



MONTSERRAT

## **CHAPTER 3.01**

### **CIVIL PROCEDURE and Related Legislation**

**Revised Edition**  
showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

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## CHAPTER 3.01

### CAUSES OF ACTION (SURVIVAL) ACT

*(Acts 8 of 1951 and 24 of 1956)*

#### Commencement

*[29 October 1951]*

#### Short title

1. This Act may be cited as the Causes of Action (Survival) Act.

#### Effect of death on certain causes of action

2. (1) Subject to the provisions of this section, on the death of any person all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of his estate:

Provided that this subsection shall not apply to causes of action for defamation or seduction or for inducing one spouse to leave or remain apart from the other or to claims under the Matrimonial Causes Act, for damages on the ground of adultery.

(2) Where a cause of action survives as aforesaid for the benefit of the estate of a deceased person, the damages recoverable for the benefit of the estate of that person—

- (a) shall not include any exemplary damages;
- (b) in the case of a breach of promise to marry shall be limited to such damage, if any, to the estate of that person as flows from the breach of promise to marry;
- (c) where the death of that person has been caused by the act or omission which gives rise to the cause of action, shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

(3) No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section has survived against the estate of a deceased person, unless either—

- (a) proceedings against him in respect of that cause of action were pending at the date of his death; or
- (b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

(4) Where damage has been suffered by reason of any act or omission in respect of which a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the purposes of this Act, to have been subsisting against him before his death such cause of action in respect of that act or omission as would have subsisted if he had died after the damage was suffered.

(5) The rights conferred by this Act for the benefit of the estates of deceased persons shall be in addition to and not in derogation of any rights conferred on the dependants of deceased persons by the Fatal Accidents Act, as amended, or the Carriage by Air Act, 1932 as extended to Montserrat by the Carriage by Air (Colonies Protectorates and Mandated Territories) Order, 1934 (Imperial) and so much of this Act as relates to causes of action against the estates of deceased persons shall apply in relation to causes of action under the said Acts as it applies in relation to other causes of action not expressly excepted from the operation of subsection (1).

(6) In the event of the insolvency of an estate against which proceedings are maintainable by virtue of this section, any liability in respect of the cause of action in respect of which the proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate, notwithstanding that it is a demand in the nature of unliquidated damages arising otherwise than by a contract, promise or breach of trust.

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**CHAPTER 3.01**

**COURTS OF JUSTICE FEES ACT**

**ARRANGEMENT OF SECTIONS**

SECTION

1. Short title
2. Fixing fees payable in Courts of Justice, etc.
3. Order to be binding on all Courts, etc.
4. Payment into the Treasury
5. Fees to be taken in stamps
6. Stamps to be impressed or adhesive
7. Rules
8. Unstamped documents not evidence
9. Accounts of stamps
10. Penalty for forgery
11. Order may abolish existing fees

SCHEDULE

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**CHAPTER 3.01**

**COURTS OF JUSTICE FEES ACT**

*(Acts 6 of 1880, 11 of 1932 and S.R.O. 15/1956)*

**Commencement**

*[29 July 1880]*

**Short title**

1. This Act may be cited as the Courts of Justice Fees Act.

**Fixing fees payable in Courts of Justice, etc.**

2. The Governor in Council may, by order, fix the fees and percentages (including the percentage on estates of persons of unsound mind) to be taken in the High Court, or in any Court of Justice in Montserrat, civil or criminal, or in any Court created by any Commission, or in any office which is connected with any of those Courts, or in which any business connected with any of those Courts is conducted, or by any officer, paid wholly or partly out of public moneys, who is attached to any of those

Courts, or to the office of Registrar of Deeds, and may by order, increase, reduce, or abolish all or any of such fees and percentages, and appoint new fees and percentages to be taken in the said Courts or offices, or any of them, or by any such officer as aforesaid.

#### **Order to be binding on all Courts, etc.**

3. Any order made in pursuance of this Act shall be binding on all Courts, offices, and officers to which it refers, in the same manner as if it had been enacted by the Legislative Council.

#### **Payment into the Treasury**

4. All such fees and percentages shall be paid into the Treasury.

#### **Fees to be taken in stamps**

5. It shall be lawful for the Governor in Council by notice, in the form given in the Schedule, to declare and direct that, from and after the time specified in such notice, all and any of such fees for the time being payable in money shall be taken by means of stamps; and, from and after the time specified in any such notice, the fees therein mentioned shall be received by stamps denoting the amounts payable, and not in money.

#### **Stamps to be impressed or adhesive**

6. Such stamps shall be impressed, or adhesive, and shall only be distributed by the Accountant General and such other Government officers as the Governor in Council may direct.

#### **Rules**

7. The Governor in Council may make rules for publishing the amount of the fees and regulating the use of such stamps, and particularly for prescribing the application thereof to documents in use or required to be used for the purposes of such stamps, and for insuring the proper cancellation of stamps, and for keeping accounts of such stamps and for the allowancing for spoiled or misused stamps.

#### **Unstamped documents not evidence**

8. Any document which ought to bear a stamp in pursuance of this Act, or any rule or order made thereunder, shall not be received, filed, used, or admissible in evidence, except in criminal trials or inquiries, unless and until it is properly stamped within the time prescribed by the rules under this Act regulating the use of stamps, but if any such document is, through mistake or inadvertence, received, filed, or used without being properly stamped, the Court may, if it thinks fit, order that the same be stamped on the payment of a penalty, or otherwise, as in such order may be directed.



