



Tonga

SUPREME COURT TAXATION OF COSTS RULES

1988 Revised Edition



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Tonga

SUPREME COURT TAXATION OF COSTS RULES

Made by the Judge of the Supreme Court on 28th September, 1959

G.S. 107/59, G.S. 132/79

THE CONSTITUTION AND THE SUPREME COURT ACT

1 Short title and application.

These Rules may be cited as the Supreme Court Taxation of Costs Rules and shall apply to bills of costs and taxation thereof between solicitor and client as well as between party and party and in every jurisdiction of the Court unless express provision is made to the contrary or the circumstances otherwise require.

2 Interpretation.

In the construction of these rules unless the context or subject matter otherwise indicates or requires —

“**cause**” includes any suit, action or other original proceeding between a plaintiff and a defendant;

“**costs**” includes charges and expenses;

“**Court**” means the Supreme Court;

“**defendant**” includes any person served with any writ of summons or other process;

“**Judge**” means a judge of the court;

“**matter**” includes every proceeding in the Court not a cause;

“**plaintiff**” includes any person seeking any relief against any other person by any form of proceeding;

“**solicitor**” includes a lawyer licensed under the Supreme Court Act.

LAWYERS' CHARGES AND SCALES OF COSTS

3 Amounts allowable.

On the taxation of costs the amounts allowable shall be in accordance with the items set out in the Schedule hereto.

4 Charge just and reasonable.

Whenever no specific charge is provided in the said schedule for work properly done by a solicitor such charge may be made as is just and reasonable by comparison with the other charges therein.

5 Scales of costs.

Costs shall be taxed on one of two scales as follows —

- (a) the Lower Scale where the amount of the claim does not exceed \$200; or
- (b) the Higher Scale where the amount of the claim exceeds \$200:

Provided that a judge in making an order for costs may, if he thinks that there are special circumstances, order that the costs be taxed on either the higher or lower scale notwithstanding the amount of the claim.

BILLS OF COSTS

6 Detailed statement of bill of costs.

Every bill of costs rendered by a solicitor to his client or to another party shall be a detailed statement of the work done by the solicitor or his agents and employees and the fees, charges and disbursements therefor, and in the case of a bill rendered to a client shall be accompanied by an account of moneys received from or on behalf of the client and moneys paid to or on behalf of the client.

7 Failure to file bill of costs.

Whenever a party entitled to costs from another party or from a fund fails to file his bill of costs for taxation within a reasonable time after being requested to do so, the taxing officer may, if satisfied by an affidavit of the foregoing matters, fix a time within which the party entitled to costs shall file and serve his bill and if such party fails to file his bill within the time so fixed or within such further period as the taxing officer considers reasonable, the taxing officer may certify such failure and allow the defaulting party's costs at such nominal or other amount as he thinks fit.

TAXING OFFICERS

8 Taxing officers.

The Taxing Officers shall be the Judges and the Registrar of the Supreme Court.

Should the Judge direct the Registrar to carry out a taxation such taxation shall be carried out under the control and direction of the Judge and shall be regarded as the Judge's taxation.

9 Power of taxing officer.

Every taxing officer shall, for the purpose of any proceeding before him, have power and authority to summon and examine witnesses either orally or upon affidavit, and to require the production of books, papers and documents, and for such purposes to issue subpoenas, to administer oaths, to make separate or interim certificates, to require any party to be represented by a separate solicitor, and to do such other acts as may be directed by these rules or by the Court or a Judge.

10 Authority to arrange and direct parties to attend.

The taxing officer shall have authority to arrange and direct what parties are to attend before him on any taxation of costs and may disallow the costs of any party whose attendance he considers unnecessary.

TAXATION PROCEDURE

11 Filing bill of costs.

Every bill of costs for taxation shall be filed in the Supreme Court office and be endorsed with the name and address of the person by whom it is so filed.

12 Serving of bill of costs.

A copy of the bill of costs as filed, indorsed with a notice of the date and hour fixed for taxation, shall be served by the party filing the bill upon all parties entitled to attend on the taxation, or their solicitors, not less than 7 days before the day so fixed for taxation:

Provided that the taxing officer may, in special circumstances, dispense with the service or reduce the number of days notice required by this rule.

