



2005/09

HIGH COURT FEES, COSTS AND ALLOWANCES REGULATIONS 2005

Sir F. Goodwin, KBE

Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga this 7th day of July 2005

Present:

HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE IN EXECUTIVE COUNCIL

PURSUANT to Section 102 of the Judicature Act 1980-81 as substituted by Section 2 of the Judicature Amendment Act 1981 and with the concurrence of the Rules Committee, His Excellency the Queen's Representative, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations:

ANALYSIS

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| 1. Title and commencement | 8. Scale of Solicitors Costs |
| 2. Application of regulations | 9. Scale of Witnesses and Interpreters allowances and expenses |
| 3. Fees for proceedings in the Civil Division of the High Court | 10. Scale of Costs as between parties |
| 4. Fees of proceedings in the Land Division of the High Court | 11. Value Added Tax |
| 5. Fees for proceedings in the Criminal Division of the High Court | 12. Revocation Schedules |
| 6. Costs in Criminal Proceedings | |
| 7. Fees for laying information in respect of Criminal Proceedings | |

Price \$4.50

REGULATIONS

1. Short Title and Commencement - (1) These Regulations may be cited as the High Court Fees, Costs and Allowances Regulations 2005.

(2) These Regulations shall come into force on the 1st day of August 2005.

2. Application of Regulations - These Regulations shall 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, Land and Criminal jurisdictions.

3. Fees for proceedings in the Civil Division of the High Court - The fees prescribed in the First Schedule to these Regulations shall be payable to the Civil Division of the High Court and shall apply in respect of any proceedings in the Civil Division of the High Court commenced on or after the date of the coming into force of these Regulations.

4. Fees for proceedings in the Land Division of the High Court - The fees prescribed in the Second Schedule to these Regulations shall be payable to the Land Division of the High Court and shall apply in respect of any proceedings in the Land Division of the High Court commenced on or after the date of the coming into force of these Regulations.

5. Fees for proceedings in the Criminal Division of the High Court - The fees prescribed in the Third Schedule to these Regulations shall be payable to the Criminal Division of the High Court and shall apply in respect of any proceedings in the Criminal Division of the High Court commenced on or after the date of the coming into force of these Regulations.

6. Costs in Criminal Proceedings - (1) There shall be payable to the Criminal Division of the High Court such amount that the Court deems just and reasonable for costs in respect of any criminal proceedings in the Criminal Division of the High Court commenced on or after the date of commencement of these Regulations.

(2) In fixing costs the Court shall take into consideration:

- (a) the number of information or charges laid against the defendant;
- (b) nature of the charge or charges;
- (c) duration in hearing the charge or charges;
- (d) any mitigating factors;
- (e) other relevant factors.

(3) Notwithstanding anything contained in paragraph (2) the Court upon fixing costs shall fix any amount not less than \$30.00.

7. Fees for laying information in respect of Criminal Proceedings - Notwithstanding anything provided under any enactment regulations or rules, there shall be payable to the Criminal Division of the High Court by any private person the sum of \$25.00 for the laying of any one information.

8. Scale of Solicitors' Costs Prescribed - (1) The scale of solicitors' costs prescribed in the Fourth Schedule to these Regulations shall be payable to the solicitors and shall apply in respect of an award of costs in any proceedings in the High Court commenced on or after the date of the coming into force of these Regulations.

(2) Notwithstanding anything contained in paragraph (1) the Court upon giving judgment, or making an order, or upon adjourning or dismissing any proceeding may fix such additional solicitors' costs as to that which may be prescribed by any enactment or regulation, as is fair and reasonable in the circumstances of each case to do so.

9. Scale of Witnesses and Interpreters Fees, Allowances and Expenses - The allowances and expenses prescribed in the Fifth Schedule to these Regulations shall be payable to any witness or interpreter who is required to attend Court or prepare any evidence or translation for the Court and shall apply in respect of any proceedings in the High Court commenced on or after the date of the coming into force of these Regulations.