**Accounts of stamps**

9. An account of all money received in respect of stamps under this Act shall be kept in the Treasury.

**Penalty for forgery**

10. Any person who forges any such stamp shall be liable to be imprisoned, for any term not exceeding seven years.

**Order may abolish existing fees**

11. An order under this Act may abolish any existing fees and percentages which may be taken in the said Courts or offices, or any of them, or by the said officers, or any of them; but, subject to the provisions of any order made in pursuance of this Act, the existing fees and percentages shall continue to be taken, applied, and accounted for in the existing manner.

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**SCHEDULE**

*(Section 5)*

**NOTICE UNDER THE COURTS OF JUSTICE FEES ACT**

The Governor in Council, in pursuance of the provisions of this Act, hereby declares and directs that, from and after the ..... day of ....., the fees for the time being, payable (*here insert the nature of the fees*) shall be taken in stamps.

\_\_\_\_\_

**HIGH COURT (FEES IN BANKRUPTCY PROCEEDINGS) ORDER – SECTION 2**

(S.R.O. 37/1973)

**Commencement**

[1 January 1974]

**Short title**

1. This Order may be cited as the High Court (Fees in Bankruptcy Proceedings) Order.

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**SCHEDULE**

**SUMMONSES, NOTICES, WRITS AND WARRANTS**

	ITEM	\$ ¢
(1)	For every summons, including seal .....	6.00
(2)	For every Notice in the <i>Gazette</i> , including sending of same .....	6.00
(3)	For every notice to a creditor, including service, but not including postage .....	3.00
(4)	For every other notice, including service .....	3.00
(5)	For every writ, including seal .....	9.00
(6)	For every warrant, including seal .....	6.00

**COPIES**

(7)	For every office copy of any proceedings or documents .....	0.50 per folio
(8)	For examining every copy of any proceedings or documents to be certified as an office copy .....	1.00 per folio
(9)	For drawing a bond .....	6.00

- |      |   |      |
|------|---|------|
| (10) | For drawing any document not specially named if two or under .....          | 3.00 |
| (11) | If exceeding two folios, for each additional folio or part of a folio ..... | 1.00 |

## ATTENDANCES

- |      |  |      |
|------|--|------|
| (12) | For every attendance before the Judge at Chambers .....  | 6.00 |
| (13) | For every attendance in Court .....  | 6.00 |
| (14) | For attending the examination of a witness or other person out of Court .....  | 6.00 |
| (15) | For attending if the examination of any person takes more than one day, for each additional day or part of a day ..... | 6.00 |
| (16) | For attending the public examination of a bankrupt – per hour .....  | 3.00 |

## OATHS, ETC.

- |      |   |  |
|------|---|--|
| (17) | According to the Schedule of Fees to be taken in the High Court ..... |  |
|------|---|--|

## FILING

- |      |   |       |
|------|---|-------|
| (18) | For filing every petition and entering the same .....                 | 24.00 |
| (19) | For filing every writ, or other document, and entering the same ..... | 3.00  |

## CERTIFICATES

- |      |   |      |
|------|---|------|
| (20) | For every certificate .....   | 6.00 |
| (21) | For attesting and signing every declaration of inability to pay or other paper to which the attestation of the Registrar may be necessary ..... | 3.00 |

## SEARCHES

- |      |                        |      |
|------|------------------------|------|
| (22) | For every search ..... | 3.00 |
|------|------------------------|------|

JUDGMENTS, DECREES AND ORDERS

(23)	For every order .....	6.00
(24)	For every decree or adjudication .....	6.00
(25)	For every written order of the Registrar upon application made .....	3.00
(26)	For every seal .....	3.00

MISCELLANEOUS

(27)	For taking every recognizance and attending thereon .....	3.00
(28)	For entering exception to bail .....	3.00
(29)	For an additional bail, justification or surrender .....	3.00
(30)	For taking the examination of any person before a Judge, per folio .....	2.00
(31)	For entering every motion .....	3.00
(32)	For recording proceedings when necessary, per folio .....	3.00
(33)	For every amendment made in any petition or other proceedings by the Court or Judge's Order .....	3.00
(34)	For entering request when a witness being sworn demands expenses .....	1.00
(35)	For every entry in the attachment book. ....	1.00

SCHEDULE OF FEES TO BE TAKEN BY THE PROVOST-MARSHAL

(36)	For serving a writ or other process, order, summons or notice .....	2.00
(37)	If more than one person sued, then for every extra service ...	2.00
(38)	For every mile from the Court House .....	1.00
(39)	For executing a search warrant .....	6.00
(40)	For executing a warrant against debtor .....	12.00

(41)	For executing a warrant of seizure .....	6.00
(42)	For making a return to any writ or warrant .....	3.00
(43)	For making a levy in city or town .....	10.00
(44)	For making a levy in country beyond the above fee, per mile or part of a mile from the Court House .....	3.00
(45)	Each man in possession .....	10.00
(46)	Summoning special jury .....	60.00
(47)	Percentage on net proceeds (after payment of all incidental expenses on levy and sale) on the amount actually levied at the rate of 2%	

Any fee not specifically provided for in this Schedule shall be dealt with according to the Schedule of Fees to be paid to the High Court under the High Court (Fees in Civil Proceedings) Order.

