

Report of the Costs Committee of the Barbados Bar Association

May 31, 2022

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Executive Overview

Pursuant to a mandate from the wider membership of the Barbados Bar Association, the Costs Committee undertook a review of the Non-Contentious Business Costs (NCBR). The Committee included Ms. Nailah Robinson (convenor), Mr. Barry Gale, QC, Mrs. Suzanne Barker-Small, Mrs. Laura Harvey-Read, Ms. Charmain Delice-Hunte and Ms. Haylee Shaw. There was therefore one senior counsel with over 40 years' call, one with 20 years' call, three in the 10-15 range, and one at 5 years.

The Committee considered that there must be a balance between keeping the costs affordable for clients whilst at the same time adequately remunerating the Attorneys for their work. The minimum fees set an expectation of the quality of work the public will expect to be performed. We reviewed the recommendations which had been made in a previous survey and discussed the work to be done under each item. We also discussed external regulatory issues and compared costs in other jurisdictions.

The fees covered by the NCBR have remained unmodified for the past 20 years in the face of an almost 100% increase in the cost of living in Barbados. It is therefore suggested that most minimum fees which showed a dollar value should be almost doubled to reflect the increase. However, in order that less fortunate clients not be placed at a disadvantage, the minimum values for items such as conveyances and estates were not changed, but adjustments start from midrange values.

The Committee recommends that costs at the higher end of the scale should be discretionary instead of fixed. Therefore, a cap should be applied above which it is no longer mandatory to charge a fixed percentage. This cap is set at a transaction value of \$10 million.

We recommend that several items should be added to the list, including fees related to Wills, Industrial Designs and applications for Restoration of Title. On the other hand, several items are

recommended to be removed from the list, such as the mandatory fee for international clients. Instead, it is felt that attorneys should be free to set their own fees.

Finally, we include a recommendation for hourly rates for contentious and non-contentious work according to bands of seniority.¹ This is not intended to take effect as a mandatory minimum but is intended to be guidance for attorneys. Each attorney would be expected to consider, as always, such factors as the complexity and importance of the work, and their own overheads. The Scale should specifically state that invoices for legal work conducted by an Attorney-at-Law should be clear, itemised and concise.

Introduction

On June 4, 2021, at a Special General Meeting, the Barbados Bar Association approved a resolution as follows:

WHEREAS the Legal Profession (Attorneys-at-Law) (Remuneration for Non-Contentious Business) Rules were made on 5th September 1996 by the Barbados Bar Association under section 35 of the Legal Profession Act and approved by the Judicial Council on 18th March 1997:

AND WHEREAS questions have arisen as to the fairness and adequacy of the said Rules to meet the needs of modern legal practice:

BE IT RESOLVED that:

4. The Costs Fees Committee of the Barbados Bar Association is directed to consider and make proposals for:

- i. The amendment of the said Rules with a view to updating and augmenting the provisions therein to meet the circumstances of modern practice; and/ or
- ii. The inclusion of proposed hourly rates for Attorneys-at-Law according to several bands of seniority.

The proposal or proposals of the Costs Committee be presented to a further Special General Meeting of members to be called for the purpose.

¹ This followed the example set in the Supreme Court of Judicature Second Practice Guide to the Assessment of Costs, Trinidad and Tobago Gazette, October 22, 2015

The Committee considered proposals which had been made during a previous survey in 2020 in addition to our own proposals. There were several lengthy meetings and fruitful discussions. The recommendations were collated as a Google form and Members of the Bar were invited to vote in September 2021. There were 88 responses. The respondents voted overwhelmingly in favour of the proposals.

Demographic Information

In the survey, the Committee requested demographic information on respondents. Bearing in mind that the respondents represented less than 10% of the Bar, nevertheless, the information is quite enlightening. It is hoped that further information may be collected in the future so that the Association can better tailor its programmes.

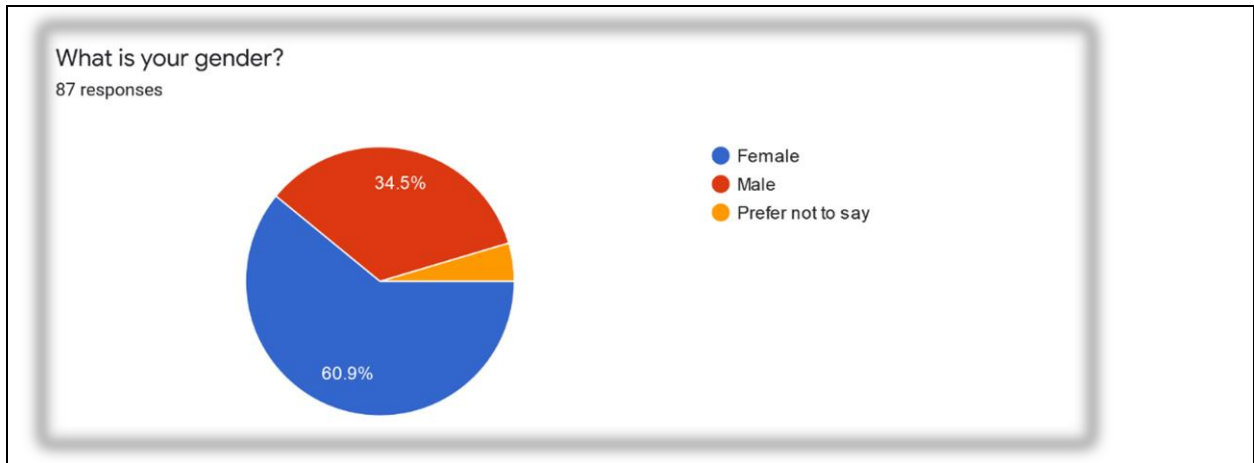
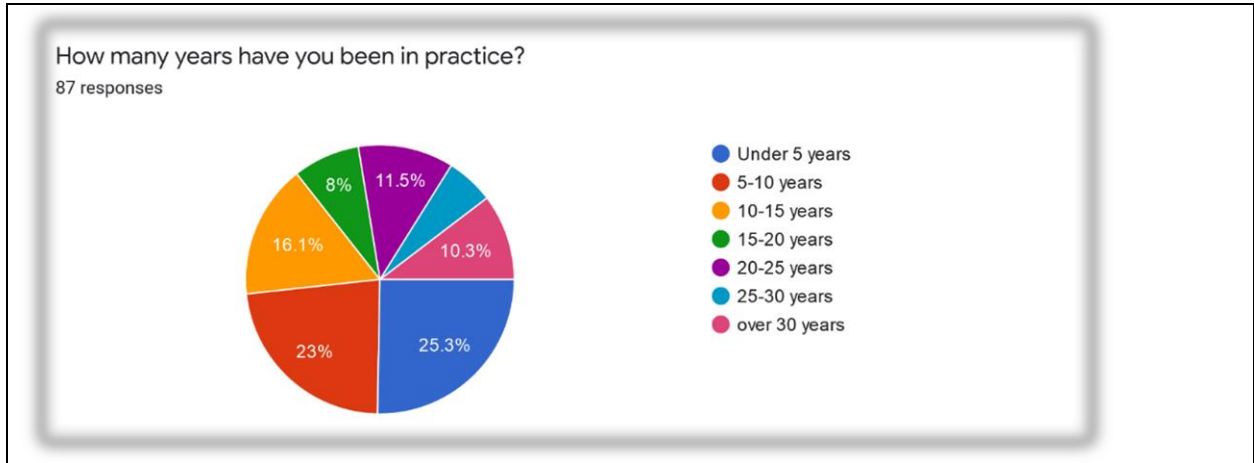
Of the respondents, 25% were under 10 years in practice and 23% had been in practice for 5-10 years. This means that approximately half of the respondents were junior attorneys. The rest were distributed across the mid and senior ranges, with 24% in the 10-20 year range, and 28% over 20 years.

