

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 6 OF 2017

The Legal Practitioners' Act
(Laws, Volume 4, Cap 34)

The Legal Practitioners (Costs) Order, 2017

IN EXERCISE of the powers contained in section *seventy* of the Legal Practitioners Act, and on the recommendation of the Remuneration Committee, the following Order is made:

1. This Order may be cited as the Legal Practitioners (Costs) Order, 2017. Title
2. (1) Costs where awarded, in any proceedings in the High Court which could have been commenced in a subordinate court, shall be on the appropriate subordinate court scale. Costs on Subordinate or High Court Scale
- (2) A judge may make an order allowing the costs or any part thereof, referred to in subparagraph (1), on the High Court scale if satisfied that—
 - (a) there was sufficient reason for bringing the action in the High Court; or
 - (b) the defendant or one of the defendants objects to the transfer of the action to a subordinate court.
- (3) A practitioner shall, on taking instruction, agree with the client the hourly fee to be charged in accordance with Parts II and III of the Fourth Schedule or in accordance with section *seventy-six* and *seventy-seven* of the Act. Cap. 30
3. The provisions of this Order shall not apply to fixed costs which are provided for in the Legal Practitioners (High Court) (Fixed Costs) Order, 2016. Application of fixed costs S.I No. 97 of 2016

Scale of
costs in
proceeding
before
Commission
or
tribunal
Cap. 27

4. A practitioner who is entitled or permitted to appear in any proceedings before a commission, tribunal, mediator, arbitrator, board, court or other body, shall be entitled to costs in accordance with the scale set out in the Schedule, and the provisions of the High Court rules with regard to taxation shall apply to the taxation of the costs.

Scale of
costs in
proceeding
in High
Court

5. (1) In any proceedings in the High court where costs are allowed to any practitioner, they shall be taxed in accordance with the scales of costs set out in the Schedule.

(2) Where the trial Judge certifies that there were sufficient grounds arising out of the nature of importance, or the difficulty or urgency of the case to justify the appearance of two or more practitioners as counsel, the cost allowed in respect of each practitioner shall be taxed in accordance with the scale costs set out in the Schedule.

Revocation
of S.I. No. 9
of 2001

6. The Leal Practitioners (Costs) Order, 2001, is revoked.

SCHEDULE
(Paragraphs 4 and 5)

SCALE OF PRACTITIONERS' COSTS IN CONTENTIOUS MATTERS

PART 1

	<i>Scale Head</i>	<i>Applicable part of Schedule</i>	<i>Applicable fee</i>
1.	Institution of proceedings		
1.01	For letter of demand	III	
1.02	Preparing, issuing, filing and service of Writs of Summons, endorsed with a Statement of Claim.	II	
1.03	Preparing, issuing, filling and service of Originating Notice	II	
1.04	Preparing, issuing, presenting and service of any petition including any process touching the Constitution of the Republic of Zambia, complaint, appeal or application before the Industrial Relation Court, Tribunal, Commission, arbitrator, etc.	II	
1.05	Preparing, issuing, filing and service of any application for <i>Habeas Corpus</i> , or for any administrative orders, including an application for judicial review	II	
1.06	Preparing, issuing, filing and service of a Concurrent Writ of Summons or Originating Summons	III	
1.07	Renewing Writ of Summons or Originating Summons	III	
2.	Instructions		
2.01	Attending on client, either formal or informal	III	
2.02	Taking instructions for a statement of claim, petition, complaint, application, appeal or other process or proceedings	III	
2.03	Taking instructions for a defence and counterclaim (if any) or for any answer or opposition to any process or proceeding mentioned in scales 1	II	
2.04	Attending on and interviewing any witness or possible witness for the trial and taking and preparing proofs of evidence.	II	
2.05	Requesting for and examining reports or opinions of expert	II	

	<i>Scale Head</i>	<i>Applicable part of Schedule</i>	<i>Applicable fee</i>
2.06	Examination of any place or property material to the proceedings	II	
2.07	Searching and obtaining any relevant documents from any public office such as the Lands and Deeds Registry, Court Registry or any other public office	II	
2.08	Attending on the other party or parties, or their advocates or their agents including attendances for negotiations for mediation or any settlement out of court	II	
2.09	Collating documents for an affidavit or list of documents and for the Bundles of Documents or pleadings.	II	
2.10	Attending to inspect documents or produce documents for Inspection	II	
2.11	Attending to any calculations to arrive at any damages or interest payable	II	
2.12	Instructions for any Affidavit and preparation thereof	II	
2.13	Preparing notes for trial or any hearing in Chambers or Court	II	
2.14	Instructions for brief to State Counsel to advise on evidence or affidavit to use as evidence at the trial (where Counsel's opinion is justifiably sought)	II	
3. Interlocutory proceedings in Chambers			
3.01	Preparation, issuing, filing and service of any summons application, notice of motion or appeal to a judge in Chambers	II	
3.02	Preparing, issuing, filing and arranging Execution of -Writ of Elegit -Writ of Fieri Facias or any other Writ of execution or for possession of land	III	
3.03	Preparing any other document (to include where necessary filing, service and delivery of any notice or document not otherwise provided for) including any document or application to	III	
3.03.1	Amend any document	II	
3.03.2	Obtaining any order for substituted service or for giving leave to serve out of the jurisdiction.	II	
3.04	Preparing, serving and delivery of:	II	
3.04.1	Defence and counter claim if any	II	