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**HIGH COURT (FEES IN CIVIL PROCEEDINGS) ORDER – SECTION 2**

*(S.R.O. 36/1973)*

**Commencement**

*[21 December 1973]*

**Short title**

1. This Order may be cited as the High Court (Fees in Civil Proceedings) Order.

**Fees**

2. The fees and percentages to be taken in the High Court in civil proceedings, (save and except the fees and percentages in (1) Matrimonial and (2) Bankruptcy Proceedings), shall be according to the Schedule, provided that, where any existing officer is entitled to receive for his own use fees in Admiralty causes or matters, the fees payable to such officer under the scale of fees in force at the time of the coming into operation of the Colonial Courts of Admiralty Act, 1890 of the Imperial Parliament shall continue to be payable to such officer in all Admiralty causes and matters.

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**SCHEDULE**

*(Section 2)*

**SUMMONSES, WRITS, NOTICES, COMMISSIONS AND WARRANTS**

	ITEM	\$ ¢
(1)	On sealing a writ of summons for commencement of an action ..	12.00
(2)	On sealing a concurrent, renewed or amended writ of summons for commencement of an action .....	6.00
(3)	On sealing a warrant of arrest in Admiralty .....	12.00
(4)	On sealing a notice for service under order 54 .....	3.00
(5)	On sealing a writ of mandamus .....	24.00
(6)	On sealing a writ of subpoena for witness, not exceeding three persons .....	6.00
(7)	On sealing a writ of execution, a subpoena pursuant to the Court of Probate Act, 1858, section 23, and every other writ .....	6.00

(8)	On sealing or issuing an originating summons under the Act 6 & 7 Vict. c 73, for the taxation of a solicitor's bill of costs within 12 months after delivery, or delivery of a bill of costs by a solicitor, including the order to be made thereon .....	12.00
(9)	On sealing any other originating summons .....	12.00
(10)	On amending same .....	3.00
(11)	On sealing or issuing an interpleader summons .....	12.00
(12)	On sealing or issuing any other summons .....	9.00
(13)	On filing a notice to have a reference to an Admiralty Registrar placed in the list for hearing .....	12.00
(14)	On sealing a commission to take evidence .....	75.00
(15)	On every other commission .....	24.00

#### APPEARANCES

(16)	On entering an appearance for each person .....	6.00
(17)	On amending the same .....	3.00

#### COPIES

(18)	On a copy of a written deposition of a witness to enable a party to print the same, for each folio .....	1.00
(19)	On examining a written or printed copy, and marking or sealing same as an office copy, for each folio .....	.50
(20)	On making a copy and marking same as an office copy, for each folio .....	1.00
(21)	On a copy in a foreign language—the actual cost	
(22)	On a copy of a plan, map, section, drawing, photograph, or diagram—the actual cost	
(23)	On a printed copy of an order, not being an office or certified copy, for each folio .....	.50



ATTENDANCES

- (24) On an application, with or without a subpoena, for any officer to attend as a witness, or to produce records or documents to be given in evidence (in addition to the reasonable expenses of the officer) for each day or part of a day he shall necessarily be absent from his office ..... 18.00

The officer may require a deposit of stamps on account of any further fees, and a deposit of money on account of any further expenses which may probably become payable beyond the amount paid for fees and expenses on the application, and the officer or his clerk taking such deposit shall thereupon make a memorandum thereof on the application .....

The officer may also require an undertaking in writing to pay any further fees and expenses which may become payable beyond the amounts so paid and deposited .....

OATHS, ETC.

- (25) On taking an affidavit or an affirmation or attestation upon honour in lieu of an affidavit or a declaration, for each person making the same ..... 3.00
- (26) And in addition thereto for each exhibit therein referred to and required to be marked ..... 1.20

FILING

- (27) On filing a special case ..... 24.00
- (28) On filing an application for an order of sale of land under the Judgments Act ..... 12.00
- (29) On filing, except in Admiralty actions, and unless otherwise provided, an affidavit, deposition, or set of depositions (including exhibits to any such affidavit or deposition) statement of claim in default of appearance, referees' certificates, preliminary act, submission to arbitration, award, warrant of attorney, cognovit, bail, satisfaction piece, bond, writ of execution with return and power of attorney, and every other proceeding in a probate action or matter required by an act, general order, or order in the action, cause or matter to be filed ..... 2.50

(30)	On filing any other document .....	1.25
(31)	On filing scripts in a probate action or on depositing pursuant to an order in any cause or matter any documents for safe custody or production, if the number does not exceed five .....	6.00
(32)	If exceeding five .....	12.00
(33)	On a receipt for any document or documents to which the two last fees apply, when delivered out, or for any other document or documents when delivered .....	3.00
(34)	On filing a fiat of satisfaction .....	6.00
(35)	On filing an appeal from the Magistrate's Court .....	12.00

#### CERTIFICATES

(36)	On a certificate of appearance, or a pleading, affidavit or proceeding having been entered, filed or taken, or of the negative thereof; or any other certificate unless otherwise provided .....	3.00
(37)	Or if required for use in a foreign country .....	6.00

#### SEARCHES AND INSPECTIONS

(38)	On an application to search for an appearance or an affidavit, and inspecting the same .....	2.50
(39)	On an application to search an index, and inspect a pleading, judgment, decree, order, or other record, unless otherwise expressly provided for by any Act or this Order, and to inspect scripts filed or documents deposited pursuant to an Order for safe custody or production, for each hour or part of an hour occupied .....	2.00
(40)	Not exceeding on one day .....	12.00

