



PARLIAMENT OF THE COOK ISLANDS

Public Accounts Committee

16 June 2017

Honourable Speaker
Office of the Speaker of Parliament
Parliament of the Cook Islands
Nikao, Rarotonga
COOK ISLANDS

Honourable Speaker

RE: PARLIAMENT PAPER NO. 109: PAC REPORT 6-2017

Pursuant to the Terms of Reference of the Public Accounts Committee, I have the honour to present the Committees Report on the Evidence Session with the Secretary of Justice regarding an:

Inquiry into the fees charged by the Ministry of Justice for land matters and other services.

I have the honour, Madam Speaker, to be your obedient servant,

A handwritten signature in black ink, appearing to read 'Mona Ioane'.

Hon. Mona Ioane
Chairman
Public Accounts Committee



[Cook Islands Public Accounts Committee@parliament.cookislands](mailto:plpg@oyster.net.ck)

Parliament of the Cook Islands - Rarotonga - Cook Islands - Tel: +682 26509 - Mobile: +682 79369

Email: plpg@oyster.net.ck

PARLIAMENT OF THE COOK ISLANDS

Paper No. 109



Public Accounts Committee

Report on Evidence Session: Thursday, 25th May 2017

Inquiry into the fees charged by the Ministry of Justice for land matters and other services.

PAC Report No. 6-2017
25 May 2017

Public Accounts Committee Members

Chairman	Hon Mona Ioane, MP Member for Vaipae-Tautu Deputy Speaker of Parliament
Deputy Chairman	Mr James Beer, MP Member for Murienua
Members	Mr Tekii Lazaro, MP Member for Pukapuka-Nassau Mrs Ngamau Munokoa, MP Member for Nikao-Panama Mr Tai Tura, MP Member for Mauke Mr Tangata Vavia, MP Member for Mitiaro

Committee Staff

Committee Clerk	Mr Tangata Vainerere Executive Director Pacific Legislatures for Population and Governance
------------------------	--

Parliament Leadership

Speaker	Mrs Niki Rattle
Clerk	Mr John Tangi
Deputy Clerk	Mrs Helen Maunga

Public Accounts Committee

Report on Evidence Session

Thursday, 25th May, 2017

*Inquiry into the fees charged by the Ministry of Justice
for land matters and other services.*

PAC Report No. 6-2017

Presented by

Hon Mona Ioane, MP

Laid on the Table of Parliament on 19 June 2017

Table of Contents

SUMMARY OF RECOMMENDATIONS	5
CHAIRMAN'S FOREWORD	6
PAC NOTES AND RECOMMENDATIONS	8
The Ministry of Justice Fee Regulations 2017	8
Adverse public reaction to fee increase on land succession applications	8
Trading Revenue to cover operations	9
Appropriation for Operational Expenditure	10
The Courts and Allowances for Judges	11
Revenue Collection and Management	11
Small Claims Tribunal	11
CHAIRMAN'S ACKNOWLEDGEMENT	13
APPENDICES	14
Appendix One: MOJ Exhibit 1 - MOJ Fee Regulations 2016	14

SUMMARY OF RECOMMENDATIONS

The following is a list of all the recommendations made by the Public Accounts Committee in respect of the Evidence Session conducted by the Committee on Thursday 25 May 2017 with the Secretary of the Ministry of Justice, Mr Tingika Elikana. This summary of recommendations is not intended to stand alone and should be read in conjunction with the PAC NOTES AND RECOMMENDATIONS section of this report which contains the rationales for these recommendations.

Recommendation 1

The Committee recommends that the Secretary of Justice take immediate steps to re-examine the current fee regulations to see how the fees for land succession applications in the first instance and any other critical areas can be reduced and the reduction be absorbed in other service charges.

Recommendation 2

The Committee recommends that future increases be applied incrementally instead of the one-off large increases.

Recommendation 3

The Committee recommends that all costs associated with Judges travelling to Rarotonga and the Pa Enua (including airfares, per diem, accommodation, allowances, transport, etc) be charged to POBOC and the POBOC appropriation for the Ministry of Justice for 2017/18 be adjusted upwards to accommodate these costs.

Recommendation 4

The Committee recommends that the Ministry takes immediate steps to work with MFEM to secure resources to enable the appointment of a Bailiff in the Ministry to collect the fines imposed by the Courts.

Recommendation 5

The Committee recommends that the Ministry of Justice take immediate steps to work with MFEM to sort out and secure the necessary resources for the effective operation of the Small Claims Tribunal.

