



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 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 addition 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.