#### EXAMINATION OF WITNESSES

(41)	On every memorandum of appointment for an examination be taken before an examiner or other officer of the Court .....	6.00
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- |      |  |       |
|------|--|-------|
| (42) | On every witness sworn and examined by an examiner or other officer of the Court in his office, unless otherwise provided, including oath, for each hour or part of an hour .....  | 12.00 |
| (43) | On an examination of witnesses by any such officer away from the office (in addition to reasonable travelling and other expenses) for each hour or part of an hour .....   | 18.00 |
| (44) | Not exceeding on one day .....   | 75.00 |
| (45) | The Officer may require a deposit of stamps on account of fees and a deposit of money on account of expenses which may probably become payable beyond any amount paid for fees and expenses upon the examination, and the officer or his clerk, taking such deposit shall, thereupon make a memorandum thereof, and deliver the same to the party making the deposit |       |

The officer may also require an undertaking in writing to pay any further fees and expenses which may become payable beyond the amount so paid or deposited

HEARING

- |      |  |       |
|------|--|-------|
| (46) | 1. On entering or setting down a cause or matter for trial or hearing .....  | 24.00 |
|      | 2. On trial or hearing in Court of any cause or matter entered or set down as aforesaid .....                                      | 24.00 |
|      | An additional \$6 for each day or part of a day after the first.   |       |
| (47) | On entering directions of the Judge at a trial .....   | 12.00 |
| (48) | On writing for the attendance of assessors on the hearing of an Admiralty action .....   | 6.00  |
| (49) | On answering and setting down for hearing in Court a petition by which any proceeding is commenced unless otherwise provided ..... | 12.00 |
| (50) | Any other petition .....   | 6.00  |

## JUDGMENTS, DECREES AND ORDERS

On drawing up and entering Judgments, Decrees and Orders—

- |      |  |       |
|------|--|-------|
| (51) | If made in Court on the original hearing or hearing on further consideration of a cause, or on the hearing of a special case or petition, or on any application to the Court of Appeal unless otherwise provided ..... | 24.00 |
| (52) | If a judgment without hearing in Court or a final order in a probate action, or if an order made in a probate action or matter on a motion, including filing the case or application on which the order is made .....  | 6.00  |
| (53) | If made on the hearing of an originating summons, unless otherwise provided .....  | 6.00  |
| (54) | If made at Chambers on the hearing of a cause or matter .....  | 6.00  |
| (55) | If an order to tax a solicitor's bill of costs within twelve months after delivery or for delivery of a bill of costs by a solicitor where fee No. 8 is not applicable .....   | 12.00 |
| (56) | On any other Order, and filing same .....  | 6.00  |
| (57) | On signing a note or memorandum of an order when required for production, where no order is drawn up .....   | 3.00  |
| (58) | On a memorandum to enter an order <i>nunc pro tunc</i> .....   | 6.00  |

*On proceedings at the Judge's Chambers,  
or before a taxing master or Registrar*

- |      |   |      |
|------|---|------|
| (59) | On the sale or mortgage of any land or hereditaments pursuant to any order directing a sale or mortgage with the approbation of the Judge made in any cause or matter for the purpose of raising money to be dealt with by the Court in such cause or matter, for every \$500 or fraction of \$500 of the amount raised ..... | 6.00 |
| (60) | On the approval of the purchase of any land or hereditaments or of the title of any land or hereditaments to be purchased pursuant to any order in any cause or matter with money under the control of the Court in such cause or matter for every \$500 or fraction of \$500 of the amount of the purchase money .....       | 6.00 |

- (61) On proceedings pursuant to an order in any cause or matter where the amount of the outstanding or undisposed of estate of a deceased person or of the estate subject to any trust or partnership shall be ascertained for the purpose of being dealt with in such cause or matter without deducting any payment to creditors or parties interested after the commencement of the cause or matter for every \$500 or portion of \$500 of the amount or value thereof ..... 2.50
- (62) On taking an account of moneys received by an executor, administrator, trustee, agent, solicitor, mortgagee, co-tenant, partner, receiver, guardian, consignee, bailee, manager, provisional official or other liquidator, sequestrator, or execution creditor or other person liable to account for each \$500 or fraction of \$500 of the amount found to have been received without deducting any payment ..... 2.50
- (63) On taking an account of the debts or ascertaining the amount of any debt due from a deceased person or from any company in any cause or matter when any creditor shall be required to prove his debt otherwise than by production of his security for every \$500 or fraction of \$500 of the amount found to be due to such creditor, or (if more than one) of the aggregate amount found to be due to all such creditors ..... 2.50
- (64) And in any such case, if after evidence adduced by the creditor his claim shall be disallowed, on each such claim ..... 12.00
- (65) On taking an account of or ascertaining the amount due in respect of the debentures or bonds of a joint stock or other company, for every \$500 or fraction of \$500 of the aggregate amount found to be due ..... 6.00
- (66) On settling a list of shareholders entitled to a return, where there is any money to be returned, or a list of contributors, for every person settled on either such list, not exceeding 2,000 ..... 2.50
- (67) On settling under section 24 of the Companies Act the list of the creditors of a limited company which proposes to reduce its capital ..... 75.00
- (68) On a certificate of a taxing master or Registrar of the result of any proceeding or taxation of costs before him including one or any number of matters ..... 6.00

- (69) On every other reference, investigation, inquiry, including examination of witnesses if any, for every hour or part of an hour the officer is occupied ..... 12.00

