

L.N. 121 of 1996

**CODE OF ORGANIZATION AND CIVIL PROCEDURE
(CAP. 12)**

**Code of Organization and Civil Procedure (Schedule A)
(Amendment) Regulations, 1996**

IN exercise of the powers conferred by section 1004 of the Code of Organization and Civil Procedure, the Minister of Justice and the Arts, with the concurrence of the Minister of Finance, has made the following regulations:—

Citation.

1. These regulations may be cited as the Code of Organization and Civil Procedure (Schedule A) (Amendment) Regulations, 1996 and shall be read and construed as one with Schedule A annexed to the Code of Organization and Civil Procedure, hereinafter referred to as “Schedule A”.

Transitory provision.

2. The fees fixed by virtue of these regulations shall, after their coming into force, apply to any judicial or extra-judicial work carried out and to any act filed in any Court, tribunal, board or any other adjudicating authority in Malta, unless otherwise provided for by law. The provisions of Tariffs E, F and J as in force prior to the enactment of these regulations shall continue to apply in respect of any judicial or extra-judicial work done before the coming into force of these regulations. Judgements delivered after the coming into force of these regulations in causes commenced before such coming into force shall, in respect of the fee due to an Advocate or a Legal Procurator for every definitive judgement, be taxed in accordance with the fees hereby established.

Substitutes Tariffs E, F, J and L of Schedule A.

3. For Tariffs E, F, J and L of Schedule A there shall be substituted the tariffs appearing in the First Schedule to these regulations:

FIRST SCHEDULE

(Regulation 3)

TARIFF E

**Fees payable to Advocates, Legal Procurators and
Official Curators**

	Lm c
1. (a) For each note of acceptance of banns and for each protest against the sufficiency of a bail for costs, even if such protest is not filed separately.....	5.00

	Lm c
(b) For each note required to be filed under the provisions of the Commercial Code Cap. 13...	5.00
(c) For every note of submissions filed in any court.....from	20.00
to	100.00
2. (a) For each application for summoning of witnesses	3.00
(b) For each application for sale of immovables (including research in the Public Registry, the ordering of certificates of hypothec, and perusal of relative deeds).....from	10.00
to	30.00
(c) For any other application.....from	5.00
to	25.00
(d) For any application filed after office hours or on a Sunday or public holiday, there shall be taxed an additional fee of.....	25.00
3. For each application filed in the Court of Voluntary Jurisdiction:	
(i) if it concerns the admission of minors to an industrial school or to an approved school.....	3.00
(ii) if it concerns the candidature in a marriage legacy or the renewal of an authorisation previously given, or the taxing of fees.....	5.00
(iii) in all other cases (including notes of acceptance or waiver of an inheritance).....	10.00
Provided that an additional fee shall be taxed when the drawing up of the application, and/or the preparation and/or the filing of the relative documents, entails more work than is ordinarily required.	
4. For each attendance during sittings before the Court of Voluntary Jurisdiction.....	10.00

	Lm c
5. (a) For each lodgement schedule, even if such lodgement is made with or following a schedule of redemption:	
(i) when the value does not exceed Lm200.....	5.00
(ii) when the value exceeds Lm200 the fee shall be increased by one per centum (1%) for every additional Lm100 or part thereof;	
(b) For each schedule of set-off or redemption:	
(i) when the value does not exceed Lm200.....	5.00
(ii) when the value exceeds Lm200 the fee shall be increased by one per centum (1%) for every additional Lm100 or part thereof.	
These fees are inclusive of advice concerning the right of claim, set-off, or the exercise of redemption.	
6. (a) For the drafting of a judicial letter, whether filed or not.....	6.00
(b) For the drafting of a judicial protest, whether filed or not.....	10.00
(c) For the drafting of an affidavit.....from to	2.00 15.00
7. For the drafting of each hypothecary protest...	10.00
Provided that a fee shall be assessed for the perusal of entries of hypothec and of relative deeds, taking into consideration the number of entries and deeds perused , their importance and/or the amount involved.....from to	
	10.00 30.00

Lm c

8. For every attendance, before a referee, before a Supplementary Judge, or a Judicial Assistant and for every attendance at an inspection *in faciem loci*, whether ordered by the Court or required by the client:

(i) if the attendance does not last more than one hour and a half..... 10.00

(ii) if it lasts more than one hour and a half, and provided this circumstance is expressly noted in a *procès-verbal* signed by the referee, the Supplementary Judge or the Deputy Registrar, as the case may be, the fee shall be increased by Lm10 in respect of each additional hour or part thereof.