10. Scale of Costs as between Parties - Notwithstanding any other enactment or regulation which may prescribe the scale of costs to be payable as between parties in any Court proceeding the Court upon giving judgment, or making an order, or upon adjourning or dismissing any proceeding may fix such additional costs as between parties, to that which may be prescribed by any enactment or regulation, as is fair and reasonable in the circumstances of each case to do so.

11. Value Added Tax - Except for the fees in the Fourth Schedule all fees specified in these Regulations are inclusive of value added tax under the Value Added Tax Act 1997.

12. Revocation - (1) The High Court Fees, Costs and Allowances Regulations 1997/10 are hereby revoked.

(2) In respect of any proceedings commenced before the date of the coming into force of these Regulations, no further fee shall be payable.

(3) The appropriate fee, allowance or expense as the case may be that is prescribed in these Regulations shall be payable or taken into account in respect of any further step in the proceeding taken on or after the date of the coming into force of these Regulations.

G. Harmon
Clerk of Executive Council

These Regulations are administered by the Ministry of Justice.

BY AUTHORITY:
Government of the Cook Islands, 2005

Reg. 3FIRST SCHEDULE**FEEs FOR PROCEEDINGS IN THE CIVIL DIVISION
OF THE HIGH COURT**

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|----|---|--|------|
| 1. | Filing: | | |
| | (a) | Plaint 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 | \$30 |
| | (ii) | Claim not exceeding \$500 | \$30 |
| | (iii) | Claim exceeding \$500 but not exceeding \$1,500 | \$50 |
| | (iv) | Claim exceeding \$1,500 but not exceeding \$3,000 | \$60 |
| | (v) | Claim exceeding \$3,000 | \$70 |
| | (f) | Notice of Appeal to a High Court Judge against a decision of a
Justice or three Justices of the Peace | \$30 |
| 2. | Filing: (on amount owing under judgment): | | |
| | (a) | Application for judgment summons; or | \$30 |
| | (b) | Application for any warrant for distress, for writ of arrest,,
for recovery of specific chattels, or for recovery of land; or | \$30 |
| | (c) | Application pursuant to Rule 223 of the Code for an order for
examination of judgment debtor; or | \$30 |
| | (d) | Application pursuant to Rule 224 of the Code for examination
of any party, where | |
| | (i) | Claim not exceeding \$500 | \$20 |
| | (ii) | Claim exceeding \$500 but not exceeding \$1,500 | \$30 |
| | (iii) | Claim exceeding \$1,500 but not exceeding \$3,000 | \$50 |
| | (iv) | Claim exceeding \$3,000 | \$70 |
| 3. | Filing:- | | |
| | (i) | Notice of intention to defend; or | |
| | (ii) | Statement of Defence; | \$40 |
| | (iii) | Amended Statement of Defence; or | |
| | (iv) | Amended Statement of Claim. | \$15 |
| 4. | Filing – | | |
| | (i) | Request for entry of judgment; or | |
| | (ii) | 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 | |
| | (iii) | Application pursuant to Rule 248 of the Code, for charging
orders; or | |
| | (iv) | Affidavit pursuant to Rule 259 of the Code in support of
garnishee Summons | \$10 |

5.	Filing:-	
	(i) Application for Affiliation, Maintenance, or Custody or any other application pursuant to Part XVIII and Part XX of the Cook Islands Act 1915.	\$15
	(ii) Application for Adoption under Part XXA of the Cook Islands Act 1915	\$30
6.	Filing a Petition for Divorce	\$65
7.	Filing any application not otherwise provided for	\$20
8.	For certifying a copy of Judgment or Order or any other Court document	
	(a) Not exceeding 5 pages	\$10
	(b) Exceeding 5 pages	\$20
	(c) Exceeding 20 pages	\$30
9.	For checking any draft Order	\$10
10.	For sealing and signing any Order	\$10
11.	For each search in any Court record book, document, file or record	\$5
12.	Copy of judgment or order (other than copy supplied to a party to the proceeding)	
	(a) Not exceeding 5 pages	\$10
	(b) Exceeding 5 pages	\$20
	(c) Exceeding 20 pages	\$30
13.	Copy of any document, other than judgment or order (other than copy supplied to a party to the proceedings)	
	(a) First page	
	(b) In excess of 1 page but less than 10 pages	\$3
	(c) In excess of 10 pages	\$2/p \$1/p
14A	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	\$2/p
	(ii) In excess of 1 page but less than 20 pages	\$1/p
	(iii) In excess of 20 pages	\$0.50/p
	(b) Within the Cook Islands	
	(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
	(c) Outside 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
14B	For the transmission of documents at the request of a party, by the use of a courier shall be the actual cost plus 10% to cover processing and handling expenses	
14C	For any teleconferencing made at the request of a party, the cost shall be the actual cost plus 10% to cover preparation.	