*On proceedings in Admiralty actions  
on references before a Registrar*

- from
- (70) On reference to the Registrar including examination of witnesses, if any, having regard to the nature and importance of the accounts and other matters and to the time occupied..... 50.00  
to  
125.00

- from
- (71) If the attendance of one or more merchants is required for each merchant the same fees as to the Registrar ..... 50.00  
to  
125.00

- (72) In cases of great intricacy, or very large amount, occupying more than two full days, larger fees may be taken not exceeding \$80 additional per day to the Registrar and for each merchant, for every day beyond two full days
- from
- (73) In case where the accounts to be investigated do not exceed \$5,000, and where the time occupied is short fees may be taken for the Registrar and each merchant ..... 25.00  
to  
75.00

*Proceeding Before A Referee*

- (74) On every reference ..... 25.00
- (75) For every hour or part of an hour he is occupied including examination ..... 12.00

The fees Nos. 69 to 75 inclusive shall become due and payable by the party conducting the proceedings on the report of the result of the reference or otherwise as hereinafter provided where no such report is made.

The above mentioned fees Nos. 59 to 67 and 69 to 75 inclusive shall be due and payable when no certificate, report or order is made by the party conducting the proceedings or if not completed a due proportion shall be payable on so much of the proceedings as shall have taken place, the amount to be fixed by the officer.

In those cases the fees shall be paid by stamps impressed upon or affixed to a memorandum stating on what account such fees are paid.

A deposit of stamps on account of the fees applicable to any proceedings may be required before such proceeding is commenced or at any time during the course thereof.

IN THE ADMIRALTY MARSHAL'S OFFICE

(76)	For executing any warrant or attachment .....	25.00
(77)	For keeping possession of any ship, goods or ship and goods (exclusive of any payments necessary for the safe custody thereof) for each day .....	6.00

NOTE: No fee shall be allowed to the Marshal for the custody and possession of property under arrest, if it consists of money in a bank, or of goods stored in a bonded warehouse, or if it is in the custody of a Customs Officer or other authorised person.

(78)	On release of any ship, goods, or person from arrest .....	25.00
(79)	For attending the delivery of cargo for each day .....	50.00
(80)	For executing any commission of appraisement, sale, or appraisement and sale, exclusive of the fees, if any, paid to the appraiser and auctioneer .....	25.00
(81)	For executing any other commission or instrument .....	25.00
	On the gross proceeds of any ship or goods, etc., sold by order of the Court.	
(82)	If not exceeding \$1,000 .....	25.00
(83)	For every additional \$500 or part thereof .....	25.00

NOTE: If the Marshal being duly qualified, acts as auctioneer, he shall be allowed a double fee on the gross proceeds.

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|------|--|-------|
| (84) | On a final decree in an uncontested action ..... | 12.00 |
| (85) | On a final decree in a contested action .....    | 25.00 |

NOTE: If the Marshal or his officer is required to go any distance in execution of his duties, a reasonable sum may be allowed for travelling, boat-hire, or other necessary expenses in addition to the preceeding fees.

#### TAXATION OF COSTS

- |      |  |      |
|------|--|------|
| (86) | On taxing a bill of costs where the amount allowed does not exceed \$20 .....    | 3.00 |
| (87) | Where the amount exceeds \$20 for every \$10 allowed or a fraction thereof ..... | 1.25 |

These fees, unless otherwise provided, shall be taken on signing the certificate or on the allowance of the bill of costs as taxed, but the fees shall be due and payable, if no certificate or allocatur is required, on the amount of the bill as taxed, or on the amount of such part thereof as may be taxed, and the solicitor or person suing in person, shall in such case cause the proper stamps (the amount thereof to be fixed by the officer) to be impressed on or affixed to the bill of costs. The taxing officer may require a deposit of stamps on account of the fees before taxation not exceeding the fees on the full amount of the costs as submitted for taxation, and the officer or his clerk in taking such deposit shall make a memorandum thereof on the bill of costs.

#### *On proceedings with reference to moneys in Court.*

- |      |  |      |
|------|--|------|
| (88) | On a certificate of the amount and description of any money, funds, securities, including the request therefor ..... | 3.00 |
|------|--|------|



(89)	On a request to the Registrar (unless otherwise provided) for any of the following purposes – paying, lodging, transferring or depositing money, funds, or securities in Court, or money in addition to the amount directed by an order to be paid in; paying out of Court any money, or a certificate of a taxing officer; information in writing in respect of any money, funds or securities, for each \$500 or part thereof .....	3.00
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*Register of Judgments*

(90)	On registering a judgment, although more than one name may have to be registered .....	3.00
(91)	On re-registering same .....	2.50
(92)	On a search for each name .....	2.50
(93)	On a certificate of entry of satisfaction .....	2.50
(94)	On a duplicate certificate, if not more than three folios .....	2.50
(95)	For every additional folio .....	1.00
(96)	On every continuation search if requested within 14 days of any former search (the result to be endorsed on such certificate) .....	2.50
(97)	On filing a certificate issued out of any inferior Court under the Judgments Act .....	6.00

MISCELLANEOUS

(98)	On a fiat of a Judge .....	6.00
(99)	On signing, settling, or approving an advertisement .....	3.00
(100)	On taking the acknowledgment of a deed by a married woman .....	12.00
(101)	On an appointment of a receiver .....	12.00
(102)	On taking a recognizance or bond .....	6.00
(103)	On assignment of a bond .....	6.00
(104)	On taking bail, and taking same off the file and delivering .....	3.00