9. When the attendance referred to at paragraph 8 takes place outside Valletta the fee shall be..... 12.00

10. If the attendance referred to in the last preceding paragraph lasts more than one hour and a half, and provided this circumstance is expressly noted in a *procès-verbal* signed by the referee, the Supplementary Judge or the Deputy Registrar, as the case may be, the fee shall be increased by Lm10 in respect of each additional hour or part thereof.

11. (1) For drafting or perusal of a deed for publication by a Notary Public, which includes fees due for advice, research into liabilities and transfers, tracing of root of immovables, and attendance at publication:

if the value of the interest concerned –

(i) does not exceed Lm200.....from 5.00
to 10.00

(ii) exceeds Lm200 but does not exceed Lm3,000, per Lm100 or part thereof..... 2.00

(iii) exceeds Lm3,000 but does not exceed Lm25,000, per Lm100 or part thereof in respect of such excess 1.00

(2) When, in connection with the drafting or perusal of a deed to be published by a Notary Public, an Advocate does not perform all the services referred to in sub-paragraph (1) of this paragraph, the fee therein established shall be assessed in proportion to the services performed unless the Advocate assumes the professional responsibility for the deed, in which case the fee established in that sub-paragraph shall be due.

Lm c

(3) If the value of the interest concerned exceeds Lm25,000 or if the value of the interest concerned is not expressed in money there shall be no Tariff.

12. To curators appointed to attend at publication of a deed on behalf of absentees or defaulters for attendance and for perusal of the deed, and to any person who in virtue of a right vested in him by the Court in terms of the Merchant Shipping Act, Cap. 234, transfers any ship or share thereinfrom 30.00
to 250.00

13. For each definitive judgement:

(i) in respect of the first Lm500 or part thereof..... 20.00
minimum
or 10%
whichever
is the
greater.

(ii) in respect of any value in excess of the first Lm500 up to Lm10,000 per Lm100... 3.00

(iii) in respect of any value in excess of Lm10,000 per Lm100..... 1.00

Provided that in respect of the claims referred to in No. 7(b) of Tariff A, the fee shall be taxed on one-half of the maximum fixed by law for the penalty contemplated therein.

14. When a declaration containing a decision of any point of law or of fact concerns a value determinate or determinable according to law or from the records of the proceedings, the fee in respect of that decision shall

Lm c

be taxed in accordance with paragraph 13, on the value so determined.

15. (a) For any other necessary declaration containing the decision of any point of law or of fact.....from 10.00
to 100.00

(b) For each definitive judgement in a cause for a remedy under Chapter IV of the Constitution or under Chapter 319 or where the annulment of an administrative act is demanded in terms of contestation of section 469A of Chapter 12, or for the contestation of a claim in terms of section 466 of Chapter 12, or for the contestation of a seizure under Chapter 37, or for the payment or refund of a tax, levy or dutyfrom 20.00
to 300.00

16. In causes for the partition of property, independently of the number of demands contained in the writ of summons there shall be taxed only one fee *ad valorem* as in paragraph 13 on the greater sum between the assets and the liabilities of the property to be divided – provided that in causes of partition of property *causa mortis* such fee shall be taxed on the value established as above of each particular estate to be divided between the parties, saving that such fee shall in no case be less than..... 50.00

17. In causes for the partition of property where the partition of all property involved cannot be carried out except by way of licitation, provided that such a demand is made in the writ of summons and upheld in the final judgement, the fees due to each Advocate in the cause shall be taxed at the rate of one per centum (1%) on the value of the property in licitation provided that in no case shall such fee be more than that assessed according to paragraph 13 or less than..... 50.00

18. In actions respecting the payment of annuities, allowances and the like, if the amounts be indeterminate the fees shall be taxed as provided in paragraph 13 on the amount awarded in the final judgment, provided that in no case shall such fee be less than..... 50.00,0

Lm c

19. In actions of maintenance the fee shall be one-half per centum ($1/2\%$) on the amount of maintenance payable under the judgement for a period of ten years, provided that if the order refers to provisional maintenance the fee shall be.....from 5.00
to 15.00

20. In actions of filiation, in other actions concerning the status of individuals and in actions relating to the separation of married persons irrespective of the number of declarations involved, but saving the fee in respect of any decision on any point of law or of fact which concerns a value determinate or determinable, there shall be allowed a fee.....from 35.00
to 75.00

21. In actions relating to the ranking of creditors the minimum fee shall be..... 50.00

Provided that –

(i) when there is contestation of the claim either as to the amount or as to ranking the fee shall be as at paragraph 13;

(ii) where there is admission of the claim, but such claim does not result from a previous executive title, the fee shall be as at paragraphs 28, 29, 30 and 31, as the case may be.