Recommendation 6

The Committee recommends that the Government provide to the Ministry of Justice a \$200,000 contingency POBOC allocation each year to cover the costs of the additional court sittings.

CHAIRMAN'S FOREWORD

This is the 6th report of the Public Accounts Committee (PAC) of the Parliament of the Cook Islands. The report was tabled in the 48th session of Parliament during the Parliament Sitting on 19 June 2017 as Paper No. 109 (PAC Report 6-2017, 18 May 2017).

This report outlines the outcomes of the evidence session conducted by the Committee on Thursday 25 May 2017 on the fees charged by the Ministry of Justice for land matters and other services provided by the Ministry.

In attendance was Mr Tingika Elikana, Secretary of Justice.

Background

The High Court fees, Cost and Allowance Regulations 2017, the Marriage Fees Regulations 2017 and the Births and Deaths Registration Fee Regulations are the recently passed fees applied by the Ministry of Justice to all its services. This new Regulation replaces the previous High Court Fees Cost and Allowance Regulations 2005.

The Committee noted that the general public were very concerned about the very high fees charged by the Ministry especially in the areas of succession and land searches and required the Secretary to explain to the Committee if there was indeed an increase in fees and how these increases were calculated.

The Committee Process

The Secretary indicated that there was a need to increase the fees to alleviate the financial strain in terms of the operations of the Ministry.

In the public consultation on the fee increases only one response was received from a member of the public who supported the increase in principle but preferred that the fees raised by the Ministry be retained to support the operations of the Ministry suggestions were made in terms of the increases to the fees. In this regard it was assumed that the public were satisfied with the level of fees. So the new Regulations were put through Cabinet and approved by the Executive Council.

On the question of justification of the increases in fees, the Secretary explained that there are a series of actions to be taken by staff in dealing with land applications, this is the work outside of the Court and then they have to convene the Court to hear these cases. They have to convene the Leases Approval Tribunal if it needs to go through the leases approval process. They also have to convene the Land Courts to deal with it and if there are appeals they have to deal with the Court of Appeal and if it goes to the Privy Council which is something that's happened twice, so the MOJ have to provide the funds for that and that has to be covered within the context of these fees and

About the PAC

The PAC was established by Parliament through Motion No. 3 as notified by Order Paper 17 on 14 December 2015:

"To be the financial oversight of Parliament and to report on the Budget and Public Accounts, and also to examine reports of the Auditor General and any such report and to undertake any financial matters deemed necessary and to report all findings to Parliament."

all other fees in our operations. In addition, there are many more sittings each year due to the increase in demand from the general public.

In the evidence session, the Committee's attention was drawn to key issues impacting on the operations of the Ministry and the performance of its mandate. These include the adverse public reaction to the fee increases on land succession applications, trading revenue, operational expenditure, the operations of the Courts, allowances for Judges, revenue collection and management, and the Small Claims Tribunal.

Please refer to the PAC NOTES AND RECOMMENDATIONS section of this report for the details of the proceedings of the evidence session.

Hansard reports on PAC Evidence Sessions are available on request to the Committee Clerk.



MR MONA IOANE, MP
CHAIRMAN

PAC NOTES AND RECOMMENDATIONS

The Ministry of Justice Fee Regulations 2017

1. In his opening statement, the Secretary advised the Committee at the outset that during the times that the fees in question were developed the PAC Chairman was the Minister of Justice at the time and was involved in the discussions before the fee structure was passed. The schedule of fees currently applied by the Ministry of Justice to all its services was established based on consultations conducted by the Ministry in 2016 focusing on the proposed increases.
2. The High Court fees, Cost and Allowance Regulations 2017, the Marriage Fees Regulations 2017 and the Births and Deaths Registration Fee Regulations are the recently passed fees applied by the Ministry of Justice to all its services. This replaces the previous High Court Fees Cost and Allowance Regulations 2005.
3. The Committee noted (through the Chair) that the public were very concerned about the very high fees charged by the Ministry especially in the areas of succession and land searches and required the Secretary to explain to the Committee if there was indeed an increase in fees and how these increases were calculated.
4. The Secretary confirmed that there was an increase in fees to a number of services, including the registration of births, deaths and the issues of certificates even in marriages. The increase also affected the High Court fees which include the one referring to succession to lands being examined by the Committee.
5. The Secretary indicated that there was a need to increase the fees to alleviate the financial strain in terms of the operations of the Ministry. In the public consultation on the fee increases only one response was received from a member of the public who supported the increase in principle but preferred that the fees raised by the Ministry be retained to support the operations of the Ministry suggestions were made in terms of the increases to the fees. In this regard it was assumed that the public were satisfied with the level of fees. So the new Regulations were put through Cabinet and approved by the Executive Council.