(105)	On a commitment .....	6.00
(106)	On an application to produce Judge's notes .....	6.00
(107)	On vacating a recognizance .....	6.00
(108)	On the lodging of a will .....	2.50
(109)	On an application for a grant of probate or letters of administration .....	6.00
(110)	On sealing a grant of probate or letters of administration .....	6.00
(111)	On a citation .....	6.00
(112)	On entry of a caveat .....	25.00
(113)	On an application to extend the time for putting in force an application for an order of sale under the Judgments Act, including order thereon .....	12.00

IN THE BAILIFF'S OFFICE  
SERVICE OF DOCUMENTS

(114)	Serving any writ of summons, notice, or other document when required .....	2.00
(115)	At a greater distance than one mile from the Court House for every extra mile or part of a mile in addition to the above fee .....	1.00

EXECUTION OF PROCESS

(116)	Executing warrant of arrest on board ship if out of harbour .....	25.00
(117)	If in harbour .....	15.00
(118)	Executing a writ of possession in town .....	12.00
(119)	Out of town for every mile or part of a mile from the Court House beyond the first mile in addition to the above fee .....	3.00
(120)	Executing a writ of attachment or order of committal in town ..	6.00
(121)	In the country for every mile or part of a mile from the Court House beyond the first mile in addition to the above fee .....	3.00

(122)	On every search in the record books of the Bailiff's Office .....	2.50
(123)	Receiving and minuting: execution .....	2.50
(124)	List or extract of executions against any person .....	6.00
(125)	Certified copy of an execution .....	5.00
(126)	Fee on return of any writ .....	3.00
(127)	Levy fee in Plymouth .....	10.00
(128)	Levy fee in country beyond the above fee, per mile or part of a mile from the Court House .....	3.00
(129)	Each man in possession per diem .....	5.00
(130)	Summoning special jury .....	25.00
(131)	Poundage on net proceeds (after payment of all incidental expenses on levy and sale) on the amount actually levied at the rate percent of .....	3%
	Mileage in all cases shall be calculated to a place and not to and from a place .....	

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**HIGH COURT (FEES IN MATRIMONIAL PROCEEDINGS) ORDER**

## – SECTION 2

(S.R.O. 38/1973)

**Commencement**

[1 January 1974]

**Short title**

1. This Order may be cited as the High Court, (Fees in Matrimonial Proceedings) Order.

**SCHEDULE**

(Section 2)

**CITATIONS, ADVERTISEMENTS, WRITS, COMMISSIONS. ETC.**

	ITEM	\$ ¢
(1)	On every citation .....	6.00
(2)	For settling citation or an abstract thereof for advertisement, or any other advertisement if of five folios or under .....	6.00
	If exceeding five folios, for each additional folio or part of a folio	1.25
(3)	On every writ or subpoena not exceeding three persons .....	6.00
(4)	On every writ of attachment .....	6.00
(5)	On every writ of sequestration .....	6.00
(6)	On every writ of <i>feri facias</i> .....	6.00
(7)	On every commission or requisition under seal of the Court .....	25.00

**APPEARANCE**

(8)	On entering appearance—for each person .....	6.00
(9)	On amending appearance—for each person added, or other amendment .....	3.00

COPIES

Office copies of any document as in the Schedule of fees in the High Court under the High Court (Fees in Civil Proceedings) Order

- (10) For the seal of the Court affixed to any order, minute or decree, or to any office copy ..... 6.00

DECREE. VERDICT OR ORDER

- (11) Entering sentence or final decree in a cause ..... 12.00
- (12) Entering verdict, if five folios or under ..... 12.00
- (13) Entering verdict, if exceeding five folios, for each additional folio or part of a folio ..... 1.25
- (14) Entering order for the examination of a witness or witnesses ..... 6.00
- (15) Entering any decree or order for alimony ..... 12.00
- (16) Entering any order directing application of damages ..... 12.00
- (17) Entering order providing for custody, maintenance, or education of children if five folios or under ..... 12.00
- (18) Entering any order of settlement of alimony, or of wife's property or disposal of settlements under Imp. Stat. 20 and 21 Vict. c 85 secs. 32 and 45, and 22 and 23 Vict. c 61 sec. 5 if five folios or under ..... 12.00
- (19) If either of the above orders exceed five folios, for each additional folio or part of a folio ..... 1.25
- (20) Entering any order of protection for wife's earnings and property ..... 6.00
- (21) For the order under the seal of the Court ..... 12.00
- (22) For any order issuing under the hand of the Judge or Registrar except orders made on summons ..... 6.00
- (23) Entering any order, minute or decree in the Court Book other than those above specified ..... 6.00

## REFERENCES

(24)	On each reference to ascertain the amount to be paid or secured to a wife to cover her costs for the Registrar's attendance .....	25.00
(25)	For his report thereon .....	12.00
(26)	On each reference for any other enquiry before the Registrar—Attendance of Registrar .....	12.00
(27)	For every hour or part of an hour after the first .....	6.00
(28)	For the Registrar's report, if five folios or under .....	6.00
(29)	If exceeding 5 folios, for each additional folio or part of a folio .	1.25

## SUMMONSES

(30)	On each summons .....	6.00
(31)	For an order on summons, including entry of the same .....	3.00
(32)	For an order on summons, if a final order in the cause .....	12.00

## MOTIONS

(33)	Entering any minute or order on motion other than orders hereinbefore specified .....	6.00
(34)	Entering any minute or order if a final order in the cause .....	12.00