	<i>Scale Head</i>	<i>Applicable part of Schedule</i>	<i>Applicable fee</i>
3.04.2	Answer, reply or opposition to a petition or any application in terms of scales 1.04 and 1.05 hereof	II	
3.03.3	Request for particulars of any pleadings	III	
3.04.4	Request for Interrogatories	III	
3.04.5	Affidavit and list of documents	II	
3.04.6	Notice to produce or admit documents	III	
3.05	Preparing, filing and service of any order made in Chambers and any order or judgement or passed in Court	II	
4. Attendance			
4.01	Attendance in Chambers or Court on the hearing of any application, Interlocutory appeal or other nature	II	
4.02	Attending State Counsel in conference	II	
4.03	Waiting to attend to any application in Chambers or at Court, tribunal, Mediation, arbitration, Inquiry, commission etc.	II	
4.04	Waiting to attend before the Deputy or District Registrar in Chambers	III	
4.05	Attending, conducting case in Court, before a Commission, referee or on mediation or arbitration or before any tribunal or inquiry	II	
4.06	Attending to hear or collect reserved judgment or order or any decision	III	
4.07	Attendance on client or any other party or authority on the telephone	II	
4.08	Attending generally including attending upon client to report on progress or discuss matter, swear Affidavits, waiting for client, or witness, or attending upon any other authority pursuant to client's instructions	II	
4.09	Attending to the matter generally including preparing letters, progress reports, and other reports, and researching into the law	III	
4.10	Attendance upon receipt of letter, telegram, telefax, Email	III	
4.11	Attending to tax costs, including attending to obtain appointment to tax and file bill of costs	II	

<i>Scale Head</i>	<i>Applicable part of Schedule</i>	<i>Applicable fee</i>
5. Perusals		
5.01 Of any statement of claim defence and counterclaim (if any), petition, complaint, application, appeal, answer, reply or any document being for any of the matter in scales to 1.02 to 1.05 here of, inclusive		
5.02 Of any document, letter Including perusals of Counsel's opinion's or documents or inspection or any interlocutory process		
6. Drawing Documents		
6.01 Drawing any in the proceedings or any brief or opinion not provided for herein	III	
6.02 Drawing Bill of Costs and copies for taxation	II	
6.03 For drawing case for Opinion of State Counsel, to advise on evidence or to settle any pleadings and affidavit for use as evidence (where Counsel's opinion is justifiably sought)	II	
7. Opinions		
7.01 For any written opinion given in anticipation of litigation	II	
7.02 For any oral opinion given in anticipation of litigation	III	
8. Communications, Printing, photocopying, Messengers etc		
8.01 For any letter, Email, telegram, telex or telefax for each page (Maximum)		2,467
8.02 Telephone per unit of three minutes or part thereof (Maximum)		371
8.03 Photographic, printed or carbon copy of any document being Exhibits to an Affidavit for Bundles of Pleadings and Documents (per page) (Maximum)		3,084
8.04 General fee for letters, petties, messengers, incidentals etc at 15% of the total bill (excluding disbursements) (minimum)		3,701

<i>Scale Head</i>	<i>Applicable part of Schedule</i>	<i>Applicable fee</i>
9. Subpoenas or Summons to Witness		
For preparing, Issuing, filing and Service of subpoena or summons to witness and the Praecipecfor each individual served		
10. Travelling and out of Station Allowances		
10.01	For travelling to inspect in Chambers or Courts, before a commission, a referee or an arbitrator on Mediation or before any Tribunal, inquiry or Commission beyond the Advocate's Station	The appropriate fee as appears in Schedule of time taken using the most economical but convenient means of transport available in the circumstances subject to a maximum of ten hours for a single journey (one way)
10.3	Travelling within the Advocate's locality, town or station to attend Court, Tribunal, Inquiry, Commission mediation, arbitration other authority or any matter related to the conduct of a matter on behalf of a client.	The appropriate fee as appears in Part II of this schedule
Note		
If travel is by personal motor vehicle the Practitioner shall, in addition, be entitled to reasonable amounts expended on fuels		
11.	Appeals to the High Court.	
11.01	Preparing Notice of Appeal	III
11.02	Preparing Notices, Grounds of Appeal and any other document	II
11.03	Preparing Summons, Notice of Motion or Notice of Application relating to any appeal, Affidavit	III
11.04	Preparing record of Appeal, Case Record or Record of Proceedings, Collating Documents, Proofreading judge's Notes, Tribunal, Commission, or Magistrate's Note or any other Notes relevant to the Appeal	II
11.05	Preparing Heads of Arguments, List of Authorities including Notes for use at the hearing of the appeal	II
11.06	The above fees are in addition to appropriate fees prescribed under scales 1 to 10 above.	

PART II

	A fee not exceeding (per hour or proportionately any part thereof) Maximum Fees
1. A practitioner of less than five years standing and experience or legal executive	2,467
2. A practitioner of more than five but of not more than ten years standing and experience.	3,701
3. A practitioner of more than ten but of not more than fifteen years standing and experience	4,441
4. A practitioner of fifteen or more years standing and experience	5,674
5. State Counsel	6,661

PART III

	A fee not exceeding (per hour or proportionately for any part thereof) Maximum Fee
1. A practitioner of less than five years standing	1,481
2. A practitioner of more than five but of not more than ten years standing and experience	2,467
3. A practitioner of more than ten but of not more than fifteen years of standing and experience	4,934
4. State Counsel	6,167

JUSTICE I. C. MAMBILIMA,
Chairperson

M. N. MUNDASHI,
Member

N. NCHITO,
Member

E. K. MWITWA,
Member

M. M. MWITUMWA,
Member

Lusaka
16th December, 2016