



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

N\$2.00

WINDHOEK - 4 April 2003

No.2949

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## Government Notice

### MINISTRY OF JUSTICE

No. 80 2003

#### AMENDMENT OF TARIFF OF FEES OF THE SUPREME COURT: SUPREME COURT ACT, 1990

The Chief Justice has under section 37(1) of the Supreme Court Act, 1990 (Act No. 15 of 1990), with the approval of the President, amended the rules regulating the tariff of fees of the Supreme Court of Namibia promulgated under Government Notice, No. 56 of 8 October 1990, by the substitution for the Annexure to the Schedule of the following Annexure:

#### “ANNEXURE

#### A. - TAKING INSTRUCTIONS

	N\$
1. (a) To note an appeal or cross-appeal when leave to appeal is not required .....	56,00
(b) To prosecute or defend an appeal, including continuation of a cross-appeal .....	91,00
	to
	380,00

(c)	To make or oppose an application .....	84,00 to 280,00
2.	To draft a petition or affidavit .....	Half the charge allowed under item E1 for draf- ting

### B. - PREPARATION OF RECORDS

1.	Making, for the purpose of preparing copies of the record on appeal (except where a charge is made under subparagraph 5 hereof), a copy of such particulars of the record as were not in the possession of the appellant or his or her legal practitioner at the time when the order appealed from was made, per folio .....	1,50
2.	Arranging record for printing or typing, excluding unnecessary documents therefrom, and preparing index and list of documents not included in record on appeal, per half-hour or part thereof .....	70,00
3.	Correcting printer's proof or typed or roneoed copy, per half-hour or part thereof .....	70,00
4.	Attending at the office of the registrar or office of the court appealed from to peruse or authenticate the record, per half-hour or part thereof .....	40,00
5.	(a) Making of copies of record on appeal and heads of arguments, per folio .....	1,50
	(b) Where copies are made other than by typewriter, the charge shall be for the first copy, N\$1,50 per page, and for further copies, per page .....	1,00

(Note I. - In the calculation of the number of folios the total number of words of all necessary documents is to be divided by 100, i.e. the entire record is to be treated as one document).

(Note II. - In the calculation of the number of pages the total number of words of all necessary documents is to be divided by at least 250, i.e. the entire record is to be treated as one document:

- (c) Provided that in the case of printed documents or forms, for example, publications, bonds, contracts, credit agreements and special procurations, each page thereof is to be treated as only one page).

### C. - PERUSAL

1.	(a) Perusing judgment of court <i>a quo</i> when taking instructions for the continuation of an appeal or cross-appeal, where leave to appeal is not required, per page .....	20,00
	(b) Perusing record on appeal, for each page or part thereof .....	1,00
	(c) Perusing judgment of court <i>a quo</i> by which leave to appeal was denied, when instructions are taken to address a petition to the Chief Justice, per page .....	17,00

(Note - The minimum fee under items (a) and (b) shall be N\$135,00).

- |    |   |                        |
|----|---|------------------------|
| 2. | Perusing any plan, diagram, photograph or other annexure to the record to which the remuneration hereinbefore set out cannot be applied ..... | 10,00<br>to<br>150,000 |
| 3. | (a) Attendance on and perusal of any petition or affidavit or any other document not elsewhere provided for, per page .....                   | 17,00                  |
|    | (b) Attendance on and perusal of any annexure to a petition and answering affidavit, per page .....   | 0,75                   |
|    | (c) Attendance on and perusal of a petition or affidavit composed or corrected by counsel, per page .....                                     | 2,00                   |

*(Note. I - the minim fee under item (a) shall be as follows: For formal affidavits, N\$17,00; for affidavits other than formal affidavits, N\$35,00).*

*(Note. II - In the calculation of the number of pages the total number of words of all necessary annexures is to be divided by at least 250, i.e. the entire record is to be treated as one document).*

- |    |   |       |
|----|---|-------|
| 4. | Attendance on and perusal of heads of argument, excluding annexures, for example, unreported judgments of court or copies of publications attached as confirmation of heads of arguments, for every 10 pages or portion thereof ..... | 35,00 |
|----|---|-------|

*(Note. I - The minimum fee under this item shall be N\$70,00).*

#### D. - ATTENDANCE

- |   |  |                        |
|---|--|------------------------|
| 1.  | Any formal attendance on an acknowledgement, receipt, etc .....  | 7,00                   |
| 2.  | Attendance of any letter, telegram, document or telephone call, or any other necessary attendance not otherwise provided for ..... | 10,00<br>to<br>35,00   |
| <i>(Note. - A composite fee shall be charged for all letters received).</i> |  |                        |
| 3.  | (a) Attendance at office of registrar to deliver a letter or document, or to uplift an order, etc. ....                            | 7,00                   |
|   | (b) Attendance on business other than formal business, per half-hour or part thereof .....   | 70,00                  |
| 4.  | (a) Attendance at any consultation with counsel or client, per half-hour or part thereof .....                                     | 70,00<br>to<br>150,00  |
|   | (b) A comprehensive fee for attendance, obtaining and payment of legal practitioner for noting of judgment .....                   | 35,00                  |
| 5.  | Attendance at court to note judgment -   |                        |
|   | (a) by a legal practitioner .....  | 70,00                  |
|   | (b) by a candidate legal practitioner .....  | 27,00                  |
| 6.  | Attendance at court on hearing or application, per half-hour or part thereof-  |                        |
|   | (a) by a legal practitioner .....  | 70,000<br>to<br>105,00 |

