

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 2,478 of 9th February, 1989

LEGAL NOTICE NO. 10 OF 1989.

COURT OF FIRST INSTANCE ACT.

COURT OF FIRST INSTANCE (FEES) (AMENDMENT) RULES, 1989.

In exercise of the powers conferred on him by section 26 of the Court of First Instance Act and all other enabling powers, the Chief Justice has made the following rules.

Title and commencement.

1. These rules may be cited as the Court of First Instance (Fees) (Amendment) Rules 1989 and shall come into operation on 1 March 1989.

New schedule.

2. Schedule 1 to the Court of First Instance Rules is deleted and the following Schedule is substituted therefor –

"SCHEDULE 1

Rule 12 FEES TO BE TAKEN AND ALLOWED ON TAXATION IN THE COURT OF FIRST INSTANCE.

I.-GENERAL.

1. The fees prescribed under this heading are payable, whenever applicable, in all actions and matters in the court except where special provision is made under another heading in this Schedule, in which case the latter shall prevail.

2. The fee payable on entering a plaint, or any other originating process includes-

- (a) the examination and filing of the praecipe or application;
- (b) the preparation and issue of any summons or notice of hearing;
- (c) the service by the court of the summons, or application;

- (d) the examination and filing of the praecipe or application or summons and the drawing, entering, sealing and issue of the judgment or order given or made thereon.

3. Where a claim, counterclaim or originating application is amended and the fees paid before amendment are less than those which would have been payable if the document as amended had been so drawn in the first instance, the party amending the document or counterclaiming shall pay the difference.

1. Commencement of Proceedings

(i) On entering a plaint	For every £ 1 or part thereof claimed
(a) for the recovery of a sum of money or the delivery of goods or the recovery of land.	10p Minimum fee payable £5 Maximum fee payable £20

1. (i)

- Note 1: For recovery of land fee shall be based on the half-yearly rent, or, if no rent is reserved, of the half-yearly value as assessed by the Clerk.
- Note 2: Where a sum of money is claimed in addition to the recovery of land, a single fee is payable on the aggregate.
- Note 3: On a claim for delivery of goods it shall be the duty of the plaintiff to estimate the value of the goods the amount so estimated shall be entered in the request. If the value subsequently appears to the court to have been underestimated the fee shall be adjusted accordingly.
- Note 4: Where a sum of money is claimed as an alternative to a claim for another sum of money or to the delivery of goods this fee is to be calculated on the greater sum of money or the value of the goods whichever is the greater,
- Note 5: Where a sum of money is claimed (whether by way of interest or otherwise) in addition to another sum of money or to the delivery of goods, then for the purpose of calculating this fee the additional sum is to be added to the sum on which this fee would otherwise be calculated.
- Note 6: Where the action is brought against a person to whom the goods have been supplied under a hire purchase agreement and/or against a guarantor of such person, this fee shall be calculated on the unpaid balance of the hire -purchase price.

(ii) On the commencement of proceedings for any other remedy or relief whether by plaint, originating application, notice of application, petition, appeal or otherwise. £10

1. (ii)

Note 1 Where such a claim is joined with a claim for a sum of money then this fee or Fee No. 1(i) calculated on the sum of money claimed is payable whichever is the greater.

Note 2 Where two or more such claims are joined in the same proceedings the maximum fee payable is f20. On delivery of a counter-claim which exceeds the amount of the claim there shall be paid the amount by which the fee calculated on the amount of the counter-claim exceeds the fee paid by the plaintiff or applicant.

(iii) On the issue of

(a) a second or subsequent successive summons.

(b) a second or subsequent £ 10 successive originating application.

1. (iii)

Note Where the fee on entering the original plaint is less than £10.00 that fee shall be paid instead of Fee No. 1 (iii).

2. SERVICE

On request for service by Bailiff of any document except:

(a) An order for the debtors attendance at an adjourned hearing of a Judgment summons

(b) An interpleader summons under an execution

(c) An order made for the further attendance of a judgement debtor. £5

2. FEE No. 2 is payable in respect of each person to be served, but in respect of a document not requiring personal service only one fee is payable in respect of two or more persons to be served at the same address. THIS FEE IS NOT PAYABLE when service is to be effected by the solicitor or his agents.

3. TAXATION

(i) On the taxation of costs or expenses. For every £1 or part thereof allowed, 5p

3. (i) No fee is payable where costs are allowed without taxation.

(ii) On an application to the judge to review a taxation £5

3. (ii) The Clerk may in any case before taxation require a deposit of the amount of fees which would be payable if the bill or the expenses were allowed by him at the full amount thereof.

This fee is not payable if, in an action by a solicitor for costs, the judge refers the bill to the Registrar.