60% of the respondents were female and 35% were male (5% preferred not to state their gender).

The respondents were asked to select all of their practice areas. 84% reported that they had some conveyancing practice, and 82% reported that they practised in the civil arena. 57% and 56% respectively undertook corporate and family work. 14% practised patent and IP work and 13% had some criminal practice.

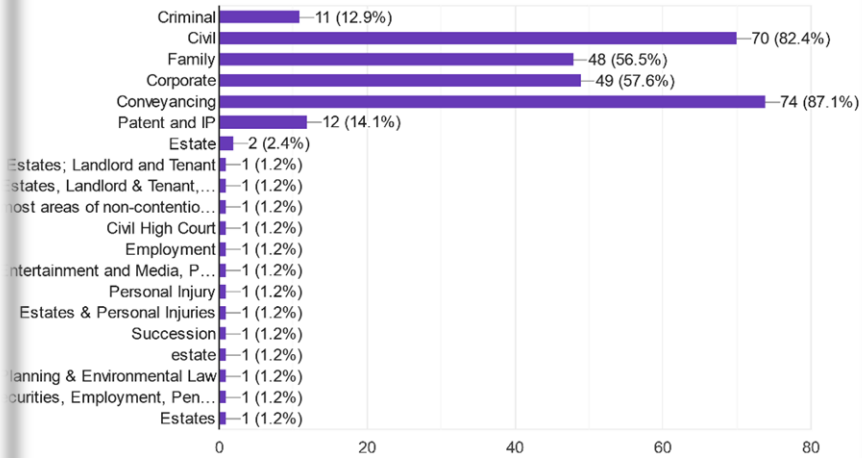
Of the respondents, the vast majority – 59% -- were sole practitioners, while 16% were associates in firms, and 10% were partners in firms. The other respondents were in-house counsel, government employees, and retired.

64 persons responded to a question about their 2020 income from all sources. It can be appreciated that the pandemic might have affected this figure. Almost half (47%) reported that they had earned under \$50,000 from all sources. 33% reported earning \$50,000 to \$100,000, and 9% earned \$100,000 to \$150,000. The remainder (11%) earned more than \$150,000 with approximately 5% in the \$150,000 - \$200,000 range, and smaller numbers in the higher ranges.



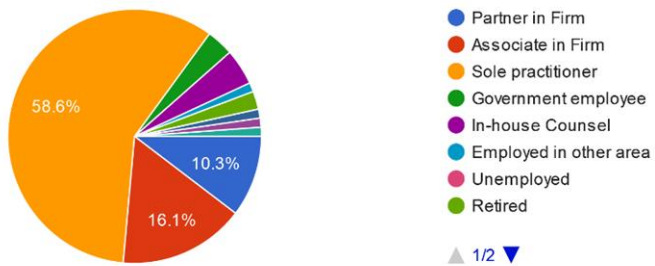
What are your practice areas? Check all that apply

85 responses



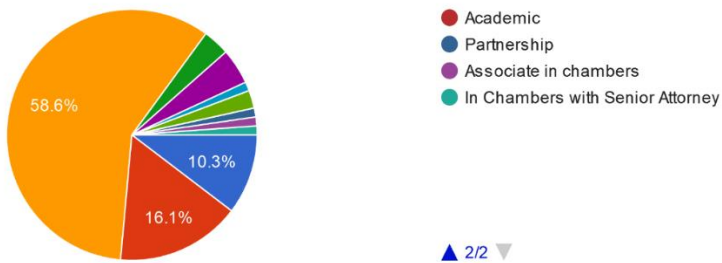
What is your primary employment?

87 responses



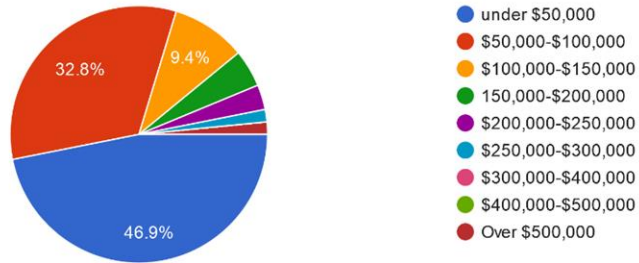
What is your primary employment?

87 responses



What was your employment income last year from all sources? (optional)

64 responses



The Proposals

The proposals are divided into practice areas for ease of reference. The tables show the current rate and the proposed rates. Information about the responses and respondents' individual comments are presented in the footnotes. Worked examples showing the rates at different levels are also presented in the footnotes.

Conveyancing

In general, for Conveyancing, the Committee recommends leaving the rates at the lower transaction levels (under \$100,000) unchanged so as not to create hardship. Modest increases are applied to the midranges. Thus, in the situation of Unregistered Land: Vendor, a transaction valued \$500,000 would now attract fees of \$8,500 instead of \$7,500, while a transaction valued \$5 million would now attract fees of \$54,750 instead of \$52,500.

The Committee also considered the rates in relation to high-end transactions. From our observation, the use of fixed rates at this level has led fees which are disproportionate to the work required and to the liability involved. It has also encouraged unethical price-cutting. An example is given relating to international securities of \$100 million. The present fees are \$377,125. Under the proposal, the minimum fee would be capped at \$64,375 (the fees applicable to a transaction of \$10 million). Attorneys would be free to charge any fee above this at their discretion.

Another change is the proposal that registered and unregistered conveyancing should attract the same fees, with the removal of the lower rates (presently 1/3) for registered conveyancing. Although the liability for attorneys is reduced, the care and attention required in drafting remains the same.