Adverse public reaction to fee increase on land succession applications

6. The Committee noted that after the new Fee Regulation was approved, there were some issues raised in terms of the fees particularly the ones for land successions. The Secretary explained that the key area of concern is the applications for succession to land. If someone applies for succession to land for the first five lands they pay a fee of \$75 and for each additional piece of land on top of that they pay \$10. So if you apply say for six lands you pay \$85 for one application. The first five lands is covered by the \$75 and then the additional land is an extra \$10.
7. On the question of justification of the increases in fees, the Secretary explained that there are a series of actions to be taken by staff in dealing with land applications, this is the work outside of

the Court and then they have to convene the Court sittings to hear these cases. They also have to convene the Leases Approval Tribunal as applications need to go through the leases approval process. They also have to convene the Land Courts to deal with applications and if there are appeals they also have to deal with the Court of Appeal and if it goes to the Privy Council which is something that's happened twice, so the MOJ have to provide the funds for all that and that has to be covered within the context of these fees and all other fees in our operations. In addition, there are many more court sittings each year due to the increase in demand from the general public.

8. The MOJ also have special Land Court sittings. MOJ has now introduced the idea of having the Justices of the Peace deal with minor matters. Succession is seen as a very simple matter so earlier this year Mrs Rima David who's our JP for the lands dealt with succession applications in order to ease the work on our Judges. Otherwise the Judges will be wasting time just dealing with successions which are simple matters and yet there are other matters that require their expertise like capital value determination and disputed matters that need to be dealt with.
9. The Secretary reiterated that the fees may look high but it's justifiable in terms of providing a high quality service for the people of the Cook Islands.
10. Responding to the question of whether an increase from \$10 to \$75 is far greater than even our consumer price index would allow us the Secretary agreed that's quite an increase in the amount but as already stated the Ministry's operational point of view in terms of providing the services that is required of our people, therefore, it's justified in that respect. Even if the increases in fees comes as a shock to the system jumping from \$10 to \$75, if people want the MOJ to apply lower charges then it will also mean cutting down on services and reducing the number of Court sittings because we simply can't afford it.

Trading Revenue to cover operations

11. Responding to the question as to what the Ministry does with the money raised from the fees, the Secretary explained that because this is part of the Ministry's trading revenue and is channelled towards covering the operations of the Ministry. Unlike the fines received through the Criminal Courts which doesn't stay with the Ministry but goes into the public purse the Court cost fees that the Ministry imposes, that forms part of the Ministry's operations because they are part of the Ministry's trading revenue.
12. On the question of when Parliament appropriates for the Ministry's operations but the actual cash is not available, the Secretary responded that the allocation for operations is insufficient to cover operations. Parliament normally provides about \$400,000 for MOJ operations. MOJ trading revenue is \$500,000, and is offset against operations, therefore the MOJ relies solely on trading revenue to cover all operations. So if MOJ don't collect the fees the whole operation collapses.

13. On the question of what happens if the MOJ doesn't reach the \$500,000 revenue level, the Secretary stated that this will be a reflection on his performance as the Head of Ministry? The Committee also noted the challenges if the Ministry didn't reach its revenue target for the year.
14. According to the Secretary, he had constant arguments with staff of the MFEM in terms of overspending in the Ministry of Justice and the reason for that is because the MOJ have to run the Courts. MOJ can't tell the Court, hold it because that will have an impact on the needs of our people to have their matters heard in the Court not only in criminal matters but also in the Land matters which is more important and land matters is more important in terms of development for this country.

Appropriation for Operational Expenditure

15. The Committee noted that Parliament has approved an Appropriation Act which is an Act of Parliament which clearly sets out both the personnel costs and the operational costs that is given by Parliament to the MOJ, and inquired as to why the HOM is not doing what he should be doing in relation to the operational cost and making sure that it's paid without having to refer to trading revenue because an Act of Parliament has been passed. Parliament has given the Ministry an operational budget.
16. The Secretary responded that difficulties in complying with that will mean that he has to cut services. He didn't want to take that path because with the budget that he has been given which is \$400,000 and by law under the MFEM Act the Secretary should be operating within that budget. Any excess on the Ministry's trading revenue legally should be returned to MFEM. So the Ministry has to operate within that \$400,000. The Secretary assured the Committee that he can't manage the Ministry with that budget and he has applied for more funds to cover the operational costs but these requests have all been declined.
17. On the question of whether he was breaching the MFEM Act by using the excess trading revenue for operational costs instead of forwarding it to MFEM, the Secretary responded that he was indeed breaking all the rules and that's something he personally decided to take on himself rather than have the public suffer because government can't provide the funds.
18. On the question of whether the 60% increase in fees couldn't be absorbed in other areas as well instead of just targeting the succession orders, the Secretary advised that the returns on MOJ fees is coming in with the data that they are getting and assured the Committee that can be done.