13 Time for appeal elapsed.

A bill of costs upon any verdict, order or award may be taxed notwithstanding the time for appeal therefrom or for setting aside the award or any stay of proceedings has not elapsed.

14 Absence of party.

A taxing officer may proceed with the taxation of a bill of costs notwithstanding the absence of any party interested therein provided that he is satisfied that the provisions of rule 12 hereof have been complied with.

PRINCIPLES OF TAXATION

15 Allowing costs, charges etc.

The taxing officer shall allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for maintaining or defending the rights of any party.

16 Costs on expenses not allowed.

The taxing officer shall not allow —

- (a) any costs in respect of work done prematurely and not subsequently proving of use in the cause or matter;
- (b) any costs which appear to him to have been incurred or increased through negligence, mistake or over-caution;
- (c) any unusual expense.

COSTS OF INTERLOCUTORY PROCEEDINGS

17 Discretion of Court or judge.

The costs of every interlocutory application, including applications for appointment of a next friend or guardian ad litem, for extension of the time for making any application or taking any step or proceeding, or for postponing or fixing the time of hearing of any cause or matter, shall be in the discretion of the Court or judge to whom the application is made, and such Court or judge may make such order in regard thereto as in all the circumstances appears proper.

18 No provision made for costs.

Whenever the order of the Court or judge on an interlocutory application makes no provision for the costs thereof, such costs shall be in the discretion of the taxing officer:

Provided that no costs shall be allowed to a party in respect of an application by summons for extension of time or fixing a date of hearing unless the party applying has first unsuccessfully sought the consent of the other party or parties to the course ultimately approved.

19 Costs reserved.

Whenever an interlocutory application has been disposed of, but the costs thereof have been reserved, such costs shall not be allowed to either party on taxation without a direction from the Court or judge who reserved such question.

SCHEDULE

(Substituted by G.S. 132/79)

		Lower Scale (not exceeding) \$	Higher Scale (not exceeding) \$
1.	Instructions for and letter before action or defence	2.50	5.00
2.	Instructions to sue, inclusive of preparation, issue, service and affidavit of service of a writ of summons	15.75	31.50
	For each additional plaintiff	5.00	15.00
3.	On judgment in default of appearance or defence where no application to the Court or a Judge is required including entry of a consent judgment or a judgment after discontinuance	15.00	21.00
4.	Instructions to defend inclusive of preparation, filing and service of appearance or defence	15.75	31.15
5.	Instructions for and preparation of affidavit of list of documents pursuant to order down to delivery of affidavit	10.50	21.00
6.	Instructions for and preparing for trial inclusive of instructions for and preparation of brief	31.50	63.00
7.	Appearance at trial of an action of proceeding (First Day)	52.50	157.50
8.	Brief fee to extra Counsel in respect of any proceedings, if certified for, per day	21.00	52.50
9.	Refreshers to Counsel in respect of any proceedings, if certified for, per day	21.00	105.00
10.	(a) Preparation for and attendance on Motions, and other applications	5.25	10.50
	(b) In addition for each adjourned hearing	5.25	5.25
	(c) In addition for affidavit if necessary	5.25	5.25

		Lower Scale (not exceeding) \$	Higher Scale (not exceeding) \$
11.	Drawing up any Order	5.25	5.25
12.	Taking accounts, making inquiries and other similar proceedings before the Registrar or in Chambers, per day	10.50	21.00
13.	Issuing and service of a subpoena for each witness	5.25	5.25
14.	Where in consequence of the distance involved it is necessary to effect service by an agent	5.25	5.25
15.	Appearance on the taxation of a Bill of Costs	5.25	10.50
APPEALS			
16.	Preparation and filing of a Notice and Petition of Appeal	10.50	21.00
17.	Instructions to oppose an Appeal	10.50	21.00
18.	Conducting Appeal —		
	(a) first day	31.50	63.00
	(b) for each extra day	21.00	42.00
19.	Attending to hear reserved judgment	10.50	10.50
20.	In any case a Judge of the Supreme Court may for special reasons certify for an increase in any of the above charges, of such amount as he thinks fit.		