Agreement for Sale²

	Current	Proposed
Vendor Development	\$250	\$500
Vendor Other	\$400	\$600
Purchaser Development	\$300	\$500
Purchaser Other	\$600	\$650

Unregistered Land, Vendor^{3 4}

Current		Proposed	
\$0 - \$25,000	\$750	\$0 - \$25,000	\$750
On the next \$75 000	2%	On the next \$75 000	2%
On the next \$100 000	1.5%	On the next \$100 000	1.75%
On the next \$300 000	1.25%	On the next \$300 000	1.5%
Thereafter	1%	On the next \$500,000	1.25%
		On the next \$9 million (i.e. up to \$10 million)	1%
		Thereafter	No mandatory minimum

² **Agreement For Sale** proposals accepted by 85%. Comments included:

- Agreement for Sale \$850.00.
- Should be an hourly rate as a bare minimum. Agreements for Sale can take a lot of time to do, redrafting and so on.
- Given that the preparation of the Agreement for Sale is the responsibility of the Vendor's Attorney-at-Law either the fee for the Vendor's Attorney-at-Law should match that of the fee for the Purchaser or should be slightly more.

³ **Unregistered Land Vendor** examples: a transaction valued \$500,000 would now attract fees of \$8,500 instead of \$7,500, while a transaction valued \$5 million would now attract fees of \$54,750 instead of \$52,500.

⁴ **Unregistered Land Vendor** proposals accepted by 79%. Comments included:

- The rate should at least be the same as the realtor, who shows the property, places the same on social media and collects 4% to 5% of the purchase price, which is greater than the fees for the 2 Attorneys put together. However, it is the Attorney who has the greater task and the legal liability.
- a more significant increase is needed not less than 5% of value
- Given that the preparation of the Agreement for Sale is the responsibility of the Vendor's Attorney-at-Law either the fee for the Vendor's Attorney-at-Law should match that of the fee for the Purchaser or should be slightly more.
- One standard percentage as like Realtors e.g 4 or 5%
- The Attorney is to use his or her discretion to increase the suggested scale fee for no one transaction is the same
- I think there should be a flat percentage calculation eg 2.5% of the total value. Minimum fee of \$1,500.00
- 1st \$50k: 1,500 | next 150k: 2% | next 300k: 1.75% | next 500k:1.50% | Bal. 1%

Unregistered Land, Purchaser^{5 6}

Current		Proposed	
\$0 - \$25,000	\$1,000	\$0 - \$25,000	\$1,000
On the next \$75 000	2.5%	On the next \$75 000	2.5%
On the next \$100 000	1.5%	On the next \$100 000	1.75%
On the next \$300 000	1.25%	On the next \$300 000	1.5%
Thereafter	1%	On the next \$500,000	1.25%
		On the next \$9 million (i.e. up to \$10 million)	1%
		Thereafter	No mandatory minimum

Sale/Purchase of registered land⁷

Current	Proposed
Vendor: 2/3 of unregistered fees Purchaser: 1/3 of unregistered fees	Make the same as for unregistered land

⁵ **Unregistered Land, Purchaser** examples: transaction valued \$500,000 would attract fees of \$9,125 instead of \$8,125. A transaction valued \$5 million would attract fees of \$55,375 instead of \$53,125.

⁶ **Unregistered Land, Purchaser** proposals accepted by 79% of respondents. Comments included:

- The rate should at least be the same as the realtor, who shows the property, places the same on social media and collects 4% to 5% of the purchase price, which is greater than the fees for the 2 Attorneys put together. However, it is the Attorney who has the greater task and the legal liability.
- a more significant increase not less than 5% of value
- Given that the preparation of the Agreement for Sale is the responsibility of the Vendor's Attorney-at-Law either the fee for the Vendor's Attorney-at-Law should match that of the fee for the Purchaser or should be slightly more.
- One standard percentage as like Realtors eg 4 or 5%
- The Attorney is to use his or her discretion to increase the suggested scale fee for no one transaction is the same
- Again I think there should be a fixed fee of 2.5% with a minimum fee of \$1,500.00
- 1st \$50k: 2,000 | next 150k: 2.5% | next 300k: 2.25% | next 500k: 2.0% | Bal. 1%

⁷ **Sale/Purchase Registered Land** proposal accepted by 82%. 11% voted to keep current calculations. Comments included:

- No justification for a difference in fees between the 2 Attorneys or between registered and unregistered land. The time and care required to carry out all the checks and balances are just as exhausting, regardless of the type of sale or whether you are representing the vendor or purchaser.
- Fixed fee regardless of whether it is registered or unregistered

Property sold subject to encumbrances⁸

Current	Proposed
If property is being purchased which is subject to encumbrances, the full purchase price will be used for the purpose of calculating the purchaser's attorney's fees. However, if the mortgagee is purchasing, then the purchaser attorney's fees shall be calculated on the basis of the equity of redemption	No change

No investigation of title needed

Current	Proposed
Where no investigation of title is required by a purchaser or a mortgagee, the fee to be charged by that party's Attorney-at-Law shall be one half of the prescribed fee.	Remove from scale

Transfer of shares where real estate is involved⁹

Current	Proposed
Same as for sale/purchase of land. This must not be less than what would be chargeable on the sale/purchase of the property alone.	Keep the current calculation

Deed of Gift¹⁰

Current	Proposed
Fee for Vendor's attorney calculated on value from land tax demand or as determined in accordance with the Property Tax Act Cap. 84A whichever shall be greater.	Keep the current calculation

⁸ 81% agreed that the fees for **Property sold subject to encumbrances** should remain the same. 12% voted to remove from the scale completely. Comments included:

- Please clarify in what circumstances the Mortgagee (Financial institution) will be purchasing
- To charge based on value and time spent

⁹ 84% agreed that the calculation for **Transfer of shares where real estate is involved** should remain the same. 9% voted to remove from scale. Comments included:

- Should be a reasonable fee based on the value of the shares/property
- This really is a sale of shares. Land may be one of the assets of a company but what happens if it is land plus other intangibles. I think that the scale fee for sale of shares ought to deal with this.
- Discretion to increase fee based on the circumstances and time spent

¹⁰ For **Deed of Gift**, 91% voted to keep the same calculation. Comment received was:

- A general suggestion for all fees is that a multiplier should be calculated to be applied to all transactions as we move from year to year, based on inflation rates and the price index. The Central Bank of Barbados has assisted in suggesting a present-day fee, based on the 1997 scale of fees, using the inflation rates from 1997 and the price index. In 2019, based on the inflation rates and price indices since 1997, it was suggested that 106% of the value of any item in the 1997 scale of fees, should be added. For e.g. a 1997 fee of \$200. in 2019 would be \$200 +(\$200 x106%) = \$200 + \$212 which is \$412.00.

Sale and Purchase of personal property including absolute bills of sale and shares¹¹

Current	Proposed
One half of fees for unregistered land.	Keep the current calculation

NEW: Aborted sale/purchase/mortgage of real property¹²

Proposal
25% of scale fee (where sale has progressed beyond Agreement for Sale, e.g., where title is defective or deposit has been forfeited)

¹¹ 79% voted to keep the current calculation for **Sale and Purchase of personal property including absolute bills of sale and shares**, 15% voted to remove from scale. Comment received was:

- Change one half to 2/3

¹² 64% voted to adopt the proposal for **NEW: Aborted sale/purchase/mortgage of real property**. 20% thought this should remain out of the scale.