Recommendation 1

The Committee recommends that the Secretary of Justice take immediate steps to re-examine the current fee regulations to see how the fees for land succession applications in the first instance and any other critical areas can be reduced and the reduction be absorbed in other service charges.

Recommendation 2

The Committee recommends that future increases in fees be applied incrementally instead of the one-off large increases.

The Courts and Allowances for Judges

19. The Secretary repeatedly reiterated his assertions that the MOJ requires sufficient funding for the Courts to run. The allowances for the Judges and Justices of the Peace are covered by a POBOC allocation of \$217,000 but that allocation doesn't cover the travel (business class) and accommodation costs of the Judges. That comes out of the fees and that comes out of the \$400,000 operational budget appropriated to the MOJ.
20. So when the MOJ take these people (Judges/JPs) on things like electoral cases in the outer islands their allowances is covered by POBOC but their travel costs are not. For example, a trip to the Northern Group is about \$3,000 per person for a return flight that's covered by the Ministry and that comes out of these same fees.
21. On the question of whether the personnel costs for MOJ staff is also covered by the fees, the Secretary informed the Committee that staff costs are covered by appropriations for personnel and not the fees and declined to engage in debate on the personnel costs.

Recommendation 3

The Committee recommends that all costs associated with Judges travelling to Rarotonga and the Pa Enua (including airfares, per diem, accommodation, allowances, transport, etc) be charged to POBOC and the POBOC appropriation for the Ministry of Justice for 2017/18 be adjusted upwards to accommodate these costs.

Revenue Collection and Management

22. On the question of how the Ministry manages the revenue raised through monetary fines imposed by the Courts, the Secretary advised that the funds are included in the trading revenue but there is only a collection rate of only 40% of the total fines imposed as there is no one to collect the fines. In the past the Ministry used to recruit the services of the Police to service the Warrant of Commitments for fines. This service is no longer available to the Ministry.

Recommendation 4

The Committee recommends that the Ministry takes immediate steps to work with MFEM to secure resources to enable the appointment of a Bailiff in the Ministry to collect the fines imposed by the Courts.

Small Claims Tribunal

23. On the question of the administration of the Small Claims Tribunal that is already established by legislation, the Secretary confirmed that the legislation is in place but unfortunately MOJ haven't appointed any staff because of cost issues and also in terms of the expertise required.

This has been a point of concern for the former Chief Justice Weston but resource limitations have prevented the implementation of this project.

Recommendation 5

The Committee recommends that the Ministry of Justice take immediate steps to work with MFEM to sort out and secure the necessary resources for the effective operation of the Small Claims Tribunal.

Recommendation 6

The Committee recommends that the Government provide to the Ministry of Justice a \$200,000 contingency POBOC allocation each year to cover the costs of the additional court sittings.



MR MONA IOANE, MP
CHAIRMAN

CHAIRMAN'S ACKNOWLEDGEMENT

1. Secretary of Justice Mr Tingika Elikana for his cooperation in taking the time to appear before the Committee and for supplying the various documents to the Committee.
2. Committee members, Mr James Beer MP (Deputy Chairman), Mr Tekii Lazaro MP, Mrs Ngamau Munokoa MP, Mr Tai Tura MP and Mr Tangata Vavia MP for the collaborative and non-partisan way in which they have worked together.
3. Parliament Executive Team of Speaker Mrs Niki Rattle, Clerk Mr John Tangi and Deputy Clerk Mrs Helen Maunga for their solid support of the Committees work.
4. Head of Hansard Mr Isaac Solomona, Corporate Services Head Mrs Ina Pierre, Hansard Staff and the rest of the Parliamentary Services Staff for all the technical and administrative support provided to the Committee.
5. Committee Clerk, Mr Tangata Vainerere, for his guidance, technical support and production of the Committee's report to Parliament.
6. Media agencies who were represented at the hearing, including Cook Islands News, Cook Islands Television and Te Kave Korero Programme as well as members of the general public who were present at the hearing.
7. UNDP Pacific Office for its ongoing funding support to the Committee.
8. Consultant Rob Oakeshott for empowering the Committee and the Secretariat with his immense technical knowledge and vast Committee experience.