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15	For each execution of any Warrant of Committal or Writ of Arrest	\$15
16	The cost of each service of any document or proceedings by a Bailiff or Police Officer	\$15
17	For storage, cartage and removal of goods or properties, cartage, storage, advertising for sale or disposal: Actual cost plus reasonable disbursement.	
18.	Filing Notice of Motion for Probate or Letter of Administration	\$25
19.	Sealing Probate or Letters of Administration, or resealing pursuant to Section 50 of the Administration Act 1952:-	
	(i) In an Estate not exceeding \$20,000	\$15
	(ii) In an Estate exceeding \$20,000 but not \$50,000	\$30
	(iii) In an Estate exceeding \$50,000 but not \$100,000	\$65
	(iv) In an Estate exceeding \$100,000	\$130
20.	Sealing Probate pursuant to leave reserved, or Letters of Administration <i>de bonis non</i> , or any grant made subsequent to the original grant of Probate or Letters of Administration	\$25
21.	Sealing exemplification (Probate of Letters of Administration)	\$15
22.	Certificate of Administration (under Section 84, Administration Act 1952)	\$10

Reg. 4SECOND SCHEDULE**FEEES FOR PROCEEDINGS IN THE LAND DIVISION
OF THE HIGH COURT**

1. Filing an:-
- | | |
|---|------|
| (i) Application for Succession (per District for Rarotonga and Aitutaki only) | |
| (a) For the first 5 lands | \$10 |
| (b) For each additional land | \$2 |
| (ii) Application for Revocation of Succession Order | |
| (a) For the first 5 lands | \$15 |
| (b) For each additional land | \$3 |
| (iii) Application to Summon a Meeting of Assembled Owners | \$45 |
| (a) For Chairing and recording minutes of MOAO | \$10 |
| (b) For each additional MOAO (after the first MOAO) | \$10 |
| (iv) Application for an Interim Injunction | \$40 |
| (v) Application for Partition | \$65 |
| (vi) Application for Investigation of Title | \$65 |
| (vii) Application for Occupation Right | \$40 |
| (viii) Application under Section 390A of the Cook Islands Act 1915 | \$30 |
| (ix) Any other application not otherwise provided for | \$25 |
| (x) Notice of Appeal to a High Court Judge against a decision of a Justice or three Justices of the Peace | \$30 |
- 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 \$15.00 per application (see Rule 318A)
2. For:-
- | | |
|--|-------|
| (i) Checking any draft Order | \$10 |
| (ii) Sealing and signing any Order | \$15 |
| (iii) Certifying copy of Judgment or Order, Deed, Instrument or any other document | |
| (a) Not exceeding 5 pages | \$10 |
| (b) Exceeding 5 pages | \$20 |
| (c) Exceeding 20 pages | \$30 |
| (iv) Each search in any Court Record Book, Minute Book, Block File, Court file or application file, record or any other document | \$5 |
| (v) Copy of judgment order (other than copy supplied to a party to the proceedings) | |
| (a) Not exceeding 5 pages | \$10 |
| (b) Exceeding 5 pages | \$20 |
| (c) Exceeding 20 pages | \$30 |
| (vi) Copy of any document other than judgment or order (other than copy supplied to a party to the proceedings) | |
| (a) First page | \$3 |
| (b) In excess of 1 page but less than 10 pages | \$2/p |
| (c) In excess of 10 pages | \$1/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 \$2/p
 - (ii) In excess of 1 page but less than 20 pages \$1/p
 - (iii) In excess of 20 pages \$0.50/p
 - (b) Within the Cook Islands
 - (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
 - (c) Outside 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
- 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 10% 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 10% to cover preparation.
4. The cost of service of any document or proceedings by a Bailiff or Police Officer \$15
5. Registration of any Court Order or instrument \$6