- We're allowed to bill for the agreement for sale and investigation of title. In this case I agree with the 25% with a minimum of \$1000.00
- There may be occasions where the work done on an aborted scale is way beyond 25%. I agree with 25% as a minimum only and suggest that there be additional percentages for other types of progress made in the sale.
- 30%
- Should be at least 75% if conveyance has been drafted
- You may have advanced past the Agreement for Sale and preparing Requisitions or investigating the title. This situation should be on time spent as a minimum
- Proposal should be lowered to 15%
- On a time spent basis using hourly rates

Mortgages

Mortgagor^{13 14}

Current		Proposed	
\$0 - \$25,000	\$750	\$0 - \$25,000	\$750
On the next \$75 000	1.5%	On the next \$75 000	1.5%
On the next \$100 000	1%	On the next \$100 000	1.25%
Thereafter	3/8%	On the next \$9.8 million (i.e. up to \$10 million)	0.625%
		Thereafter	No mandatory minimum

Mortgagee^{15 16}

Current		Proposed	
\$0 - \$25,000	\$1,000	\$0 - \$25,000	\$1,000
On the next \$75 000	2%	On the next \$75 000	2%
On the next \$100 000	1.25%	On the next \$100 000	1.5%
Thereafter	5/8%	On the next \$9.8 million (i.e. up to \$10 million)	0.875%
		Thereafter	No mandatory minimum
Example			
Mortgage of \$50,000	\$1,500		\$1,500
\$500,000	\$5,625		\$6,625
\$5 million	\$33,750		\$46,000

Registered land¹⁷

Current	Proposal
Vendor: 1/3 of unregistered land. Purchaser: 2/3 of unregistered fees.	Use the same fees as for unregistered land.

¹³ **Mortgagor** examples: transaction valued \$500,000 would now attract fees of \$5,000 instead of \$4,000. A transaction valued \$5 million would attract fees of \$33,125 instead of \$20,875

¹⁴ 86% voted to adopt the **Mortgagor** proposal. 8% voted to keep the current values.

¹⁵ **Mortgagee** examples: for transaction valued \$500,000, fee would increase from \$5,625 to \$6,625.

¹⁶ 83% voted to adopt the proposals for **Mortgagee** fees. 10% voted to keep the current values.

¹⁷ 89% voted to adopt the proposals for **Registered Land Mortgages**.

New: Where Mortgagee is a company in addition to above¹⁸

Proposal
\$500

Mortgages¹⁹

Current	Proposed
Where the same Attorney acts for both the mortgagor and the mortgagee, he shall charge the whole of the mortgagee's Attorney's fee and half of the mortgagor's Attorney's fee	Remove from scale (i.e., no longer discounted)
Where the same Attorney acts for a purchaser/mortgagor but not for the mortgagee, he shall charge the whole of the purchaser's Attorney's fee and half of the mortgagor's Attorney's fee	Remain the same
Where the same Attorney acts for a purchaser/mortgagor and also for a mortgagee, he shall charge the whole of the purchaser's Attorney's fee and the whole of the mortgagee's Attorney's fee	Remove from scale (i.e., no longer discounted)

Transfer of mortgage; Debenture; Further Charge²⁰

Current	Proposal
Same as mortgages	Remain the same

Assignment of life insurance policy with mortgage²¹

Current	Proposal
\$250	\$500

¹⁸ 80% voted to adopt the proposal for **New: Where Mortgagee is a company in addition to above**. 13% voted to keep this out of the scale.

¹⁹ 55% voted to adopt the proposals for **Mortgages**. Significantly, 36% voted to keep the current formulation. Comments included:

- The same attorney and or firm or attorneys within the Firm should not be allowed to act for both parties under any circumstances.

²⁰ 91% voted to keep the current calculations for **Transfer of mortgage; Debenture; Further Charge**. Approximately 8% voted to remove from scale.

²¹ 78% voted to adopt the proposal for **Assignment of life insurance policy with mortgage**. 16% voted to keep the current values.

Bill of Sale (Security); Chattel Mortgage²²

Current	Proposed
Minimum: \$250	\$500
Thereafter: ½ of scale for mortgages	Remain the same

Releases (Mortgages of land and debentures)^{23 24}

	Current	Proposed
Up to \$25 000	\$300	\$600
Between \$25 000 and \$100 000	\$400	\$800
Over \$100 000	\$600	\$1,200

Partial Release²⁵

Current	Proposed
\$300	\$600

Discharge of judgment, chattel mortgage, vendor's lien²⁶

Current	Proposed
\$240	Same as for Release

Release: Separate attorneys for mortgagor and mortgagee²⁷

Current	Proposed
2/3 for attorney preparing deed, 1/3 for other	Keep the current calculation

²² 86% voted to adopt the proposal for **Bill of Sale (Security); Chattel Mortgage**. Comments included:

- Change minimums to \$750 for individual borrower; \$1,000 for company borrower

²³ Examples of **Bill of Sale (Security); Chattel Mortgage**: fees for transaction valued \$500,000 would move from \$3,875 to \$5,000. Fees for transaction valued \$5 million would move from \$26,375 to \$38,750.

²⁴ 75% voted to adopt the proposal for **Bill of Sale (Security); Chattel Mortgage**. 16% voted to keep the current value. Comments included:

- I think an increase is warranted at the lower end but not necessarily at the higher end in the same proportion.

²⁵ 51% voted to keep the current formulation for **Partial Release**. Approximately 40% agreed to the proposal (this option was accidentally omitted from the grid, but persons wrote it in under "other"). Comments included:

- Minimum fee of \$750, shared 1/3 :2/3. These are harder to draft than full releases

²⁶ 85% voted to change to the recommended value for **Discharge of judgment, chattel mortgage, vendor's lien**. Comments included:

- I think an increase is warranted at lower end but not necessarily at higher end in same proportion.

²⁷ 82% voted to keep the current values for **Release: Separate attorneys for mortgagor and mortgagee**. Approximately 10% voted to remove from the scale. Comments included:

- Attorneys should not be allowed to work for both parties
- As for releases above

NEW: Charge over shares²⁸

Proposal
Same as for charge over real property

²⁸ 82% voted to adopt the proposal for **NEW: Charge over shares**. 14% voted to keep out of scale.

