

LEGAL NOTICE No. 77

REPUBLIC OF TRINIDAD AND TOBAGO

THE LEGAL PROFESSION ACT, 1986

RULES

MADE BY THE LAW ASSOCIATION WITH THE APPROVAL OF THE CHIEF JUSTICE AND THE MINISTER UNDER SECTION 52 OF THE LEGAL PROFESSION ACT

THE ATTORNEYS-AT-LAW (REMUNERATION) (NON-CONTENTIOUS BUSINESS) RULES, 1997

1. These Rules may be cited as the Attorneys-at-law Citation (Remuneration) (Non-Contentious Business) Rules, 1997.

2. The maximum fees permissible under these Rules shall be as follows: Maximum fees

(a) for Common Law conveyancing transactions, the charges specified in Schedule 1; Schedule 1

(b) for conveyancing transactions under the Real Property Ordinance, the charges specified in Schedule 2; Ch. 27. No. 11
Schedule 2

(c) for any other conveyancing transactions not specifically provided for in Schedules 1 and 2, the charges specified in Schedule 3; Schedule 3

(d) for work done in connection with applications for Probate or Letters of Administration, the charges specified in Schedule 4. Schedule 4

3. These Rules shall come into effect on the 1st day of May, 1997. Commencement

4. The Solicitors (Professional Charges) Order, 1950, the Real Property (Professional Charges) Rules, 1950 and the Wills and Probate (Fees) (Amendment) Rules, 1949 are revoked. G.N. Nos. 17 of 1952, 52 of 1950 and 10 of 1949 revoked

SCHEDULE 1

[Rule 2(a)]

COMMON LAW CONVEYANCING TRANSACTIONS

1. For preparing Conveyances of Mortgages:

(a) Where title to real property comprised therein is investigated and deduced, the following scale of charges shall be applicable:

<i>Consideration or amount secured</i>	<i>Scale of Charges</i>
Not exceeding \$100,000.00 ...	One and one-half per cent of the consideration with a minimum fee of \$400.00
Exceeding \$100,000.00 and not exceeding \$500,000.00	One and one-half per cent of the first \$100,000.00 and three-fourths per cent of the consideration in excess of \$100,000.00
Exceeding \$500,000.00 and not exceeding \$2,000,000.00	The same charge as on a consideration of \$500,000.00 plus one-half per cent on the excess beyond \$500,000.00
Exceeding \$2,000,000.00 ...	The fee charged shall be calculated by reference to the matters set out in Schedule 3

(b) Where title to real property is not investigated or deduced, one-half only of the above fees shall be charged.

2. For revising any of the above Conveyances or Mortgages on behalf of Vendor or Mortgagor:

	<i>Scale of Charges</i>
(a) Where particulars of title are supplied to Attorney-at-law for Purchaser or Mortgagee	One-half of the above scale
(b) Where particulars of title are not supplied to Attorney-at-law for Purchaser or Mortgagee	One-fourth of the above scale

3. For preparing Ordinary Leases for a term between 3–35 years at a rack rent (the full annual value of the property) the following scale of charges shall be applicable:

<i>Amount of Annual Rent Reserved by Lease</i>	<i>Scale of Charges</i>
Where it does not exceed \$10,000.00 ...	\$500.00
Where it exceeds \$10,000.00 and does not exceed \$25,000.00	\$750.00
Where it exceeds \$25,000.00	\$750.00 plus two per cent on the excess of \$25,000.00

Where more than one annual rent is reserved, the fee is calculated on the aggregate amount of such rents. Where the annual rent is variable, the fee is calculated on the highest amount of annual rent reserved.

Scale of Charges

4. Revising ordinary Leases on behalf of Lessee One-half of the preparation fee

5. For preparing, settling and completing Oil Mining Leases the following scale of charges shall be applicable:

<i>Amount of Annual Rent Reserved by Lease</i>	<i>Scale of Charges</i>
Where annual rent does not exceed \$25.00	\$250.00
Where annual rent exceeds \$25.00 and does not exceed \$250.00	The same charge as on a rent of \$25.00 and also forty per cent on the rent in excess of \$25.00
Where annual rent exceeds \$250.00 and does not exceed \$750.00	The same charge as on a rent of \$250.00 and also twenty per cent on the excess beyond \$250.00
Where annual rent exceeds \$750.00 ...	The same charge as on a rent of \$750.00 and also ten per cent on the excess of \$750.00 up to a maximum of \$3,500.00

Where annual rent is variable the fee is calculated on the highest amount of annual rent reserved.

