shall be assessed on the value of the property as freehold with the addition of a fee as provided under sub-paragraph (b) of paragraph 15.

e) Portions of tenements

In the valuation of an undivided portion of a tenement, whether free or emphyteutical or subject to usufruct, easement or burden, the fee shall be assessed as laid down in sub-paragraphs (a) and (b) of this paragraph or on the basis of 4% on the value of the portion so valued, whichever is the lesser fee, provided that in no case the fee payable shall be less than £3.

Note:

The fees specified in this paragraph include any fees for valuations and measurements which may be necessary to arrive at the final value.

7. PARTITION OF PROPERTY

The fee payable shall be one fourth of the fee established for the valuation but it shall not exceed £15 for every proposed scheme of partition of property.

8. ASSESSING VALUE OF DILAPIDATIONS OR IMPROVEMENTS

For preparing schedule, with or without the assessment of the value, the fee shall be equal to 5% on the assessed amount:

Provided that if only an assessment of the value is required, the fee shall be of 2% of the estimated cost.

In no case shall the fee be less than £3.

9. ASSESSING DAMAGE OTHER THAN DILAPIDATIONS

For preparing detailed schedule and settling the amount, the fee shall be equal to 5% of the assessed amount:

Provided that the fee in respect of repeated works of an identical nature shall be reduced by 60% for each work other than the first.

In no case shall the total fee be less than £3.

10. DESIGN AND ERECTION OF BUILDINGS

For taking the client's instructions, preparing sketch designs, making approximate estimates of cost by cubic measurement or otherwise, submitting applications for building and/or other licences, preparing working drawings and specifications, giving general supervision, issuing certificates of payment and certifying accounts, the fee in respect of new works is to be assessed as follows:

If the cost of the executed work does not exceed £100 .....	10% of the cost
If the cost of the executed work exceeds £100 but does not exceed £300 .....	9% of the cost
If the cost of the executed work exceeds £300 but does not exceed £500 .....	8% of the cost
If the cost of the executed work exceeds £500 but does not exceed £1000 .....	7% of the cost
If the cost of the executed work exceeds £1000 .....	6% of the cost

/In the.....



In the case of alterations to existing buildings, the percentage to be charged shall be increased by 50% over the rate for new works.

Notes:

(1) The fees specified in this paragraph shall not cover constant supervision of the work but only such supervision as may be required for the purpose of the Architect's professional responsibility under any relevant law at any time in force and as may be necessary to ensure that the works are being executed in general accordance with the contract.

(2) Such fees, however, shall cover the responsibility of the Architect to ensure that no material deviation, alteration, addition to or omission from the approved design is made without the knowledge and consent of the client, and to inform the client if the total authorised expenditure which is likely to be exceeded or if the contract period is likely to be varied.

(3) Where it is agreed between the Architect and the client to retain the services of Consultants, the Architect's fee shall be reduced by one third of the fees on the cost of the works upon which the services of Consultants are retained.

11. FEES IN CASES WHEN THE ARCHITECT ABANDONS OR IS ABANDONED BY THE CLIENT OR WORKS REMAIN UNEXECUTED

1. If a project referred to in paragraph 10 of this Tariff or part thereof is abandoned or if the Architect abandons or is abandoned by the client:

(a) after the Architect has taken the client's instructions, prepared preliminary sketch designs sufficient to indicate the Architect's interpretation of the client's instructions and made an approximate estimate of the cost of the project, the fee shall amount at 1/3 of the fees specified in paragraph 10;

/(b)....

b) after the Architect has taken the client's instructions, prepared sketch designs, made an approximate estimate of the cost, submitted applications for building and/or other licences, and prepared working drawings and specifications the fee shall amount at  $2/3$  of the fees specified in paragraph 10.

2. The Architect who has been engaged after a former one has been abandoned by, or has abandoned, his client as above shall be entitled to:

a)  $5/6$  of the fees specified in paragraph 10 in the case contemplated in sub-paragraph 1 (a) of this paragraph;

b)  $1/2$  of the fees specified in paragraph 10 in the case contemplated in sub-paragraph 1 (b) of this paragraph.