Reg. 5THIRD SCHEDULE**FEEs FOR PROCEEDINGS IN THE CRIMINAL DIVISION
OF THE HIGH COURT**

1.	Filing any information of prosecution by any private person	\$25
2.	Filing any other application not otherwise provided for	\$15
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 the Criminal Procedure Act 1980-81)	\$30
4.	For certifying a copy of entry in criminal records, judgment or order or any other Court document	
	(a) Not exceeding 5 pages	\$10
	(b) Exceeding 5 pages	\$20
	(c) Exceeding 20 pages	\$30
5.	Copy of judgment or order (other than a copy supplied to a party of the proceedings)	
	(a) Not exceeding 5 pages	\$10
	(b) Exceeding 5 pages	\$20
	(c) Exceeding 20 pages	\$30
6.	Copy of any document other than judgment or order (other than copy supplied to a party to the proceedings)	
	(a) First page	\$3
	(b) In excess of 1 page but less than 10 pages	\$2/p
	(c) In excess of 10 pages	\$1/p
7.	Any application for removal or partial exemption from disqualification under the Transport Act 1966	
	(a) First application	\$15
	(b) For each subsequent application	\$50
8.	Cost of service of warrant, information, order or any other document by Bailiff or Police Officer	\$15
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	\$2
	(ii) In excess of 1 page but less than 20 pages	\$1/p
	(iii) In excess of 20 pages	\$0.50/p
	(b) Within the Cook Islands	
	(i) First page	\$3
	(ii) In excess of 1 page but less than 20 pages	\$2/p
	(iii) In excess of 20 pages	\$1/p
	(c) Outside 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

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- 7B. For the transmission of documents at the request of a party, by the use of a courier shall be at the actual cost plus 10% to cover processing and handling expenses
- 7C. For any teleconferencing made at the request of a party, the cost shall be the actual cost plus 10% to cover preparation
- 8 For each search in any Court Record Book, Court file, record or any other document

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\$5

Reg. 8**FOURTH SCHEDULE****SCALE OF SOLICITORS COSTS****A IN ACTIONS FOR A SUM OF MONEY ONLY**

A =	Where the amount claimed does not exceed:	3,000
B =	Where the amount claimed exceeds \$3,000 but does not exceed:	20,000
C =	Where the amount exceeds	20,000

	A	B	C
1. Preparing statement of claim in an action	60	100	150
2. For each additional defendant	15	30	40
3. Preparing statement of defence with or without Counterclaim	50	70	100
4. Entering judgment where appearance is necessary but no witness is called	10	20	30
5. Appearance in undefended cases to obtain judgment where a witness is called or evidence adduced by affidavit	15	30	50
6. Appearance in Court to conduct defended hearing	3%	4%)	7%

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

7. Preparing Statement of Claim or other document by which the proceedings commenced (together with all supporting documentation)	50	70
7. For each additional defendant or respondent.	20	40

C IN ALL OTHER PROCEEDINGS

8. Preparing application for judgment and affidavit in support	50	70
9. Appearance in Court on behalf of judgment creditor or judgment debtor	10	15
10. 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.		

Reg. 9FIFTH SCHEDULE

SCALE OF PAYMENT TO WITNESSES AND INTERPRETERS

A. WITNESS FEES

(i) 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 -

* within the Cook Islands \$40 p/hour

* outside the Cook Islands \$60 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 \$10 p/hour

B. INTERPRETERS FEES

(i) 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.

(ii) 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.