6. For revising Oil Mining Leases on behalf of Lessee:

Scale of Charges

- (a) Where title to property is deduced and investigated Same as preparation fee
- (b) Where title to property is not deduced or investigated One-half of preparation fee

7. For preparing Release of Mortgage, Debenture or Charge, the following scale of charges shall be applicable:

<i>Amount Secured</i>	<i>Scale of Charges</i>
Not exceeding \$25,000.00	\$250.00
Exceeding \$25,000.00	The same charge as where the amount secured does not exceed \$25,000.00 and also \$15.00 for every \$5,000.00 or part thereof of the amount secured in excess of \$25,000.00 up to a maximum fee of \$10,000.00

8. For revising Release of Mortgage, Debenture or Charge, one-fourth of the preparation fee shall be chargeable subject to a maximum charge of \$5,000.00.

9. For conveyancing transactions not otherwise specified in items 1 to 8, the following charges shall be applicable:

<i>Transaction</i>	<i>Remuneration</i>
(a) Agreement for Lease	The same charge as for an Ordinary Lease
(b) Deed of Assent	One-half of the fee chargeable as for a Conveyance but calculated on the value of the property comprised therein
(c) Assignment of Lease	The same charge as for a Conveyance
(d) Bill of Sale—Absolute	One-half of the fee chargeable on a Conveyance
(e) Bill of Sale—Mortgage	One-half of the fee chargeable as for a Mortgage with a minimum fee of \$75.00
(f) Bill of Sale—Memorandum of Satisfaction	\$150.00
(g) Bill of Sale—Re-registration ...	\$150.00

(h) *Collateral Mortgage:*

Where another Debenture or Mortgage is taken as the primary security, the full scale fee for mortgages calculated on the amount secured shall be charged on the primary security as if the mortgaged property were included therein, and an additional fee not exceeding \$1,500.00 on the Collateral Mortgage. Where the primary security has already been taken, one-half of the full scale fee for Mortgages, calculated on the amount secured by the primary security, shall be charged on the Collateral Mortgage.

(i) *Conveyance and Mortgage:*

If completed at the same time and prepared by the same Attorney-at-law, the full scale fee for Conveyances shall be charged on the Conveyance calculated on the consideration and one-half of the fee for Mortgages shall be charged on the Mortgage, calculated on the principal amount secured.

(j) *Conveyance on Sale:*

The full scale fee for Conveyances shall be charged for deducing and investigating title and preparing the Conveyance but costs incurred for searches made in the various Registries are not included in such fee, and in addition to such fee, the actual costs so incurred, or the actual search fees paid in investigating title, may be charged as a disbursement.

(k) *Debenture:*

If the Debenture charges real property, the title to which is investigated, the full scale fee for Mortgages shall be charged calculated on the amount secured, but if no real property is included, or if title to real property is not investigated, then one-half of such scale fee shall be charged.

(l) *Deed Poll on Change of Name:*

A fee shall be charged according to the amount of work involved, up to maximum fee of \$500.00.

(m) *Disbursements:*

Any costs payable in discharge of a liability properly incurred by an Attorney-at-law on behalf of his client are not included in the scale fees and can be charged in addition to such fees, including a reasonable amount for searches, travelling, photocopying, telephone, telefax and postage.

(n) *Exchange—Deed of:*

The same scale as for Conveyances shall be charged, but calculated on the value of either property being exchanged, whichever is the higher, where title is being investigated. If no title is being investigated, one-half of such scale fee shall be charged.

(o) *Further Mortgage or Charge to secure further advances:*

The full scale fee as for Mortgages shall be charged, but calculated on the amount of the further advance secured by the Further Mortgage or Charge.

(p) *Gift—Deed of:*

The full scale as for Conveyances shall be charged, but calculated on the value of either property being conveyed, where title is being investigated. If no title is being investigated, one-half of such scale fee shall be charged.

(q) *Investigating and Deducing Title:*

The charges for this item are included in scale fees for Conveyances and Mortgages, other than actual costs incurred or search fees paid in investigating title, which may be charged for additionally, as a disbursement.

(r) *Leases under three years:*

The fee charged shall be calculated by reference to the matters set out in Schedule 3, provided the fee shall not exceed the amount that would be chargeable for an Ordinary Lease for a term over three years.

(s) *Leases for nominal or peppercorn rent:*

The fee charged shall be calculated by reference to the matters set out in Schedule 3.

(t) *Lease—Long—for more than 35 years:*

The same scale fee as for an Ordinary Lease under 35 years shall be charged.

(u) *Lease where premium paid in addition to rent:*

In addition to the scale fee chargeable for an Ordinary Lease, calculated on the annual rent reserved, a further sum equal to the scale fee as for a Conveyance on sale shall be charged, but calculated on the amount of the premium as the consideration.