## 12. OLD MATERIAL OR MATERIAL AND SERVICES PROVIDED BY CLIENT

When building work has been executed wholly or in part with old material or where the material, labour and/or carriage is provided wholly or in part by the client, the Architect's fee shall be calculated as if the work had been executed throughout with new material and as if the material, labour and/or carriage had been paid for throughout at current cost.

## 13. SERVICES NOT INCLUDED IN PARAGRAPHS 10 AND 11

Additional fees shall be payable for:-

- a) surveying sites or buildings and taking levels;
- b) altering drawings or preparing new drawings and for other services made necessary by variations or additions required by the client after the original drawings have been approved by him;

/(c).....

- c) the assessment of compensation due for rendering party walls common;
- d) measuring and pricing executed works.

#### 14. STATICALLY INDETERMINATE STRUCTURES

In cases involving the design of statically indeterminate structures or statically indeterminate structural members, a fee of two per centum (2%) on the cost of such structures or structural members shall be payable in addition to the fees chargeable under paragraph 10 hereof.

#### 15. MISCELLANEOUS FEES

	£	s.	d.
a) For minor service not otherwise provided for.....	-	12.	0
b) For important service not otherwise provided for.....	2.	0.	0
c) Time Charges -			

In cases where it is agreed between the Architect and the client that the fee is to be on a time basis, the fee shall be of £1.10.0. per hour, but, when the Architect requires the help of an Assistant, the fee shall be increased by 8s/- an hour.

#### d) Travelling Allowance:

From Malta to Gozo and vice versa or from Gozo to Malta and vice versa..... 3. 0. 0

16. The fees set forth in this Tariff shall, in all cases, be exclusive of the cost of copies of documents, travelling expenses and all other disbursements not already provided for.

17. The expert appointed by the Court shall not be entitled to any fee for services in connection with the presentation of the report or the confirming of the same on oath, but if, after he has presented the report and confirmed the same on oath, he is required to attend

in Court, he shall be allowed a fee for attendance in accordance with item (f) of Schedule A to the Witnesses (Fees) Ordinance (Chapter 173).

FOURTH SCHEDULE

T A R I F F "N"

Fees payable in connection with Sea Protests or proceedings concerning average before Her Majesty's Commercial Court.

	£	s.	d.
1. For the filing of any application regarding Sea-Protests or proceedings touching average. ....	-	5.	0
2. To the Advocate for any such application..... and to the Legal Procurator .....	1.	0. 6.	0 8
3. For the examination of every witness .....	-	5.	0
4. Fees payable to the Judge Delegate:			
(i) if the sea-protest takes place between 9 a.m. and 4 p.m. ....	2.	10.	0
(ii) if it takes place in whole or in part outside those hours .....	4.	0.	0
Each of the said fees shall be increased by 10s/- for every half-hour or fraction thereof if the sitting lasts more than two hours.			
5.(a) To the Deputy Registrar when the sea-protest takes place in whole or in part out of office hours .....	1.	5.	0
If the sitting lasts more than two hours the said fee shall be increased by 5s/- for every half-hour or part thereof.			
(b) To the Clerk or other person so acting for transcribing the sea-protest and depositions, for every page or part thereof .....	-	2.	6.
(c) To the Messenger when the sea-protest takes place in whole or in part out of office hours .....	-	10.	0

/If the .....

If the sitting continues after 4 p.m. the fee due to Messengers shall be increased by 2s/- for every half-hour or part thereof.

6.	To the Advocate for examining any report touching average or for assisting in the drawing up of a sea-protest .....	0	0	0
7.	Registry fee for the filing of any report touching average .....	-	5	0
8.	To the Interpreter there shall be paid a fee of .....	3	0	0
9.	When the sea-protest is drawn-up on board a ship or at the Quarantine Office or on a public holiday, to the above fees shall be added:			
		£	s.	d.
	To the Judge Delegate .....	2	0	0
	To the Deputy Registrar .....	1	0	0
	To the Clerk .....	-	15	0
	To the Messenger .....	-	10	0
	To the Advocate .....	3	0	0
	To the Interpreter .....	1	0	0

Notes:

- a) The sea-protest shall be drawn up in English;
- b) An Interpreter shall be employed when the declaration is made or the evidence given in a language with which the Judge Delegate is not conversant.