22. To the advocate of the party making the lodgement there shall be allowed the fee of 10.00

But if there be contestation as to the amount lodged, the provisions contained in paragraph 13 shall apply.

23. In bankruptcy or insolvency proceedings, where there is no contestation concerning the proof of a claim, the fee in respect of that proof of a claim shall be that established for a declaration.

24. In any other action of adjudication upon competing claims, referred to in section 428 of the Code of Organization and Civil Procedure, Cap. 12, there shall be taxed a fee as provided in paragraphs 13, 18 and 36.

Lm c

25. In causes concerning the validity of a redemption or the implementation of a promise of conveyance, the value in the cause for purposes at paragraph 13 shall be the value of the property redeemed or of which the conveyance was promised.

26. For each decree in the cause.....from 5.00
to 50.00

27. In case of judgment of non-suit, if the judgment is given on pleas touching the principal merits of the cause, there shall be allowed to the Advocate the fee established in paragraph 13; in any other case one-half of the fee aforesaid shall be allowed.

28. Where a cause is discontinued in first or in second instance:

(i) after the writ of summons or the application has been filed, there shall be allowed to the Advocate of the plaintiff one-third of the fee established in paragraph 13 when the cause is taxable *ad valorem*;

(ii) after the statement of defence or the answer has been drafted, there shall be allowed to the Advocate of the defendant one-third of the fee established at paragraph 13 when the cause is taxable *ad valorem*.

29. In case of compromise or discontinuance at any other stage of the proceedings subsequent to contestation but prior to the hearing of the cause, or in case of admission at any stage prior to the commencement of the hearing, there shall be allowed one-half of the fees established at paragraph 13 when the cause is taxable *ad valorem*.

30. If the compromise or discontinuance or admission takes place after commencement of the hearing of the cause, two-thirds of the fee established in paragraph 13 shall be allowed when the cause is taxable *ad valorem*.

31. If the compromise or discontinuance or admission takes place after the cause has been adjourned for judgment, the whole fee established in paragraph 13 shall be allowed, when the cause is taxable *ad valorem*.

32. (a) If more than one Advocate is briefed by the same party in the same action, each of the Advocates shall be entitled to the whole of the established fee:

Provided that the party in whose favour the head of costs is decided, although he may have briefed more than one Advocate, shall not be entitled to claim from the party cast more than one whole fee.

(b) Where there are two or more plaintiffs or two or more defendants to a suit, each of the parties is entitled to have his own Advocate or Advocates even if the merit is similar in respect of all the plaintiffs or in respect of all the defendants; and the party ordered to pay the costs shall be bound to pay the proper fees of all the Advocates on the prevailing side so long as no one party claims costs in respect of more than one Advocate.

33. If an Advocate abandons or is abandoned by his client:

(i) after the application, the writ of summons, the statement of defence or the answer has been filed, he shall be entitled to one-third of the normal fee;

(ii) after the above stages but before the cause has been adjourned for judgement, he shall be entitled to two-thirds of the normal fee.

34. The fee due to an Advocate whose services have been engaged after the former one has been abandoned by or has abandoned his client before the cause is concluded shall be equal to the difference between the full fee and fee taxed to the former Advocate. The fee due to a third and subsequent Advocate shall always be one-third of the full fee.

Lm c

35. In every case covered by paragraphs 33 and 34, the party engaging the services of more than one Advocate, one after the other, who happens to be on the prevailing side, cannot claim from the party cast more than one whole fee.

36. The fees due to Advocates in connection with professional services requiring written pleadings, other than those referred to in paragraph 6, if such pleadings have been prepared but not filed shall be those established in paragraph 15.

37. In connection with professional services at paragraphs 13, 14, 27 to 31, 33 and 34 the minimum fee shall be Lm20.

38. On appeal the fees laid down in paragraphs 13 to 36 inclusive, shall be increased by one-third.

39. In regard to causes before the Court of Magistrates (Gozo) in its superior jurisdiction, there shall be taxed the same fees established in respect of causes before the Superior Courts and the provisions contained in paragraph 38 of this Tariff shall also apply.