Estates

Original grant of Probate in Barbados; Resealing Foreign Grant; Grant de bonis non (using value of unadministered portion of estate)^{29 30}

Current		Proposed	
\$0 - \$100,000	\$1,000	\$0 - \$100,000	\$1,000
On the next \$75 000	1%	On the next \$100,000	1.25%
Thereafter	0.5%	On the next \$9.8 million (i.e. up to \$10 million)	0.75%
		Thereafter	No mandatory minimum

Original grant of Administration in Barbados; Resealing Foreign Grant;

Grant de bonis non^{31 32}

Current		Proposed	
\$0 - \$100,000	\$1,500	\$0 - \$100,000	\$1,500
On the next \$75 000	1%	On the next \$100,000	1.25%
Thereafter	0.5%	On the next \$9.8 million (i.e. up to \$10 million)	0.75%
		Thereafter	No mandatory minimum

²⁹ Example of **Probate** fees: for estate valued \$500,000, fees would increase from \$3,375 to \$4,500. For Estate valued \$5 million, fees would increase from \$25,875 to \$38,250

³⁰ 80% voted to adopt the proposal for **Original grant of Probate in Barbados; Resealing Foreign Grant; Grant de bonis non (using value of unadministered portion of estate)**. Comments included:

- A mandatory minimum should be retained
- significant increase for small value estates. same work is done. fee should be quadrupled.
- Would move the first column to \$1,500 instead of \$1,000
- 0-100,000 - \$1500 or same as L/A
- Change to recommended value and apply to resealing of grant

³¹ Examples of **Administration** fees: for estate valued \$500,000, fees would increase from \$3,875 to \$5,000. For Estate valued \$5 million, fees would increase from \$26,375 to \$38,750

³² 88% voted to adopt the proposal for **Original grant of Administration in Barbados; Resealing Foreign Grant; Grant de bonis non**. Comments included:

- Significant increase for small value estates. same work is done. fee should be quadrupled.

Resealing Barbados grant in a foreign country³³

Current	Proposed
\$1,000	Remove from Scale

Second Grant³⁴

Current	Proposed
\$1,000	Half of the fee for a first grant

Administration of estate (supervision of administration and winding up of estate including obtaining tax clearance certificate)^{35 36}

Current		Proposed	
\$0 - \$25,000	5%	\$0 - \$100,000	\$2,500
On the next \$75 000	3%	On the next \$400,000	1.75%
On the next \$400 000	1.5%	On the next \$9.5 million (i.e. up to \$10 million)	1%
Thereafter	0.75%	Thereafter	No mandatory minimum

NEW: Application for Tax Clearance Certificate for an Estate (where the Administration of Estates fee above is not charged)³⁷

Proposal
\$1,500

³³ 58% voted to remove **Resealing Barbados grant in a foreign country** from the scale of fees. A significant 30% voted to keep the current value. Comments included:

- Fee should be based on time spent. Resealing applications in foreign countries can become quite involved due to tax issues.
- Please leave but increase fee a range \$1,500.00 - \$2,000.00
- Same scale as original grant of probate

³⁴ 86% voted to change the fees for **Second Grant** to the recommended value.

³⁵ Examples of **Administration** fees: for estate valued \$500,000, fees would increase from \$3,875 to \$5,000. For Estate valued \$5 million, fees would increase from \$26,375 to \$38,750

³⁵ Examples of **Supervision** fees: for estate valued \$500,000, fees would remain at \$9,500. For Estate valued \$5 million, fees would increase from \$43,250 to \$54,500

³⁶ 80% voted to adopt the proposed fees for **Supervision**. 11% voted to keep the existing values.

³⁷ 71% voted to adopt the proposed new fee for **NEW: Application for Tax Clearance Certificate for an Estate (where the Administration of Estates fee above is not charged)**. 10% voted to keep this out of the scale. Comments included:

- Fee should be lower than recommended. Most Tax clearance applications are not so onerous as to justify a fee of \$1,500.00. Fee should be based on time spent with a minimum of \$500.00 for a basic application.
- Keep the structure but then apply the calculation as per the suggestion given under the Deed of Gift
- \$750.00

Bankrupt Estates³⁸

Current	Proposed
\$250	\$1,000

NEW: Preparing deed of family arrangement for estate³⁹

Proposal
\$750 (will increase depending on number of parties, number of properties and complexity of the matter)

Deed of Assent⁴⁰

Current	Proposed
Half of vendor's attorney fee based on the improved value of the property on the current land tax demand notice or the market value whichever is higher with \$750 minimum	This should remain the same

Transfer of Shares in Estate⁴¹

Current	Proposed
\$1,000	This should remain the same

³⁸ 83% voted to adopt the proposed fee for **Bankrupt Estates**.

³⁹ 84% voted to adopt the proposal for **Preparing deed of family arrangement for estate**. 13% voted to keep this out of the scale.

⁴⁰ 86% agreed that the current calculations for **Deed of Assent** should remain.

⁴¹ 92% agreed that the fees for **Transfer of Shares in Estate** should remain the same. Comments included:

- Based on value as conveyance

Miscellaneous Conveyancing and Estates

Exchange Control, Land Tax Certificate and Change of Ownership Forms⁴²

	Current	Proposed
Preparation of Exchange Control Forms (registration of funds, permission to repatriate, and permission to purchase, sell or mortgage)	Time spent with minimum of \$250	Minimum of \$500
Obtaining Land Tax Certificate	\$100	\$200
Preparation of Change of Ownership forms	\$100	\$200

Public Auction (taking instructions, drawing and engrossing conditions of sale, attending and conducting sale)⁴³

	Current	Proposed
Taking instructions for sale, drawing and engrossing conditions of sale and attending and conducting sale	\$1,500	Remain the same
where property sold	1% of price	Remain the same

Attending Public Auction on behalf of prospective purchaser⁴⁴

Current	Proposed
\$500	\$750

Negotiating the purchase price and other conditions of sale for sale/purchase of property where the sale is completed, and attorney/firm is sole negotiator⁴⁵

Note: The Committee discussed this thoroughly in light of the fact that there is no definition provided for the term “negotiate”. Although it is proposed that this remain, it is clarified that the

⁴² 80% voted to change to recommended for **Exchange Control, Land Tax Certificate and Change of Ownership Forms**. 14% voted to keep the current values

⁴³ 52% recommended keeping the current calculation for **Public Auction**. 13% voted to remove this from this scale. Approximately 35% voted to adopt the proposal of \$2,500 for taking instructions (this option was accidentally omitted from the grid, but persons wrote it in under “other”). Comments included:

- Proposed \$2,500

⁴⁴ 38% voted to keep the current value, 18% voted to remove, and approximately 44% voted to adopt the proposal (this option was accidentally omitted from the grid, but persons wrote it in under “other”).

⁴⁵ 86% voted to keep the current calculation for **Attending Public Auction on behalf of prospective purchaser**. 9% voted to remove from scale. Comments included:

- 5% on first \$250,000, then 4% on balance
- 4% thereafter \$500,000

attorney/firm must be the sole negotiator. To avoid confusion, it is imperative that the attorney establish the parameters of the negotiation with the client beforehand.