## OATHS, ETC.

(35)	As in the Schedule of Fees in the High Court, under the High Court (Fees in Civil Proceedings) Order	
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## FILING

(36)	Filing any petition .....	25.00
(37)	Filing any answer, reply, rejoinder or any further replication or an act on petition, or any writing to any act on petition by way of answer, reply, rejoinder or conclusion, or any joinder in demurrer, or any interrogatories (each set) or any application for an order of protection of a wife's earnings and property or any case for motion .....	6.00

- |      |  |      |
|------|--|------|
| (38) | Filing depositions (each witness) or copies of issues of fact for the jury, as settled .....   | 2.50 |
| (39) | Filing every affidavit or other document brought into Court or deposited in the Registry, for filing which no fee is specified ..... | 2.50 |
| (40) | Filing any notice .....  | 1.25 |
| (41) | Filing exhibits, each exhibit .....  | 1.25 |

CERTIFICATES

- |      |  |      |
|------|--|------|
| (42) | For every certificate under the hand of the Judge or Registrar ..... | 6.00 |
|------|--|------|

SEARCHES AND INSPECTIONS

- |      |  |      |
|------|--|------|
| (43) | Search in each Court Book .....  | 2.50 |
| (44) | On an application to search and inspect a pleading, decree order, or other record not being in the Court books, unless otherwise provided for, expressly by any legislative Act or this Order, and to inspect documents deposited for safe custody or for production pursuant to an Order, each document ..... | 2.50 |

EXAMINATION OF WITNESSES

- |      |   |  |
|------|---|--|
| (45) | As in the Schedule of Fees to be taken in the High Court under the High Court (Fees in Civil Proceedings) Order |  |
|------|---|--|

SETTING DOWN AND HEARING

- |      |  |       |
|------|--|-------|
| (46) | On setting down a cause for hearing or trial .....   | 25.00 |
| (47) | Withdrawal of a cause after the same is set down for hearing or trial .....                      | 12.00 |
| (48) | On the hearing, to be paid by the party setting down the cause ....                              | 25.00 |
| (49) | On the hearing if the cause occupies more than one day per additional day or part of a day ..... | 12.00 |

TAXING COSTS

- |      |   |  |
|------|---|--|
| (50) | As in the Schedule of fees appointed to be taken in the High Court under the High Court (Fees in Civil Proceedings) Order |  |
|------|---|--|

## MISCELLANEOUS

(51)	On amending pleadings .....	3.00
(52)	On settling issues of fact to be tried by a Jury .....	12.00
(53)	On an application to produce Judge's notes .....	6.00

*Any fee not specially provided for in this Schedule shall be dealt with according to the Schedule of fees to be taken in the High Court, under the High Court (Fees in Civil Proceedings) Order.*

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**COURTS OF JUSTICE (HIGH COURT)  
(PAYMENT OF FEES IN STAMPS) ORDER – SECTIONS 5 AND 7**

*(S.R.O. L.I. 38/1934)*

**Commencement**

*[1 January 1935]*

**Short title**

1. This Order may be cited as the Courts of Justice (High Court) (Payment of Fees in Stamps) Order.

**Fees to be paid in stamps**

2. From and after the first day of January, 1935, the fees for the time being payable in all proceedings in the High Court in all its branches shall be taken in stamps.

**Description of stamps**

3. The stamps referred to in the preceding paragraph shall be adhesive or impressed stamps as authorized under the provisions of the Stamp Act, and any number of separate fees may be expressed on a document by one or more stamps for the gross amount.

**Use of stamps**

4. The stamp or stamps shall be affixed to the document in respect of which the fee is payable; provided that where any fee is payable in respect of any matter or thing in reference to which it shall not have been customary or may not be necessary to use any document or paper, the party or his solicitor requiring such matter or thing to be done shall make application for the same by a *præcipe* or short note in writing or print to or upon which the stamp or stamps shall be affixed, and all papers and documents when possible shall be stamped on the left hand upper corner of the front sheet.

**Documents to be stamped before signature**

5. All documents must be fully stamped to the amount of the prescribed fees before being brought to the Officer of the Court responsible for the transaction involved, and such officer before signing the document shall satisfy himself that the same has been correctly stamped.

**Cancellation of stamps**

6. Before any stamped document passes out of the possession of the Officer of the Court responsible for the transaction involved, the stamps on the document shall be effectively cancelled by such officer by means of a metallic date stamp and indelible ink; and in the case of stamps of a higher value than 24 cents, each stamp must be perforated with a punching machine in such a way as to destroy completely any philatelic value such stamps might otherwise possess.

**Accounts**

7. As soon as possible after the end of each quarter the Registrar shall transmit to the Treasury a statement signed by him certifying the amount paid by means of stamps in respect of all proceedings during the preceding quarter, and the same shall be duly entered in the appropriate account.

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**MAGISTRATE'S COURT (CIVIL FEES)  
(PAYMENT IN STAMPS) ORDER – SECTIONS 5 AND 7**

*(S.R.O. L.I. 23/1931)*

**Commencement**

*[1 January 1931]*

**Short title**

1. This Order may be cited as the Magistrate's Courts (Civil Fees) (Payment in Stamps) Order.

**Fees to be paid in stamps**

2. From and after the first day of December, 1931, the fees for the time being payable in civil proceedings in the Magistrate's Courts shall be taken in stamps.