APPENDICES

Appendix One: MOJ Exhibit 1 - MOJ Fee Regulations 2016



High Court Fees, Costs and Allowances Regulations 2016

His Excellency, Tom Marsters

Tom Marsters

Queen's Representative

Order in Executive Council

At Avarua, Rarotonga this

29th

day of

August,

2016

Present:

His Excellency the Queen's Representative in Executive Council

Pursuant to section 102(1) of the Judicature Act 1980-81, His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations—

Contents

1	Title	2
2	Commencement	2
3	Application	2
4	Fees for proceedings in the Civil Division of the High Court	2
5	Fees for proceedings in the Land Division of the High Court	2
6	Fees for proceedings in the Criminal Division of the High Court	2
7	Court Costs in Criminal Proceedings	2
8	Fees for laying information in respect of private prosecution	3
9	Scale of Solicitors costs prescribed	3
10	Scale of Witnesses and Interpreters Fees, Allowances and Expenses	3
11	Scale of costs as between the Parties	3
12	Value Added Tax	3
13	Revocation	3

Schedule 1

Fees for proceedings in the Civil Division of the High Court

Schedule 2

Fees for Proceedings in the Land Division of the High Court

Schedule 3

Fees for Proceedings in the Criminal Division of the High Court

Schedule 4

Scale of Solicitors Costs

Schedule 5

Scale of Payment to Witnesses and Interpreters

Regulations

1 Title

These regulations are the High Court Fees, Costs and Allowances Regulations 2016.

2 Commencement

These regulations come into force on the 1st October 2016.

3 Application

These regulations apply to any proceedings in the High Court or to any matter relating to the administration of the High Court in the exercise of its Civil, Criminal, and Land Division commenced on or after the date of the coming into force of these regulations.

4 Fees for proceedings in the Civil Division of the High Court

The fees set out in Schedule 1 are payable in respect of proceedings in the Civil Division of the High Court.

5 Fees for proceedings in the Land Division of the High Court

The fees set out in Schedule 2 are payable in respect of proceedings in the Land Division of the High Court.

6 Fees for proceedings in the Criminal Division of the High Court

The fees set out in Schedule 3 are payable in respect of proceedings in the Criminal Division of the High Court.

7 Court Costs in Criminal Proceedings

(1) A person who is convicted and sentenced by the Court is liable to pay court costs of not less than \$50 for each information on which he or she is convicted.

(2) For the avoidance of doubt subclause (1) applies to any person who has been discharge without conviction under section 112 of the Criminal Procedure Act 1980-81 if the court orders that person to pay court costs.

(3) In fixing the costs the Court may take into consideration—

- (a) the number of information or charges laid against the defendant;
- (b) the nature of the sentence the defendant has received;
- (c) duration in hearing the charge or charges:

- (d) any mitigating factors:
- (e) other relevant factors.

8 Fees for laying information in respect of private prosecution

A fee of \$35 is payable for each information laid in respect of a private prosecution.

9 Scale of Solicitors costs prescribed

- (1) The scale of solicitors costs set in Schedule 4 are payable to solicitors and apply in respect of an award of costs in any proceedings in the High Court.
- (2) Despite subclause (1) the Court upon giving judgment, or making an order, or upon adjourning or dismissing any proceedings may fix such solicitors costs as is fair and reasonable in the circumstances of each case.

10 Scale of Witnesses and Interpreters Fees, Allowances and Expenses

The allowances and expenses set out in Schedule 5 are payable to any witness or interpreter who is required to attend court or prepare any evidence or translation for the Court.

11 Scale of costs as between the Parties

Despite any other provision which may describe the scale of costs to be payable as between the parties in any Court proceedings the Court upon giving judgment, or making an order, or upon adjourning or dismissing any proceeding may fix such additional costs as between parties as is fair and reasonable in the circumstances of each case to do so.

12 Value Added Tax

Except for the fees in Schedule 4, all fees specified in these regulations are inclusive of value added tax.

13 Revocation

- (1) The High Court Fees, Costs and Allowances Regulations 2005 are repealed.
- (2) In respect of any proceedings commenced before the coming into force of these regulations, no further fee will be payable.

