REPORT OF
THE COMMITTEE
ESTABLISHED TO REVIEW THE
ATTORNEYS-AT-LAW (REMUNERATION)
(NON-CONTENTIOUS BUSINESS)
RULES, 1997

AND MAKE PROPOSALS FOR THEIR
REFORM

11 JUNE 2017
1. INTRODUCTION

The Attorneys-at-Law (Remuneration) (Non-Contentious Business) Rules, 1997 (made under the Legal Profession Act) govern the prescribed fees for conveyances and applications for Probate/Letters of Administration.

The rules were made and published on the 25 April 1997, some 20 years ago. They are now out of sync with actual property values and have been affected by inflation, the rising costs of running a practice and the risks of conveyancing fraud.

The prescribed fees for obtaining grants of representation are also not commensurate with the amount and type of work required in the current practice.

Furthermore, with the introduction of FIU requirements, the onerous paperwork, time and due-diligence required for non-contentious transactions represent an added cost which could not have been foreseen when the rules were drafted.

2. MANDATE OF THE COMMITTEE

The committee was established to review the rules and to make proposals for their reform to Council, having regard to all relevant considerations including (but not limited) to the:

(a) current range of property values
(b) effects of inflation since 1997
(c) current costs of operating a legal practice
(d) incidents of conveyancing fraud
(e) FIU requirements
(f) current challenges facing the Probate Registry
(g) anti-competitive provisions.

The Committee comprises the following: Mr. Darrell Allahar (Convenor), Mrs. Joan Byrne, Ms. Tara Allum, Mr. Herman Bolai, Mrs. Nisha Mathura-Allahar, Ms. Rionne Boyke, Mrs. Patricia Dindyal, Ms. Bijili Lalla, Mr. Paul Vilain and Mr. Ajay Baball (who kindly agreed to perform the function of recorder).

3. THE PROPOSALS

The Committee, after due deliberation, offers the appended Draft Attorneys-at-Law (Remuneration) (Non-Contentious Business) (Amendment) Rules, 2017 for consideration of Council, together with the following proposals for amending the Code
of Ethics at Part B of the Third Schedule to the Legal Profession Act, aimed at enabling enforcement of the rules by the Disciplinary Committee:

"36. An Attorney-at-law shall not charge fees for a non-contentious transaction except those fees prescribed for that transaction by rules made under section 52.

37. An Attorney-at-law shall not charge fees for a non-contentious transaction in excess of the maximum fees prescribed for that transaction by rules made under section 52.

38. An Attorney-at-law shall not charge fees for a non-contentious transaction below the minimum fees prescribed for that transaction by rules made under section 52."

Respectfully submitted.

Dated this 11th day of June, 2017.

Darrell P. Allahar (Convenor)
Patricia Dindyal
Paul Vilain
Joan Byrne
Bijili Lalla
Nisha Mathura-Allahar
Tara Allum
Rionne Boyke
Herman Bolai
ATTORNEYS-AT-LAW (REMUNERATION) (NON-CONTENTIOUS BUSINESS) (AMENDMENT) RULES, 2017

made under section 52

1. These Rules may be cited as the Attorneys-at-Law (Remuneration) (Non-Contentious Business) (Amendment) Rules.

2. The maximum fees and where prescribed, the minimum fees permissible under these Rules shall be as follows:

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

(b) for conveyancing transactions under the Real Property Act, the charges specified in Schedule 2;

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

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

3. These Rules shall come into effect on the ___ day of ______, 2017.

SCHEDULE 1

COMMON LAW CONVEYANCING TRANSACTIONS

1. For preparing Conveyance or Mortgages:
   
   (a) Where title to real property comprised therein is investigated and deduced, the following scale of charges shall be applicable:

<table>
<thead>
<tr>
<th>Consideration or Amount Secured</th>
<th>Scale of Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not exceeding $500,000.00</td>
<td>A flat fee of $7,500.00</td>
</tr>
<tr>
<td>Exceeding $500,000.00</td>
<td>$7,500 plus one per cent of the consideration</td>
</tr>
</tbody>
</table>

   (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:

   Scale of Charges

   (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 the Purchaser or Mortgagee One-fourth of the above scale.
3. (1) For preparing Ordinary Leases for residential properties the following scale of charges shall be applicable:

<table>
<thead>
<tr>
<th>Amount of Annual Rent Reserved by Lease</th>
<th>Scale of Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where it does not exceed $120,000.00</td>
<td>A flat fee of $3,500.00</td>
</tr>
<tr>
<td>Where it exceeds $120,000.00</td>
<td>$3,500 plus two per cent on the excess of $120,000.00.</td>
</tr>
</tbody>
</table>

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 if annual rent reserved.