(v) *Mortgage to secure overdrafts on current account or where no principal sum specified in the Mortgage Deed:*

(i) *Initial Stamping:*

The scale fee for Mortgages shall be charged, but calculated on the amount which the mortgage or charge is stamped to cover being the amount secured.

(ii) *Subsequent Upstamping to secure further advances:*

The scale fee as for Mortgages shall be charged but calculated on the total amount which the Mortgage is to secure after the upstamping less the scale fee for Mortgages already charged on the amount which the Mortgage or Charge was stamped to cover prior to the upstamping.

(w) *Partition—Deed of:*

The fee charged shall be calculated by reference to the matters set out in Schedule 3.

(x) *Postponement—Deed of:*

A fee not exceeding \$2,500.00 shall be charged.

(y) Release—Partial:

The scale fee for Releases shall be charged, but calculated on the consideration for which the Partial Release is made. If no consideration is stated in the Deed, the fee shall be calculated on the estimated value of the property being released or by reference to the matters set out in Schedule 3.

(z) Revision Fees:

Except as is otherwise specified in these Rules, a fee of one-half of the preparation fee shall be charged for revising any deed on behalf of a party thereto.

(aa) Tenancy Agreement:

The same scale of fees as for Leases shall be charged.

(ab) Transfer of Mortgage:

The scale fee as for Mortgages shall be charged, if title to real property is investigated but calculated on the mortgage debt being assigned and not on the amount of the original loan or the consideration for the Transfer. If title is not investigated, one-half of such scale fee shall be charged.

(ac) Variation of Lease or Mortgage—Deed of:

Such fee as is just and equitable having regard to the matter set out in Schedule 3.

SCHEDULE 2

[Rule 2(b)]

FOR CONVEYANCING TRANSACTIONS UNDER THE
REAL PROPERTY ORDINANCE

1. For preparing Transfers, Mortgages or Charges, the following scale of charges shall be applicable:

<i>Consideration or amount secured</i>	<i>Scale of Charges</i>
Not exceeding \$25,000.00 ...	\$500.00
Exceeding \$25,000.00 ...	\$500.00 for the first \$25,000.00 of the consideration and \$30.00 for every \$5,000.00 or part thereof of the consideration in excess of \$25,000.00
2. For revising any Transfers, Mortgages and Charges set out in item 1	One-fourth of the Preparation Fee
3. For preparing Ordinary Leases for a term between 3–35 years at a rack rent	The same scale of charges as for Ordinary Leases set out in Schedule 1
4. For revising Ordinary Leases on behalf of Lessee	One-half of the Preparation Fee
5. For preparing Oil Mining Leases ...	The same scale of charges as for Oil Mining Leases as set out in Schedule 1
6. For revising Oil Mining Leases on behalf of Lessee	One-half of the Preparation Fee

7. For preparing Discharge of Mortgage or Charge, the following scale of charges shall be applicable:

<i>Amount secured</i>	<i>Scale of Charges</i>
Not exceeding \$25,000.00 ...	\$125.00
Exceeding \$25,000.00 ...	\$125.00 for the first \$25,000.00 of the amount secured plus \$10.00 for every \$5,000.00 or part thereof of the amount secured in excess of \$25,000.00 subject to a maximum charge of \$2,500.00

8. For revising Discharge of Mortgage or Charge, one-fourth of the preparation fee shall be charged subject to a maximum fee of \$750.00.

9. For the following conveyancing transactions not otherwise specified in items 1 to 8, the following charges shall be applicable:

(a) *Agreement for Lease:*

The same scale of charges as for an Ordinary Lease set out in Schedule 1.

(b) *Assent:*

One-half of the scale fee for Transfers shall be charged but calculated on the value of the property comprised therein.

(c) *Caveats:*

Preparing	\$150.00
Withdrawing	\$150.00.

(d) *Collateral Mortgage or Charge:*

Where another Debenture or Mortgage is taken as the primary security, the scale fee as for Mortgages or Charges calculated on the amount secured shall be charged on the primary security as if the mortgaged property were included therein, and an additional fee not exceeding \$1,500.00 on the Collateral Mortgage. Where the primary security has already been taken, one-half of the scale fee for Mortgages, calculated on the principal amount secured shall be charged on the Collateral Mortgage, calculated on the principal moneys secured by the primary security, but with a maximum fee of \$1,500.00.

(e) *Disbursements:*

These costs shall be charged in the same manner as set out in Schedule 1.

(f) *Discharge (Partial):*

The scale fee for Discharges shall be charge, but calculated on the consideration for which the Discharge is given. If no consideration is stated in the Memorandum of Discharge, such fee shall be calculated on the estimated value of the property being discharged, or by reference to the matters set out in Schedule 3.