Current	Proposed
5% on the first \$40,000 3% thereafter	Remain the same

NEW: Notice of severance⁴⁶

Proposal
\$750

NEW: Application for first registration of land and for certificate of registration⁴⁷

Proposal
\$750 for first registration \$150 for certificate of registration

NEW: Application for Restoration of Title Deed⁴⁸

Proposal
\$3,000 - \$4,500

⁴⁶ 84% voted to adopt the new recommendation for Notice of Severance. 10% voted to keep out of scale. Comments included:

- \$1,500 per parcel of land
- \$500

⁴⁷ 89% voted to adopt the new recommendation for **Application for first registration of land and for certificate of registration**. 8% voted to leave out of the scale. Comments included:

- \$3,000 for first registration

⁴⁸ 82% voted to adopt the new proposal for **Application for Restoration of Title Deed**. Comments included:

- Declaration of Title fees should be proposed
- I suggest based on the volume of work it should be at least \$5000.00
- \$7,500
- Minimum \$4000

Landlord and Tenant

The Committee proposed a reduction in this cost where the lease is under \$15,000 per year. At \$15,000, the cost is now \$900 instead of \$1,000, and lower fees apply where the transaction is lower. The rate increases for leases over this, from 1% to 1.25%.

Residential lease^{49 50}

Current		Proposed	
One-year			
\$0 - \$15,000	\$1,000	\$0 - \$100,000	6%
On the next \$15 000	\$750	On the next \$900,000	1.25%
Thereafter	1%	On the next \$9 million (i.e. up to \$10 million	1%
		Thereafter	No mandatory minimum

Commercial Lease^{51 52}

Current		Proposed	
One-year			
\$0 - \$25,000	\$2,500	\$0 - \$100,000	10%
On the next \$25 000	\$1,500	On the next \$900,000	1.25%
Thereafter	1%	On the next \$9 million (i.e. up to \$10 million)	1%
		Thereafter	No mandatory minimum

⁴⁹ Examples of **Residential lease** fees: Annual lease of \$50,000 would attract fees of \$1,950 instead of \$3,000. Fees for lease of \$500,000 would increase from \$6,450 to \$11,000. Fees for lease of \$5 million would increase from \$51,450 to \$57,250

⁵⁰ 81% voted to change to the recommended values for **Residential lease**. 11% voted to keep the current values.

⁵¹ Examples of **Commercial Lease** fees: Annual lease of \$50,000 would attract fees of \$5,000 instead of \$4,000. Fees for lease of \$500,000 would increase from \$8,500 to \$15,000. Fees for lease of \$5 million would increase from \$53,500 to \$61,250

⁵² 88% voted to adopt the proposals for **Commercial Lease** fees

General Lease Arrangements⁵³

	Current	Proposed
Lease over one year	add 25% to scale calculation	No mandatory minimum
Renewal of lease -- same terms (except rent) as original	half of scale	No mandatory minimum
Renewal of lease -- different terms from original	same as original	No mandatory minimum
Any service charges which are included in the tenancy may also be included in the yearly lease value		Remain the same
The lessor and lessee's attorneys are both entitled to charge scale fees		Remain the same
Third party joins lease -- fee for lessor or lessee's attorney	\$500	\$750
Third party joins lease -- fee for third party's attorney	half of scale	Remain the same

NEW: Multiple leases for single property (e.g. apartment, shopping complex)⁵⁴

Proposal
Half of scale fee for lease

Notice to Quit⁵⁵

Current	Proposed
\$250	\$500

NEW: Assignment of Lease⁵⁶

Proposal
Same fee as for a lease

⁵³ 79% voted to adopt the proposals for **General Lease Arrangements**. 16% voted to keep the current calculations.

⁵⁴ 75% voted to adopt the new proposal for **Multiple leases for single property (e.g. apartment, shopping complex)**. 24% voted to keep this out of the scale.

⁵⁵ 65% to adopt the proposal for **Notice to Quit**. 27% voted to keep the current values. Comments included:

- \$400.00
- \$250 if monthly rental is less than \$1500, \$500 if monthly rental is above \$1,500

⁵⁶ 83% voted to adopt the new proposal for **Assignment of Lease**. 16% voted to keep out of scale.

Intellectual Property

Trademarks: Applications⁵⁷

	Current	Proposed
Application for registration	\$750	\$1,000
Application for entry of an address for service	\$150	\$250
NEW: Additional fee for priority application		\$100
Application for cancellation of mark/licence entry on register	\$250	\$500
Request for preliminary advice	\$200	\$400
NEW: Renouncing registration		\$500

Trademarks: Recording changes or assignments⁵⁸

	Current	Proposed
Amendment to application	\$175	\$400
Recording amendment of registered mark	\$250	\$500
Recording change of name or address on register, one application	\$175	\$500
Recording change of name or address on register, each additional application filed simultaneously	\$100	\$400
Recording assignment of proprietor or registered user with or without goodwill, one application	\$250	\$500
Recording assignment of proprietor or registered user, each additional application filed simultaneously	\$100	\$400

⁵⁷ 83% voted to adopt the proposals for **Trademarks: Applications**. 8% voted to keep the current values. Comments included:

- I agree with the proposal. However please clarify if the application for service is per application or a one off fee.

⁵⁸ 79% voted to adopt the proposals for **Trademarks: Recording changes or assignments**. 16% voted to keep the current values.

Trademarks: Recording Mergers⁵⁹

	Current	Proposed
Recording merger, one application	\$250	\$500
Recording merger, each application filed simultaneously	\$125	\$400
Recording change of address, one application	\$175	\$500
Recording change of address, each additional application filed simultaneously	\$100	\$400

Trademarks: Additional Items⁶⁰

	Current	Proposed
One application	\$300	\$750
Each application filed simultaneously	\$150	\$450
Cancellation of licence-contract	\$200	\$500

Trademarks: Recording change of address, one application⁶¹

	Current	Proposed
Application for renewal under section 27(3) of the Act	\$200	\$500
Application for renewal under section 27(4) of the Act	\$400	\$600
Filing opposition to application	\$350	\$750
Filing answer to opposition	\$350	\$750
Making search in Trademark Register for registration of mark	\$125	\$200
Obtaining certified copies of certificates	\$100	\$150
NEW: Obtaining Director's Certificate of any matter		\$250

⁵⁹ 73% voted to adopt the proposals for **Trademarks: Recording licence-contract or sub-licence-contract**. 21% voted to keep the current values. Comments included: The proposed fees are in order. The caption is incorrect as the body refers to merger and change of address recordals. (NB: The original caption was "Recording licence-contract or sub-licence-contract")

⁶⁰ 87% voted to adopt the proposals for **Trademarks: Additional Items**. 13% voted to keep the current values.

⁶¹ 78% voted to adopt the proposals for **Trademarks: Recording change of address, one application**. 17% voted to keep the current values. Comments included:

Other:

- Recommended \$600.00 for renewals whether under sect. 27 of the Act. Save for this no objection to proposals.