(2) For preparing Ordinary Leases for commercial properties the following scale of charges shall be applicable:

<table>
<thead>
<tr>
<th>Amount of Annual Rent Reserved by Lease</th>
<th>Scale of Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where it does not exceed $120,000.00</td>
<td>A flat fee of $7,500.00</td>
</tr>
<tr>
<td>Where it exceeds $120,000.00</td>
<td>$7,500 plus two per cent on the excess of $120,000.00.</td>
</tr>
</tbody>
</table>

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 if annual rent reserved.

4. Revising Ordinary Leases on behalf of Lessee for residential or commercial properties, as the case may be One-half of the preparation fee.
5. For preparing, settling and completing Oil Mining Leases the following scale of charges shall be applicable:

<table>
<thead>
<tr>
<th>Amount of Annual Rent Reserved by Lease</th>
<th>Scale of Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where it does not exceed $250.00</td>
<td>A flat fee of $3,500.00</td>
</tr>
<tr>
<td>Where it exceeds $250.00</td>
<td>$3,500 plus ten per cent on the excess of $250.00.</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Amount of Annual Rent Reserved by Lease</th>
<th>Scale of Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where it does not exceed $250.00</td>
<td>A flat fee of $3,500.00</td>
</tr>
<tr>
<td>Where it exceeds $250.00</td>
<td>$3,500 plus ten per cent on the excess of $250.00.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Amount Secured</th>
<th>Scale of Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not exceeding $300,000.00</td>
<td>A flat fee of $1,500.00</td>
</tr>
<tr>
<td>Where it exceeds $300,000.00</td>
<td>$1,500 plus one-half per cent on the excess of $300,000.00 subject to a maximum charge of $15,000.00.</td>
</tr>
</tbody>
</table>

8. For revising Release of Mortgage, Debenture or Charge, one-fourth of the preparation fee shall be chargeable.
9. For conveyancing transactions not otherwise specified in items 1 to 8, the following charges shall be applicable:

<table>
<thead>
<tr>
<th>Transaction</th>
<th>Remuneration</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Agreement for Lease</td>
<td>The same charge as for a Lease for a residential property or a Lease for a commercial property as the case may be.</td>
</tr>
<tr>
<td>(b) Agreement for Sale</td>
<td>The fee charged shall be calculated by reference to the matters set out in Schedule 3 with a minimum fee of $1,500.00 where unregistered and $2,500.00 where registered.</td>
</tr>
<tr>
<td>(c) Deed of Assent</td>
<td>The same charge as for a Conveyance but calculated on the value of the property comprised therein as at the date of death of the deceased as agreed between Attorney and client, and in default of such agreement, as determined by a Chartered Valuation Surveyor.</td>
</tr>
<tr>
<td>(d) Assignment of a Lease</td>
<td>The same charge as for a Conveyance</td>
</tr>
<tr>
<td>(e) Bill of Sale – Absolute</td>
<td>One-half percent of the amount secured with a minimum fee of $500.00</td>
</tr>
<tr>
<td>(f) Bill of Sale – Mortgage</td>
<td>One-half percent of the amount secured with a minimum fee of $500.00</td>
</tr>
<tr>
<td>(g) Bill of Sale – Memorandum of Satisfaction</td>
<td>$500.00</td>
</tr>
<tr>
<td>(h) Bill of Sale – Re-registration</td>
<td>$500.00</td>
</tr>
</tbody>
</table>

(i) 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 $5,000.00 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.

(j) **Conveyance and Mortgage:**
Where 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 the full scale fee for Mortgages shall be charged on the Mortgage, calculated on the principal amount secured.

(k) **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.

(l) **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.

(m) **Deed Poll on Change of Name:**
A fee shall be charged according to the amount of work involved, up to a maximum fee of $2,500.00.

(n) **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, complying with statutory and regulatory obligations (including anti money-laundering and stamp duty requirements for registration), travelling, photocopying, telephone, telefax, electronic correspondence and postage.

(o) **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.

(p) **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.
(q) **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.

(r) **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.

(s) **Negotiations:**

Such fees that are fair and reasonable in respect of negotiations in connection with a transaction by an Attorney-at-law on behalf of his client can be charged in addition to the scale fees and shall be determined in accordance with the matters set out in Schedule 3.

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

In addition to the scale fee chargeable for an Ordinary Lease for a residential or a commercial property as the case may be, 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.

(u) **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:** One percent of the further advances secured by the subsequent upstamping subject to a minimum fee of $1,500.00.

(v) **Partition – Deed of:**

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

(w) **Postponement – Deed of:**

A fee not exceeding $5,000.00 shall be charged.

(x) **Power of Attorney – Deed of:**

The fee charged shall be calculated by reference to the matters set out in Schedule 3 subject to a minimum fee of $2,500.00.
(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:
   Such fee as is just and equitable having regard to the matters set out in Schedule 3.