(g) *Further Mortgage or Charge to secure further advances:*

The full scale fee as for Mortgages or Charges as set out in item 1 or 2, as the case may be, shall be charged, but calculated on the amount of the further advance secured by the Further Mortgage or Charge.

(h) *Lease where premium is paid in addition to rent:*

In addition to scale fee chargeable for an Ordinary Lease as set out in Schedule 1, calculated on the annual rent reserved a further sum equal to the scale fee as for a Transfer as set out in item 1 or 2, as the case may be, shall be charged, but calculated on the amount of the premium as the consideration.

(i) *Lease under 3 years:*

The fee charged shall be calculated by reference to the matters set out in Schedule 3, provided that the fee shall not exceed the amount that would be chargeable for an ordinary lease for a term over three years as set out in Schedule 1.

(j) *Mortgage or Charge to secure overdraft on current account or where no principal sum is specified in the Mortgage Deed:*

(i) *Initial Stamping:*

The scale fee as for Mortgages as set out in item 1 or, as the case may be, shall be charged but calculated on the amount which the mortgage or charge is stamped to cover, being the amount secured.

(ii) *Subsequent Upstamping to secure further advances:*

The scale fee as for Mortgages as set out in item 1 or 2, as the case may be, shall be charged but calculated on the total amount which the Mortgage or Charge is to secure after upstamping less the scale fee for Mortgages or Charges already charged on the amount which the Mortgage or Charge was stamped to cover prior to the upstamping.

(k) *Revision Fees:*

Except as is specified in these Rules, a fee of one-third of the preparation fee shall be charged for revising any instrument under the Real Property Ordinance on behalf of an interested party.

(l) *Tenancy Agreement:*

The same scale of fees as for Leases shall be charged.

(m) *Transfer of lease:*

The same scale fees for Transfers as set out in item 1 or 2, as the case may be, shall be charged.

(n) *Transfer of Mortgage or Charge:*

The scale fee for Transfers as set out in item 1 or 2, as the case may be, shall be charged, but calculated on the mortgage debt being assigned and not on the amount of the original loan or the consideration of the transfer.

(o) *Variation of Lease or Mortgage—Memorandum of:*

Such fee as is just and equitable having regard to the matters set out in Schedule 3.

SCHEDULE 3

[Rule 2(c)]

In any other conveyancing transaction not specifically provided for in Schedule 1 or 2, an Attorney-at-law shall be entitled to charge such sum as may be fair and reasonable having regard to all the circumstances of the case and in particular having regard to:

- (a) the complexity of the matter or the difficulty or novelty of the question raised;
- (b) the skill, labour, specialized knowledge and responsibility involved on the part of the Attorney-at-law;
- (c) the number and importance of the documents prepared without regard to length;
- (d) the place where and circumstances in which the business or any part thereof is transacted;
- (e) the time expended by the Attorney-at-law;
- (f) where money or property is involved, its amount or value; and
- (g) the importance of the matter to the client.

SCHEDULE 4

[Rule 2(d)]

WILLS AND PROBATE

1. The following scale of charges shall be applicable for preparing applications for Probate or Letters of Administration in common form and for all preliminary work done in connection therewith, including searches at the Depository of Wills of living persons and the Probate Registry, the taking of instructions and preparation of an inventory of estate and attendance to obtain or reseal a Grant:

<i>Value of estate</i>	<i>Scale of Charges</i>
(a) Not exceeding \$10,000.00	Five per cent of such value with a minimum fee of \$500.00
(b) Exceeding \$10,000.00 and not exceeding \$250,000.00	Five per cent on the first \$10,000.00 of such value and three per cent on the excess beyond \$10,000.00
(c) Exceeding \$250,000.00	The same fee chargeable if the value of the Estate were \$250,000.00 plus one per cent on the excess beyond \$250,000.00

2. The above scale of charges shall also apply in the case of—

- (a) applications for Double or *cessate* Probate and *de bonis non*; and
- (b) applications for the sealing or resealing of Probates.

3. Fees for the administration of an estate including the calling in and distribution of same in accordance with the directions and provisions in a will or in accordance with the laws upon intestacy shall be fair and reasonable and shall be determined in accordance with the matters set out in Schedule 3.

Made this 25th day of April, 1997.

S. DALY
President,
The Law Association of Trinidad and Tobago

D. GURLEY
Secretary,
The Law Association of Trinidad and Tobago

Approved by the Chief Justice this 25th day of April , 1997.

M. DE LA BASTIDE
Chief Justice

Approved by the Minister this 25th day of April, 1997.

K. PERSAD-BISSESSAR
Minister of Legal Affairs