Patents⁶²

	Current	Proposed
Application for Letters Patent	\$1,000	\$3,000
Application for patent co-operation treaty under section 25 of the Act (Cap. 314)	\$1,200	\$2,500
Application to record amendment	\$500	\$500
Application for renewal	\$350	\$750
NEW: Late renewal		\$800
Application for registration of licence-contract	\$250	\$500
For transfer of licence-contract or patent	\$250	\$500
Application for surrender of a patent	\$500	\$500
For recording address for service other than on first grant	\$150	\$250

New: Industrial Designs⁶³

Request for preliminary advice	\$ 300
Searches in the Register	\$200
Application for registration	\$1,200
Each additional design in the series	\$600
Recording changes of name or address in the Register	\$500
Recording assignment of design	\$500
Each additional application filed simultaneously	\$300
Obtaining Director's Certificate of any matter	\$250
Renouncing registration	\$500
Recording licence-contract or transfer of licence-contract	\$500
Each additional application filed simultaneously	\$150
Recording cancellation of licence-contract	\$500
Renewal of registration	\$500
Each additional design in the series	\$100
Late renewal of registration	\$600

⁶² 85% voted to adopt the proposals for **Patents**. 10% voted to adopt with amendments. No comments with proposed amendments were received.

⁶³ 82% voted to adopt the proposals for **Industrial Designs**. 13% voted to adopt with amendments. Comments included:

- Recommendation renewal of registration \$600.00 and late renewal \$800.00

Companies

Incorporation and registration⁶⁴

NB: In the proposal, incorporation includes all documents necessary for first registration including By-laws and Notice of Secretary.

	Current	Proposed
Incorporation and registration of a private company	\$1,500 for incorporation and subsequent matters.	\$1,500 for incorporation alone
NEW: By-laws, first organizational meeting and preparation of ancillary documents for private company	Included in incorporation	No mandatory minimum
Incorporation and registration of public company	\$2,500 for incorporation and ancillary tasks.	\$5,000 for incorporation alone
NEW: By-laws, first organizational meeting and ancillary documents for public company	Included in incorporation	No mandatory minimum
Incorporation of companies in the offshore sector and obtaining foreign currency permit	\$3,000	\$5,000 for first registration alone
NEW: Incorporation of Non-Profit Company		\$2,000
NEW: Incorporation of Segregated Cell Company		\$6,000
NEW: Reincorporation of Company		\$3,500
NEW: Incorporation of Mutual-Insurance Companies		\$8,000
NEW: Continuance/Migration of Company		\$7,500

⁶⁴ 82% voted to adopt proposals related to **Incorporation and registration**. 7% voted to keep the current values. Approximately 7% also voted to remove this from the scale.

Miscellaneous Company⁶⁵

	Current	Proposed
Conversion of private company to public company	\$5,000	\$10,300
Amalgamation of companies	\$5,000	\$10,300
Dissolution or winding up of company	\$1,000	\$5,000
NEW: Dissolution or winding up of company under section 363 or 364 of the Companies Act		\$2,500
NEW: Revival of company		\$3,000

Company Forms⁶⁶

	Current	Proposed
Preparing and filing articles of amendment under section 237	\$1,500	\$3,000
Preparing and filing notices of changes	\$250	No change
NEW: Preparing and filing annual returns		\$500
NEW: Business names		\$250
Not in scale: Registration of Charities, fees for filing documents such as Memoranda of Satisfaction		

⁶⁵ 71% voted to adopt proposals related to **Miscellaneous Company**. 10% voted to keep the current values. Approximately 10% also voted to remove this from the scale. Comments included:

- I would recommend a number between the current and proposed (perhaps midway) for each item here except new items.
- The dissolution is noted. However the client in distress may not be in possession of \$2,500.00 . If this is a fixed minimum then it may pose problems. Recommendation please delete or reduce.

⁶⁶ 84% voted to adopt the proposals for **Company Forms**. 7% voted to keep the current calculations. Comments included:

- Agree with all others, but propose \$100 for minimum for annual returns.

Miscellaneous Business

Perusal of document for several clients⁶⁷

Current	Proposed
If an Attorney-at-Law peruses a document, other than a lease, on behalf of several clients having distinct interests, the Attorney-at-Law is entitled to charge an additional \$100 for each client after the first.	To be removed from scale

Deed poll, change of name⁶⁸

Current	Proposed
\$250	\$500

Personal Injury: minimum⁶⁹

Current	Proposed
15% with minimum of \$1,200	15% with minimum of \$1,500

⁶⁷ 50% voted to remove **Perusal of Document for Several Clients** from the scale. Significantly, 43% voted to keep the current calculation. Comments included:

- Time based change
- The Scale Fee should be increased

⁶⁸ 81% voted to adopt the change for **Deed poll, change of name**. Comments included:

- 1,500.
- 400.00
- \$350
- 1500
- In some circumstances there is more than an hour spent on the document and an hourly rate should apply for time spent

⁶⁹ 83% voted to change to the recommended value for **Personal Injury: minimum**. Comments included:

- 30% minimum of \$5,000.00.
- 30%
- I disagree with minimum as attorney may end up with more than client for very small matters.
- Change to recommended value and Insurance companies to pay the prescribed costs as well and not 10%
- This should be increased to a higher percentage. When you factor in applications for interim payments which is almost like a mini trial there is a lot of work involved. On an interim application more often than not the Court is asking for submissions to be filed. The scale fee does not reflect the work that is put in. Fee agreements in the UK charge a least 25% as a fee. In the U.S.A. the percentage is 40% of the settlement sum. The suggested 15% is too low.

Power of attorney⁷⁰

Current	Proposed
Specific: \$250 General: \$400	Both: \$500

Re-registration of High Court judgment⁷¹

Current	Proposed
\$250	Remove from scale as this is not a non-contentious matter

Debt Collection⁷²

Current	Proposed
On the first \$50,000 -- 15% Thereafter -- 10% Overseas clients -- 25%	Keep current but remove distinction between local and overseas by removing fee for overseas clients

-
- ⁷⁰ 78% voted to adopt the proposal for **Powers of Attorney**. 8% voted to keep the current values. Comments included: \$750
 - \$1,200.00
 - 1500
 - Should be based on a minimum hourly rate.

⁷¹ 76% voted to remove **Re-Registration of Judgment** from the Scale. 21% voted to keep it. Comments included:

- Recommended that it remain. A judgement as issued is in fact no longer contentious at the time of re-registration. \$250.00 is reasonable.

⁷² 63% voted to adopt the recommendation in relation to **Debt Collection**. 29% voted to keep the current method of calculation. 8% voted to remove from scale.