Schedule 1
Fees for proceedings in the Civil Division of the High Court

	\$
1. Filing—	
(a) complaint note (or statement of claim); or	
(b) counterclaim; or	
(c) third party notice; or	
(d) interpleader affidavit, pursuant to Rule 274 of the Code, of a person other than a defendant; or	
(e) originating application, where—	
(i) claim is not for money:	50
(ii) claim not exceeding \$500:	50
(iii) claim exceeding \$500 but not exceeding \$1,500:	70
(iv) claim exceeding \$1,500 but not exceeding \$3,000:	80
(v) claim exceeding \$3,000:	100
(f) notice of Appeal to a High Court Judge against a decision of a Justice or three Justices of the Peace.	50
2. Filing (on amount owing under judgment)—	
(a) application for judgment summons; or	50
(b) application for any warrant for distress, for writ of arrest, for recovery of specific chattels, or for recovery of land:	50
(c) application pursuant to Rule 223 of the Code for an order for examination of judgment debtor:	50
(d) application pursuant to Rule 224 of the Code for examination of any party, where—	
(i) claim not exceeding \$500:	50
(ii) claim exceeding \$500 but not exceeding \$1,500:	70
(iii) claim exceeding \$1,500 but not exceeding \$3,000:	80
(iv) claim exceeding \$3,000.	100

3.	Filing—	
	(a) Notice of Intention to defend; or Statement of Defence:	50
	(b) Amended Statement of Defence; or Amended Statement of Claim.	25
4.	Filing—	
	(a) Request for entry of judgment; or	
	(b) Pursuant to Rule 184 of the Code, notice of desire to take evidence of witness resident at a distance from, or unable to attend at, Court of hearing; or	
	(c) Application pursuant to Rule 248 of the Code, for charging orders; or	
	(d) Affidavit pursuant to Rule 259 of the Code in support of garnishee summons.	20
5.	Filing—	
	(a) Application for Affiliation, Maintenance, or Custody or any other application pursuant to Part XVIIIA and Part XX of the Cook Islands Act 1915:	25
	(b) Application for Adoption under Part XXA of the Cook Islands Act 1915.	50
6.	Filing a Petition for Divorce	65
7.	Filing any application not otherwise provided for	50
7a.	For hearing of an application or proceeding; for each half- day or part half-day after the first half day, before a Justice or Justices of the Peace	200
7b.	For hearing of an application or proceeding; for each half- day or part of half-day after the first half-day, before a Judge.	350
7c.	For a judicial settlement conference; for each half day or part of half day.	300
8.	Issue of a certified copy of Judgment or Order or any other document—	
	(a) Not exceeding 5 pages:	15
	(b) Exceeding 5 pages:	25

(c) Exceeding 20 pages.	35
9. For checking sealing and signing any Order	20
10. For search in any Court record book, document or Court record	10
11. Copy of judgment or order (other than a copy supplied to a party to the proceeding)—	
(a) Not exceeding 5 pages:	15
(b) Exceeding 5 pages:	25
(c) Exceeding 20 pages.	35
12. Copy of any document, other than a judgement or order (other than a copy supplied to a party to the proceedings)—	
(a) First page:	5
(b) In excess of 1 page but less than 10 pages:	3/p
(c) In excess of 10 pages.	2/p
13A. For the transmission of documents at the request of a party, by the use of a facsimile machine, if sent—	
(a) Within Rarotonga—	
(i) First page:	3/p
(ii) In excess of 1 page but less than 20 pages:	2/p
(iii) In excess of 20 pages.	1/p
(b) Within the Cook Islands—	
(i) First page:	5/p
(ii) In excess of 1 page but less than 20 pages:	3/p
(iii) In excess of 20 pages.	2/p
(c) Outside the Cook Islands—	
(i) First page:	10
(ii) In excess of 1 page but less than 20 pages:	5/p
(iii) In excess of 20 pages.	2/p
13B. For the transmission of documents at the request of a party, by the use of a courier shall be the actual cost plus 15% to cover processing and handling expenses	
13C. For any teleconferencing made at the request of a party,	

the cost shall be the actual cost plus 15% to cover preparation.

13D.	For the transmission of document by email or other electronic means—	
	(a) Less than 1MB:	10
	(b) In excess of 5MB:	20
	(c) In excess of 10 MB.	30
14.	For execution of any Warrant of Committal or Writ of Arrest	25
15.	The cost of service of any document or proceedings by a Bailiff or Police Officer	25
16.	For storage, cartage and removal of goods or properties, cartage, storage, advertising for sale or disposal: Actual cost plus reasonable disbursement.	
17.	Filing Notice of Motion for Probate or Letters of Administration	40
18.	Sealing Probate or Letters of Administration, or resealing pursuant to Section 50 of the Administration Act 1952—	
	(a) In an Estate not exceeding \$20,000:	25
	(b) In an Estate exceeding \$20,000 but not \$50,000:	50
	(c) In an Estate exceeding \$50,000 but not \$100,000:	90
	(d) In an Estate exceeding \$100,000.	170
19.	Sealing Probate pursuant to leave reserved, or Letters of Administration de bonis non, or any grant made subsequent to the original grant of Probate or Letters of Administration	35
20.	Sealing exemplification (Probate of Letters of Administration)	25
21.	Certificate of Administration (under Section 84, Administration Act 1952)	20