40. Legal Procurators shall receive one-third of the fees established by this Tariff for Advocates as regards those judicial acts which bear their signature together with that of an Advocate, and as regards services at paragraphs 7 and 8. No fees however are taxable to them for any of the services mentioned under the proviso to paragraph 3. For those judicial acts which do not require also the signature of an Advocate and which are signed only by a Legal Procurator, the fee shall be as that due to an Advocate.

41. (a) The fees of official curators shall be those established in this Tariff.

(b) Official curators when served with a copy of a judicial act, in connection with which they are not expected to file any written pleading, shall be entitled to the same fee due to an Advocate and Legal Procurator for the same judicial act.

Lm c

42. An additional fee of Lm25 shall be taxed for every attendance, when an Advocate is required to appear before any Superior Court for any pleadings at an hour when the Registry is ordinarily closed.

43. Advocates and Legal Procurators, when required to appear before the Court of Magistrates (Malta), or before the Court of Magistrates (Gozo) in its inferior jurisdiction, shall be entitled to the following fees:

(a) For every decision of any point of law or of fact contained in a judgement:

where the amount in issue does not exceed Lm500	20.00
	or 10%
	which-
	ever is the
	greater
in respect of any value in excess of Lm500, per Lm100	3.00

(b) Where the cause is admitted, compromised or discontinued at any stage of the proceedings the provisions of paragraphs 28 to 31 shall apply.

(c) For the drawing up of a writ of summons or notice, the filing of which has not taken place ... 10.00

(d) For each subpoena and relative application 3.00

(e) For every warrant, counter-warrant, application or note of consent 5.00

(f) For each lodgement schedule:

where the value does not exceed Lm200 5.00

where the value exceeds Lm200 but not Lm1,000 an additional fee of 1% of the excess shall be paid.

	Lm c
(g) For a note of registration of a judgment or of any other executive title	5.00
(h) For each attendance before a referee, a Judicial Assistant or Supplementary Magistrate and for each attendance <i>in faciem loci</i>	10.00
(i) For each attendance before a Court required for the hearing of a cause at an hour when the Registry is ordinarily closed but not during an ordinary sitting, or on a Sunday or public holiday, in addition to the fees mentioned in this paragraph, an additional fee of Lm10 shall be taxed in respect of each attendance.	
44. (a) Fees taxable to Advocates who are appointed as Legal Referees for each opinion dealt with in the report shall be up to a maximum of Lm50 for each legal point decided. Any calculation or computation of an amount to be awarded as damages or compensation by the Courts shall be deemed to be an opinion, and the maximum fee taxable for such an opinion shall be Lm100. The criterion shall be that of the work involved and never the amount assessed by the Legal Referee.	
(b) The above fees shall also apply to Advocates who are appointed to report to the Court of Voluntary Jurisdiction and for the revision of accounts rendered.	
45. For every copy required to be filed with the original, for service as laid down in subsection (3) of section 174 of the Code of Organization and Civil Procedure	2.00
46. In every case where a fluctuating fee is indicated in this Tariff by a minimum and a maximum, the fee payable in a particular instance shall be established by the Registrar, according to the criteria set out in the Code of Ethics and Conduct for Advocates:	

Provided that in the taxation of fees due to any lawyer who has rendered professional services to a person admitted to the benefit of legal aid the fee shall always be assessed at the minimum:

Provided further that all such fees so assessed shall be subject to revision by the competent Court at the instance of any person interested in accordance with the provisions of section 64 of the Code of Organization and Civil Procedure.

47. (a) The foregoing provisions of this Tariff shall not apply, as between an Advocate or a Legal Procurator and his client, where a fee, or the basis on which the fee is to be determined is agreed between them which is different from that established by this Tariff, and in any such case the agreed fee or basis for determining it, not being a basis prohibited by law, shall apply, subject to the provisions of the following sub-paragraphs.

(b) Nothing contained in sub-paragraph (a) of this paragraph shall affect the taxing of fees as between the parties to judicial acts or proceedings or in respect of any extra-judicial work by Advocates or Legal Procurators to be paid by the other party, which shall be regulated exclusively in accordance with the foregoing paragraphs of this Tariff.

(c) Notwithstanding sub-paragraph (a) of this paragraph it shall not be lawful for any Advocate to fix by agreement his fees in an amount higher or lower than those fixed in this Tariff in respect of any matters arising under Chapter IV of the Constitution, Book First of Cap. 16, Cap. 5, Cap. 255 and Cap. 319 of the Laws of Malta; and in respect of deeds for the transfer of immovable property where the value does not exceed Lm25,000.