4. ENFORCEMENT

On an application for enforcement of a judgment of court or through the court;

(i) By the issue of a warrant of delivery or of execution against goods except a warrant to enforce payment of a court fee or an order for payment of a fine.

For every £1 or part thereof of the amount for which the warrant issues, 15p
Minimum fee £5
Maximum fee £20

4. (i) a warrant of delivery (a) the maximum fee is payable unless the value is stated in the judgment or in

the request and in that case the fee is to be calculated on that value or the greater value if more than one. (b) Where a sum of money is claimed in addition (whether by way of interest or otherwise) then, for the purpose of calculating this fee the sum of money is to be added to the sum on which the fee would otherwise be calculated. £5

(ii) By the issue of a warrant of committal.

(iii) By an application for an order for the attendance of a judgment debtor or any other person for oral examination of debtor or for the examination of debtor under judgment not for money. £5

(iv) By entering garnishee proceedings. £10

(v) By the issue of a warrant of possession. £15

4. (v) Where the recovery of a sum of money, other than this fee, is sought in addition, the appropriate fee under Fee 4(i) is also payable.

(vi) By an application for an order charging the land or securities of a judgment debtor £10

(vii) By the issue of a judgment summons. For every £1 or part thereof of the amount for which the summons issues 10p Minimum fee £5 Maximum fee £10

(viii) An application for issue of a warrant of attachment. £5

5. SALE

(i) For removing or taking steps to remove goods to a place of deposit and while under custody. The reasonable expenses thereof

5. (i) This fee to include the reasonable expenses of feeding and caring for any animals.

(ii) By public auction on sale, or on preparation for a sale, by auction, for advertising, publicity, and labour employed in removing the goods to the place of sale or in lotting or shewing the goods, or in attending the sale or in superintending the removal of the goods by purchasers. The reasonable expenses thereof

(iii) For the appraisalment of goods. 5p in the £ of the appraised value

(iv) For the sale of goods (including advertisements catalogues, sale and commission and delivery of goods). 15p in the £ on the amount realised by the sale or such other sum as the Clerk may consider to be justified in the circumstances having regard to the remuneration for auctioneers prescribed from time to time by law

(v) Where no sale takes place by reason of an execution being withdrawn satisfied or stopped.

(a) 10p in the £1 on the value of the goods seized, the value to be the appraised value where the goods have been appraised or such other sum as the Clerk may consider to be justified in the circumstances and in addition;

(b) any sum payable under Fee 5(i), (ii) or (iii)

6. WITNESSES

(i) On the examination of a witness or witnesses before the Registrar of the Supreme Court or the Clerk, for £5 every hour or part thereof.

6. Each of the fees prescribed under this sub-heading shall include the taking, examination and filing of any affidavits.

(ii) On an application with or without subpoena for an officer of the Court to attend as a witness, or to produce records or documents to be given in evidence, for each day or part of a day when he is necessarily absent from his office. £12

7. APPLICATIONS FOR A NEW TRIAL, SETTING ASIDE, APPEAL, ETC (i) On an application for a new trial, or to set aside a judgment or order or proceedings, or to stay execution. £5

7 (i) This fee is not payable on an application to set aside a judgment or order given or made in the absence of the defendant to a claim or to a counterclaim and to set aside or to stay execution thereon and for a new trial, if made during the sitting of the Court on the day on which the judgment or order was given or made.

(ii) On an application to reinstate proceedings which have been struck out due to the non-appearance of the plaintiff. £5

(ii) The fee is not payable if the application is made during the sitting of the Court on the day on which the proceedings were struck out.

(iii) On giving notice of appeal including preparation of record for an appeal to the Supreme Court. £15

(iii) Includes the cost of all necessary copies.

8. TRANSLATION
For translation by an officer of the

Court of an affidavit into the Spanish
language £5

8. Per each side of A4 paper or part thereof.

9. SEARCHES, CERTIFICATES,
COPIES AND DUPLICATES

(i) On any search, including
inspection. £1

(ii) For a copy of any document or
part of a document, for each
xerographic sheet

(a) not exceeding in size 22x33cms 25p

(b) of any larger dimension 50p

(c) For certifying copy under seal of
the court £2

(d) For marking as office copy £1

9. (ii) Upon request for typed or carbon copies the reasonable expenses
thereof.

10. REFERENCES AND
ACCOUNTS

On a reference to the Registrar of
The Supreme Court or to the clerk or £5
on the taking of an account by such
Registrar or Clerk for every hour or
part thereof.

10. This fee shall include the certificate of the result.

Dated this 9th day of February, 1989.

A. A. KNELLER,

Chief Justice.