Schedule 2

Fees for Proceedings in the Land Division of the High Court

	\$
1. Filing an—	
(a) Application for Successions—	
(i) For the First five lands:	75
(ii) For each additional land:	10
(b) Application for Revocation of Succession Order—	
(i) For the first five lands:	75
(ii) For each additional land:	10
(c) Application to Summon a Meeting of Assembled Owners	80
(i) For Chairing and recording minutes of MOAO:	20
(ii) For each additional MOAO (after the first MOAO), if on the same land:	30
(d) Application for an Interim Injunction:	80
(e) Application for Partition:	80
(f) Application for Investigation of Title:	80
(g) Application for Occupation Right:	80
(h) Application under Section 390A of the Cook Islands Act 1915:	100
(i) Any other application not otherwise provided for:	80
(j) Notice of Appeal to a High Court Judge against a decision of a Justice or three Justices of the Peace.	50

NOTE: Every application that has to be advertised pursuant to Rule 332 of the Code of Civil Procedure of the High Court 1981 as amended by the Code of Civil Procedure of the High Court Amendment 1998 shall incur an advertising fee of \$50.00 per application (see Rule 318A).

2. For—

(a) Checking any draft Order:	20
(b) Sealing any Order	35
(c) Issuing any certified copy of Deed, Instrument or any other document—	
(i) Not exceeding 5 pages:	15
(ii) Exceeding 5 pages:	25
(iii) Exceeding:	35
(d) Each search for any Court Record Book, Minute Book, Block File, Court document or any other document:	10
(e) Issuing a copy of any judgement or order (other than a copy supplied to a Party to the proceedings)—	
(i) Not exceeding 5 pages:	15
(ii) Exceeding 10 pages:	20
(iii) Exceeding 20 pages:	35
(f) Issuing a copy of any document other than a judgement of order (other than a copy supplied to a Party to the proceeding)—	
(i) First page:	5
(ii) In excess of 1 page but less than 10 pages:	3/p
(iii) In excess of 10 pages.	2/p

3A. For the transmission of documents at the request of a party, by the use of a facsimile machine, if sent—

(a) Within Rarotonga or island—	
(i) First page:	5
(ii) In excess of 1 page but less than 20 pages:	3/p
(iii) In excess of 20 pages:	2/p
(b) Within the Cook Islands—	
(i) First page:	5
(ii) In excess of 1 page but less than 20 pages:	3/p
(iii) In excess of 20 pages:	2/p

- (c) Outside the Cook Islands—
 - (i) First page: 10
 - (ii) In excess of 1 page but less than 20 pages: 5/p
 - (iii) In excess of 20 pages. 3/p
- 3B. For the transmission of documents at the request of a party, by the use of a courier shall be at the actual cost plus 15% to cover processing and handling expenses.
- 3C. For any teleconferencing made at the request of a party, the cost shall be the actual cost plus 15% to cover preparation.
- 3D. For the transmission of documents at the request of a party, by the use of email or other electronic means—
 - (a) Less than 1MB: 10
 - (b) More than 1MB and less than 5MB: 20
 - (c) More than 5MB. 30
- 4. The cost of service of any document or proceedings by a Bailiff or Police Officer 25
- 5. For storage, cartage and removal of goods or properties, cartage, storage, advertising for sale or disposal: Actual cost plus reasonable disbursement.
- 6. Registration of any Court Order or instrument 25

Schedule 3

Fees for Proceedings in the Criminal Division of the High Court

	\$
1. Filing any information of prosecution by any private person	35
2. Filing any other application not otherwise provided for	25
3. Filing Notice of Appeal to a High Court Judge against a decision of a Justice or Justices of the Peace (Subject to s 135 of Criminal Procedure Act 1980-81)	50
4. For certifying a copy of entry in criminal records, judgment or any other document—	
(a) Not exceeding 5 pages:	25
(b) Exceeding 5 pages:	35
(c) Exceeding 20 pages.	50
5. Copy of judgment or order (other than a copy supplied to a party of the proceedings)—	
(a) First page:	5
(b) Exceeding 5 pages:	35
(c) Exceeding 20 pages.	20
6. Copy of any document other than a judgement or order (other than a copy supplied to a party of the proceedings)—	
(a) First page:	5
(b) In excess of 1 page but less than 10 pages:	3/p
(c) In excess of 10 pages.	2/p
7. Any application for removal or partial exemption from disqualification under the Transport Act 1966—	
(a) First application:	25
(b) For each subsequent application.	75
8. Cost of service of warrant, information, order or any other document by Bailiff or Police Officer	25