**Description of stamps**

3. The stamps referred to in the preceding paragraph shall be adhesive stamps as authorized for postage and revenue under the provisions of the Stamp Act, and any number of separate fees may be expressed on a document by one or more stamps for the gross amount.

**Use of stamps**

4. The stamp or stamps shall be affixed to the document in respect of which the fee is payable; provided that where any fee is payable in respect of any matter or thing in reference to which it shall not have been customary or may not be necessary to use any document or paper, the party or his solicitor requiring such matter or thing to be done shall make application for the same by a *præcipe* or short note in writing or print to or upon which the stamp or stamps shall be affixed, and all papers and documents when possible shall be stamped on the left hand upper corner of the front sheet.

**Documents to be stamped before signature**

5. All documents must be fully stamped to the amount of the prescribed fees before being brought to the Magistrate, and the Magistrate before signing the document shall satisfy himself that the same has been correctly stamped.

**Cancellation of stamps**

6. Before any stamped document passes out of the possession of the Magistrate or of any duly appointed Clerk to the Magistrate the stamps on the document shall be effectively cancelled by the Magistrate or his Clerk by means of a metallic date stamp and indelible ink.

**Custody of stamped documents**

7. On the conclusion of the hearing of a case the stamped documents in connection therewith shall be retained in safe custody by the Magistrate or his Clerk and shall not be delivered to any person save for official purposes.

**Destruction of documents**

8. The Magistrate shall cause all stamped documents, over seven years old, in his custody, to be destroyed.

**Accounts**

9. As soon as possible after the end of each quarter the Magistrate shall transmit to the Treasury a statement signed by him certifying the amount paid by means of postage and revenue stamps in respect of civil proceedings during the preceding quarter, and the same shall be duly entered in the appropriate account.

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## CHAPTER 3.01

### THIRD PARTIES (RIGHTS AGAINST INSURERS) ACT

*(Acts 6 of 1949 and 24 of 1956)*

#### Commencement

*[23 December 1949]*

#### Short title

1. This Act may be cited as the Third Parties (Rights against Insurers) Act.

#### Rights of third parties against insurers on bankruptcy, etc., of the insured

2. (1) Where under any contract of insurance a person (hereinafter referred to as the insured) is insured against liabilities to third parties which he may incur, then—

- (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or
- (b) in the case of the insured being a company, in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to the company; or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge;

if, either before or after that event, any such liability, as aforesaid is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything in any Act or rule of law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order is made under section 114 of the Bankruptcy Act, for the administration of the estate of a deceased debtor according to the law of bankruptcy, then, if any debt provable in bankruptcy is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being a liability to a third party, the deceased debtor's rights against the insurer under the contract in respect of that liability shall, notwithstanding anything in the said Act, be transferred to and vest in the person to whom the debt is owing.

(3) In so far as any contract of insurance made after the commencement of this Act in respect of any liability of the insured to third

parties purports, whether directly or indirectly, to avoid the contract or alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in paragraph (a) or paragraph (b) of subsection (1), or upon the making of an order under section 114 of the Bankruptcy Act, in respect of his estate, the contract shall be of no effect.

(4) Upon a transfer under subsection (1) or subsection (2), the insurer shall, subject to the provisions of section 4, be under the same liability to the third party as he would have been under to the insured, but—

- (a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Act shall affect the rights of the insured against the insurer in respect of the excess; and
- (b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this Act shall affect the rights of the third party against the insured in respect of the balance.

(5) For the purposes of this Act, the expression “**liabilities to third parties**”, in relation to a person insured under any contract of insurance, shall not include any liability of that person in the capacity of insurer under some other contract of insurance.

(6) This Act shall not apply—

- (a) where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company; or
- (b) to any case to which subsections (1) and (2) of section 29 of the Workmen’s Compensation Act, applies.

### **Duty to give necessary information to third parties**

3. (1) In the event of any person becoming bankrupt or making a composition or arrangement with his creditors, or in the event of an order being made under section 114 of the Bankruptcy Act, in respect of the estate of any person, or in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to any company or of a receiver or manager of the company’s business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge it shall be the duty of the bankrupt, debtor, personal representative of the deceased debtor or company, and, as the case may be, of the trustee in bankruptcy, trustee, liquidator, receiver, or manager, or person in possession of the property to give at the request of any person claiming that the bankrupt, debtor, deceased debtor, or company is under a liability to him such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Act and for the purpose of enforcing such rights, if any, and any contract of insurance, in

so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the giving of any such information in the events aforesaid or otherwise to prohibit or prevent the giving thereof in the said events shall be of no effect.

(2) If the information given to any person in pursuance of subsection (1) discloses reasonable ground for supposing that there have or may have been transferred to him under this Act rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said subsection on the persons therein mentioned.

(3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

(4) If without reasonable excuse any person fails to comply with the provisions of this section or wilfully makes any false statement in reply to any such demand as aforesaid he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$240 or to imprisonment for a term not exceeding three months.

#### **Settlement between insurers and insured persons**

4. Where the insured has become bankrupt or where in the case of the insured being a company, a winding-up order has been made or a resolution for a voluntary winding-up has been passed, with respect to the company, no agreement made between the insurer and the insured after liability has been incurred to a third party and after the commencement of the bankruptcy or winding-up, as the case may be, nor any waiver, assignment, or other disposition made by, or payment made to the insured after the commencement aforesaid shall be effective to defeat or affect the rights transferred to the third party under this Act, but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment had been made.

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