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SCHEDULE 2

FOR CONVEYANCING TRANSACTIONS UNDER THE REAL PROPERTY ACT

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

<table>
<thead>
<tr>
<th>Consideration or Amount Secured</th>
<th>Scale of Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not exceeding $500,000.00</td>
<td>A flat fee of $7,500.00</td>
</tr>
<tr>
<td>Exceeding $500,000.00</td>
<td>$7,500 plus one per cent of the consideration</td>
</tr>
</tbody>
</table>
2. For revising any Transfers, Mortgages and Charges set out in item 1 — One-half of the preparation fee.

3. For preparing Ordinary Leases for residential or commercial properties for any term — The same scale of charges as for Ordinary Leases for residential or commercial properties, as the case may be, as set out in Schedule 1.

4. For revising Ordinary Leases for residential or commercial properties 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, item 5.

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:

<table>
<thead>
<tr>
<th>Amount Secured</th>
<th>Scale of Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not exceeding $300,000.00</td>
<td>A flat fee of $1,500.00</td>
</tr>
<tr>
<td>Where it exceeds $300,000.00</td>
<td>$1,500 plus one-half per cent on the excess of $300,000.00 subject to a maximum charge of $15,000.00.</td>
</tr>
</tbody>
</table>

8. For revising Discharge of Mortgage or Charge, one-fourth of the preparation fee shall be charged.

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 for residential or commercial properties, as the case may be as set out in Schedule 1.
(b) Assent:
   The same scale of charges as for preparing Transfers, Mortgages or Charges but calculated on the value of the property comprised therein.

(c) Caveats:
   Preparing ... ... ... ... $750.00
   Withdrawing ... ... ... $500.00.

(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 $5,000.00 on the Collateral Mortgage. Where the primary security has already been taken, one-half of the scale fee for Mortgages, calculated on the amount secured by the primary security, shall be charged on the Collateral Mortgage.

(e) Disbursements:
   These costs shall be charged in the same manner as set out in Schedule 1, item 9(n).

(f) Discharge (Partial):
   These costs shall be charged in the same manner as set out in Schedule 1, item 9(y).

(g) Further Mortgage or Charge to secure further advances:
   These costs shall be charged in the same manner as set out in Schedule 1, item 9(p).

(h) Lease where premium is paid in addition to rent:
   These costs shall be charged in the same manner as set out in Schedule 1, item 9(t).

(i) Mortgage or Charge to secure overdraft on current account or where no principal sum is specified in the Mortgage Deed:
   These costs shall be charged in the same manner as set out in Schedule 1, item 9(u).

(j) Negotiations:
   Such fees that are fair and reasonable in respect of negotiations in connection with a transaction by an Attorney-at-law on behalf of his client can be charged in addition to the scale fees and shall be determined in accordance with the matters set out in Schedule 3.
(k) **Revision Fees:**
   Except as is specified in these Rules, a fee of one-half of the preparation fee shall be charged for revising any instrument under the Real Property Act on behalf of an interested party.

(l) **Tenancy Agreement:**
   The same scale of fees as for Leases for residential or commercial properties as the case may be as set out in Schedule 1 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.

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**SCHEDULE 3**

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, specialised 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) compliance with statutory and regulatory obligations and requirements;

(g) where money or property is involved, its amount or value;

(h) the urgency of the transaction; and

(i) the importance of the matter to the client.

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SCHEDULE 4

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, correspondence, preparation of an inventory of estate and attendances to address queries and to obtain or reseal a Grant:

<table>
<thead>
<tr>
<th>Value of Estate</th>
<th>Scale of Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>(with the value as at the date of death of the deceased of any real estate and goods and chattels, as agreed between Attorney and client, and in default of such agreement, as determined by a Chartered Valuation Surveyor)</td>
<td></td>
</tr>
<tr>
<td>(a) Not exceeding $125,000.00</td>
<td>Such fee as is fair and reasonable having regard to the matters set out in Schedule 3 subject to a maximum fee of $7,500.00</td>
</tr>
<tr>
<td>(b) Exceeding $125,000.00 and not exceeding $250,000.00</td>
<td>Such fee as is fair and reasonable having regard to the matters set out in Schedule 3 subject to a maximum fee of $15,000.00</td>
</tr>
<tr>
<td>(c) Exceeding $250,000.00</td>
<td>Such fee as is fair and reasonable having regard to the matters set out in Schedule 3 subject to a maximum fee of $15,000.00 plus one per cent on the excess beyond $250,000.00.</td>
</tr>
</tbody>
</table>
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 preparation of a Will including its execution and any disbursements connected therewith shall be fair and reasonable and shall be determined in accordance with the matters set out in Schedule 3.

4. 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 by order of the Council this ___ day of ___, 2017

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*President*

*Law Association of Trinidad and Tobago*


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*Secretary*

*Law Association of Trinidad and Tobago*


Approved this ___ day of ___, 2017

....................

*Chief Justice*