- 9A. For the transmission of documents at the request of a party, by the use of a facsimile machine, if sent—
- (a) Within Rarotonga or island—
 - (i) First page: 5
 - (ii) In excess of 1 page but less than 20 pages: 3/p
 - (iii) In excess of 20 pages: 2/p
 - (b) Within the Cook Islands—
 - (i) First page: 5
 - (ii) In excess of 1 page but less than 20 pages: 3/p
 - (iii) In excess of 20 pages: 2/p
 - (c) Outside the Cook Islands—
 - (i) First page: 10
 - (ii) In excess of 1 page but less than 20 pages: 5/p
 - (iii) In excess of 20 pages: 3/p
- 9B. For the transmission of documents at the request of a party, by the use of a courier shall be at the actual cost plus 15% to cover processing and handling expenses.
- 9C. For any teleconferencing made at the request of a party, the cost shall be the actual cost plus 15% to cover preparation.
- 9D. For the transmission of document at the request of a party by the use of email or other electronic means—
- (a) Less than 1MB: 10
 - (b) In excess of 5MB: 20
 - (c) In excess of 10MB: 30
10. For storage, cartage and removal of goods or properties, cartage. Storage, advertising for sale of disposal: Actual cost plus reasonable disbursement.
11. For each search in any Court Record Book, Court file, record or any other document. 10

Schedule 4
Scale of Solicitors Costs

A IN ACTION FOR A SUM OF MONEY ONLY

A =	Where the amount claimed does not exceed \$3,000	90/hr
B =	Where the amount claimed exceeds \$3,000 but does not exceed \$20,000	140/hr
C =	Where the amount exceeds \$20,000	\$180/hr

		<i>(Allocated hours or part hours)</i>		
		A	B	C
1.	Preparing statement of claim in an action	3	6	18
2.	For each additional defendant	1.5	3.5	6
3.	Preparing statement of defence with or without Counterclaim	4	9	24
4.	Entering judgement where appearance is necessary but no witnesses is called	2	3.5	6
5.	Appearance in undefended cases to obtain judgement where a witness is called or evidence adduced by affidavit	3	6	9
6.	Appearance in Court to conduct defended hearing	The time occupied by the hearing measured in half-hours.		

B IN PROCEEDINGS WHERE THERE IS A CLAIM OTHER THAN A SUM OF MONEY

7	Preparing Statement of Claim or other documents by which the proceeding commenced (together with all supporting documentation)	100
8	For each additional defendant or respondent	50

C IN ALL OTHER PROCEEDINGS

9	Preparing application for judgement and affidavit in support	150
10	Appearance in Court on behalf of judgement creditor or judgement debtor	50
11	Preparing any other application or document in support or in response or making any appearance in support or in response to such documents filed, such amount as the Court may declare as reasonable taking into account the circumstances of each party and the nature of the proceedings.	

Schedule 5

Scale of Payment to Witnesses and Interpreters

A. WITNESS FEES

To a witness attending to give evidence strictly as an expert, for every hour he is required to be present in Court—

- (a) Expert witness from—
 - (i) within the Cook Islands \$50 p/hour:
 - (ii) outside the Cook Islands \$70 p/hour.

In addition to the fees prescribed in (A) and (B) above, there may be paid to an expert witness a qualifying fee for any analysis, preparation of maps, plans, or reports, or other work necessarily undertaken in preparation of evidence, being such sum as the Court or paying officer considers fair and reasonable.

- (b) Any other witness \$20 p/hour.

B. INTERPRETERS FEES

- (a) To an interpreter attending to provide an oral translation into English from any other language or from English into any other language, the fee payable to the interpreter shall be such fee as the Court or Registrar thinks just and reasonable.
- (b) For a written translation of any document into English from any other language or from English into any other language, the fee payable to the interpreter shall be such fee as the Court or Registrar thinks just and reasonable.

C. GENERAL ALLOWANCES AND EXPENSES

Any other allowances and expenses shall be such as the Court or Registrar thinks just and reasonable.


Clerk of the Executive Council

These regulations are administered by the Ministry of Justice.

These regulations were made on the 30th day of August 2016.