Items to be removed from scale⁷³

Recommended: use new proposals for hourly rates

	Current
Affidavit	\$250
Interviews	\$50 for every 15 minutes
Immigration applications for Work Permit, Immigrant/Resident Status	\$1,200
Journeys in the island (excluding to courts outside of Bridgetown)	\$250 per hour in addition to normal fee.
Journeys out of island	\$2500 per day in addition to normal fee and all expenses.
A transaction other than debt for client residing out of the jurisdiction	\$250 in addition to fee

Business proposed to be added to Scale

Preparation of Will including taking instructions and facilitating execution⁷⁴

Proposal
\$400 for single Will; Plus half fee for a spouse's will if mirrored or mutual

⁷³ 60% agreed that the items should be **Removed From Scale**. 29% voted to keep the items. Comments included:

- I agree with the use of new proposals for hourly rates. (4 persons)
- Remove all but the last one. Overseas clients typically require additional work
- The minimum fees for personal injuries should be no less than \$2500.00 paid by the insurer. Insurer should pay the fee on a FULL indemnity basis as the common Law requires.
- In particular, I think that debt collection should be removed as it is too often abused, especially in relation to lawyers expecting their 10% after writing only one letter. I also think that \$250 is too high for minimum for Affidavits, especially given that some Affidavits are extremely simple.

⁷⁴ 67% voted to adopt the proposal for **Preparation of Wills**. 20% thought this should be kept out of the scale. Comments included:

- Should reflect complexity & value of estate
- \$600.00 for single will
- Wills vary widely depending on the size of the estate, the number of gifts and whether specific trusts are being set up. These should be based on time and complexity. The minimum fees these days are between \$500 and \$750.
- 750
- proposed minimum fee of \$1,200.00 with fee increasing on basis of complexity and time spent.
- 500
- Hourly rates with a minimum of \$500

Preparing matrimonial/family agreement⁷⁵

Proposal
On the basis of time spent with minimum of \$1,500

⁷⁵ 92% voted to adopt the proposal for **Preparing matrimonial/family agreement**. 7% thought this should be kept out of the scale.

Hourly Rates

The Committee recommends the following proposals for hourly rates. These are not meant to be minimum but are guidelines only. The hourly rate for a task should depend on such factors as the complexity, urgency, and importance of the task. It must be noted that many jurisdictions are reviewing the "billable hours" concept on the basis that it discourages efficiency.

The rates cover attendances by a lawyer requiring the skill of a lawyer of certain years' call (including attendances in conference, by telephone, reading documents, research, appearing in tribunals, instructing in court, and traveling). It becomes essential to issue client-care letters which should also state the situations where the fee will likely be increased, e.g., urgent applications, complex matters.

In creating this list, the figure in the 1997 Rules (\$200 per hour) was increased to take inflation into account, and then increased again to account for seniority. A telephone survey was conducted of actual costs charged with anonymous responses provided. These fees are comparable to the 2015 Practice Guide to the Assessments of Costs issued by the Supreme Court in Trinidad and Tobago.

Note that specialties are not considered as the Legal Profession Act does not make provision for it.

In determining one's own billable rate, an attorney should consider the number of non-working days per year (160 including public holidays, regular holidays, sick days, and emergencies). This leaves 205 working days. Assuming 5 billable hours per day gives 1025 billable hours per year (bearing in mind that an attorney might work on matters which are not billed per hour, such as litigation or matters billed on the scale of fees). The fee should take operational overheads into consideration, e.g., secretarial costs, rent, insurance, subscriptions, registration fees, legal texts, taxes, NIS, etc.

It is understood that many sole practitioners might not have these overheads, especially with flexible office arrangements, no formal staff, and no liability insurance or subscriptions.

It would be expected that senior practitioners would have higher expenses but would be experienced enough to spend less time on particular matters than their juniors (for example, a senior might need 1 hour at \$1,200 to cover work that a junior might need 4 hours to research). It would also be expected that seniors might have juniors to assist them.

It is recommended that time should be calculated in 6-minute intervals.

Skill level	Proposed billable hourly rate
Queen's Counsel	\$1,200 - \$1,500
Lawyer with 20+ years of experience	\$950 - \$1,200
Lawyer with 16-20 years of experience	\$850 - \$950
Lawyer with 11-15 years of experience	\$750 - \$850
Lawyer with 6-10 years of experience	\$650 - \$750
Lawyer with 0-5 years of experience	\$250 - \$550

74 of the 88 survey respondents commented on the hourly rates. Of these, 82% voted to accept without amendment, and 7% voted to accept with amendments. 11% voted to reject the proposals.

The comments received included:

- Cap hourly rates at 750 per hour and QCs at 1,000. Ranges can be adjusted accordingly.
- This should be discretionary and not legislated. Further the operational cost for a QC and those with lesser years of experience seems to be unrealistically disproportionate. Overheads remain overheads regardless of years of experience. Further the number of years does not equate to skill in any regard.
- I propose that the range from Lawyer 0-5 years and Queen's Counsel should graduate by \$150 for each interval. Eg \$250 - \$450, \$450 - \$650, \$650 - \$800 etc. Regard should also be given as to whether video conferencing services must be utilized to facilitate the meeting.
- increase all by \$300.
- I suggest that the average/recommended fees should be significantly lower -- they are far higher than the fees generally charged in the US, UK and Australia. I suggest: 0-5:

\$250-\$300, 6-10: \$300-\$400, 11-15: \$400-\$500, 15-20: \$500-\$600, 20+: \$650-\$750. Persons may, of course, go higher based on their own overheads, complexity and urgency, etc.

- This should also include: E-mails, telephone calls with clients or on their matter; defending a claim lodged against a former client before the disciplinary committee, taxation hearings to secure fees owed by former clients

General Comments Received

General comments on **Conveyancing** fees:

- WORK FOR CONVEYANCES OF REGISTERED LAND IS JUST AS MUCH AS FOR UNREGISTERED.
- Please clarify if the client is charged separately for work such as drafting Agreement and perusing agreement. Also the fees for Exchange Control Permission and etc. should be revisited.
- Sale may abort at any stage, even at the last minute, and there must be fair pay for the work done

Other Comments

- No other changes but a general comment. The scale of fees set a standard throughout the legal profession, is a general guide and should be kept. However, in addition, a multiplier per year should be calculated and published with the scale of fees, so that there is a standard adjustment made each year, in keeping with the cost of living. Secondly, the scale of fees has to cover not only the time and complexity of a task, but the additional cost component to cover operational costs/ overheads, salary of Assistants, depreciation of equipment, furniture, law books, access to databases etc.
- All rates (hourly or otherwise) should be provided as guidance but should not be mandatory.
- A general suggestion for all fees is that a multiplier should be calculated to be applied to all transactions as we move from year to year, based on inflation rates and the price index. The Central Bank of Barbados has assisted in suggesting a present-day fee, based on the 1997 scale of fees, using the inflation rates from 1997 and the price index. In 2019, based on the inflation rates and price indices since 1997, it was suggested that 106% of the value of any item in the 1997 scale of fees, should be added. For e.g. a 1997 fee of \$200. in 2019 would be $\$200 + (\$200 \times 106\%) = \$200 + \212 which is \$412.00.
- Not sure I understand this but why are we legislating hourly rates for contentious when there are poor people who need representation -- this should be left for market. Similarly, I think debt collection should be omitted but surely this should all be dealt with at a special general meeting (from private email sent to Bar Office and not from survey)