(d) A fee charged by an advocate under an agreement as is mentioned in sub-paragraph (a) of this paragraph shall be subject to review by the Committee for Advocates and Legal Procurators

Lm c

established by the Commission for the Administration of Justice Act, 1994 on the request of the client filed within one month from the date of the agreement.

(e) The said Committee may reduce the fee charged as aforesaid if, in the light of the relative criteria stipulated in the respective Codes of Ethics and Conduct for Advocates and for Legal Procurators, the Committee considers the fee to be unreasonable.

(f) For the purposes of this paragraph, an agreement concerning fees shall be in writing.

48. (a) A fee charged by an Advocate or a Legal Procurator in respect of any matter not covered by this tariff shall be subject to review by the Committee for Advocates and Legal Procurators on the request of the client filed within one month from the date of the agreement or, if there is no agreement, from the date of the Advocate's or Legal Procurator's note of fees.

(b) The said Committee may reduce the fee charged as aforesaid if, in the light of the relative criteria stipulated in the respective Codes of Ethics and Conduct for Advocates and for Legal Procurators, the Committee considers the fee to be unreasonable.

TARIFF F

**Fees allowed to Supplementary Judges and
Supplementary Magistrates**

Lm c

1. (a) For examining witnesses, taking answers on a reference to oath, for each sitting	10.00
(b) For attendance at the publication of a deed	10.00

	Lm c
(c) If, for any reason whatsoever, the sitting does not take place or the deed is not published, a fee is due for the simple attendance on the spot, of	8.00
(d) If the sitting lasts more than two hours and provided that the circumstance is expressly noted in the <i>procès-verbal</i> signed by the Supplementary Judge or Supplementary Magistrate, the fee shall be increased by Lm5 for every hour or part thereof.	
(e) If a Supplementary Judge or a Supplementary Magistrate besides attending at the publication of a notarial deed has to peruse the said deed upon an order of the Court, he shall have the right to an additional fee of from	10.00
to	50.00

Supplementary Judges and Supplementary Magistrates are not bound to make known the result of their work until the amount of their taxed fees has been paid or deposited.

TARIFF J

Fees payable in connection with sea-protests or proceedings concerning average

	Lm c
1. For the filing of any application regarding sea-protests or proceedings touching average	10.00
2. To the Advocate for any such application ...	25.00
3. Fees payable to the Judge Delegate:	
(i) if the sea-protest takes place between 9.00 a.m. and 4.00 p.m.....	25.00
(ii) if it takes place outside those hours.....	50.00

Each of the said fees shall be increased by Lm5 for every half hour or fraction thereof if the sitting lasts more than two hours.

	Lm c
4. (a) To the Deputy Registrar when the sea-protest takes place in whole or in part out of office hours	5.00
If the sitting lasts more than two hours the said fee shall be increased by Lm2 for every half hour or part thereof.	
(b) To the Clerk or other person so acting for transcribing the sea-protest and depositions, for every page or part thereof.....	0.30
(c) To the Messenger when the sea-protest takes place in whole or in part out of office hours	4.00
If the sitting continues after 4.00 p.m. the fee due to Messengers shall be increased by Lm2 for every half hour or part thereof.	
5. To the Advocate for examining any report touching average or for assisting in the drawing up of a sea-protest	50.00
6. Registry fees for the filing of any report touching average	10.00
7. To the Interpreter there shall be paid a fee of from	5.00
to	25.00
8. When the sea-protest is drawn up on board a ship or at the Quarantine Office or on a public holiday, to the above fees shall be added:	
To the Judge Delegate	25.00
To the Deputy Registrar	6.00
To the Clerk	5.00
To the Messenger	4.00
To the Advocate	25.00
To the Interpreter	10.00

Lm c

- Notes: (a) The sea-protest shall be drawn up in English;
- (b) An Interpreter shall be employed when the declaration is made or the evidence given in a language with which the Judge Delegate is not conversant.

TARIFF L

Fees payable in respect of proceedings under section 257 of the Civil Code, Cap. 16

	Lm c
Registry fee for the filing of any application or note	2.00
For sub-poena of witness — for each witness	0.15
For every copy of any application or note – for every page	0.25
To the Advocate or Legal Procurator – for any application or note	3.00
For other services in connection with these proceedings	from 3.00
	to 10.00.