- (b) by a candidate legal practitioner ..... 42,00

#### E. - DRAFTING OF DOCUMENTS

1. Any petition or affidavit, per folio ..... 21,00

(Note . - In the calculation of the number of folios, the taxing master shall deduct, but treat as annexures, any relevant portion consisting of quotations from other documents).

2. Instructions to another counsel, whether written or verbal -

- (a) on appeal ..... 84,00  
to  
250,00

- (b) on petition ..... 84,00  
to  
250,00

- (c) in justifiable cases, for the drawing up or correcting of petition or affidavit for an application for leave to appeal or disputing thereof ..... 56,00  
to  
112,00

3. Drawing up notices of appeal or other necessary notices, per folio ..... 17,00

4. Letters and telegrams, per folio, including copy to keep ..... 11,00

(Note. - A composite fee shall be charged for all letters written).

5. Drawing up power of attorney, per folio ..... 11,00

6. Drawing up short brief to another counsel ..... 11,00

7. Drawing up bond of security, per folio ..... 22,00

#### F. - COPYING

Other documents not specially provided for:

- (a) First copy, per page ..... 1,50

- (b) Each further necessary copy, per page ..... 0,75

#### G. - BILLS OF COSTS

In connection with a bill of costs for work done or services rendered by a legal practitioner, such legal practitioner shall be entitled to charge the following:

1. For drawing up the bill of costs, making necessary copies and attending settlement ..... 30,00  
per  
folio

2. For receiving, perusal and considering of the bill of costs, as submitted for taxation, including preparation for taxation ..... 15,00  
per  
folio

3. (a) For attending taxation in an opposed bill of costs per half-hour or part thereof ..... 100,00  
to  
150,00

- (b) For attending an unopposed bill of costs per half-hour or part thereof: 5 per cent on fees appearing in the bill of costs as submitted before taxation.

(Note. - The minimum fee under item 3(b) shall be N\$25,00).

- 4. Before the taxing master taxes the bill of costs, he or she shall be convinced that the party who has to pay the account, or his or her legal representative, was properly notified of the time and place of such taxation and of his or her right to be present: Provided that such notice is unnecessary where the person liable for payment of costs has consented, in writing, to taxation in his or her absence.

**H. - GENERAL**

- 1. An all-inclusive fee for making payments into our court by way of bank guaranteed cheques, cash or otherwise ..... 70,00  
to  
100,00
  
- 2. Any other fee not otherwise provided for ..... 70,00  
to  
100,00

(Note I - With a view to affording the party who has been awarded an order for costs full indemnity for all costs reasonably incurred by him or her in relation to his or her claim or defence and to ensure that all such costs shall be borne by the party against whom such order has been made, the taxing master shall on every taxation allow such costs, charges and expenses as appear to him or her to have been necessary or proper for the attainment of justice or for defending the rights of any party, but, save as against the party who incurred them, no costs shall be allowed which appear to the taxing master to have been incurred or increased through overcaution, negligence or mistake, or by payment of a special fee to counsel or by other unusual expenses).

(Note II. - The taxing master shall be entitled in his or her discretion at any time to depart from any of the provisions of this tariff in extraordinary or exceptional circumstances where the strict execution thereof will be unjust, and in this regard shall take into account the time necessarily taken, the complexity of the matter, the nature of the subject-matter in dispute, the amount in dispute and any other factors he or she considers relevant.

(Note III. - In order to diminish as much as possible the costs arising from the copying of the record or of documents to accompany the briefs of counsel, the taxing master shall not allow the costs of any unnecessary duplication).

(Note IV. - Where in the opinion of the taxing master more than one instructing counsel has been necessarily engaged in the performance of any of the work covered by this tariff, each such counsel shall be entitled to be remunerated, on the basis set out in this tariff, for the work necessarily done by him or her and in each such instance the bills of costs shall be taxed jointly and at the same time).

(Note V. - A folio shall contain 100 words, four figures to be counted as a word, and any fraction of less than 25 words shall not be allowed as an additional folio).

(Note VI. - A page shall consist of at least 250 words and any fraction of less than 250 words shall have not be allowed as an additional page: Provided that this provision bears no relevance to a document which in totality consists of less than 250 words).

(Note VII. - When the services of a cost consultant are used to draft the bill of costs, a certificate from the instructing counsel shall accompany the bill of costs and shall indicate -

- (a) that the bill was properly perused and found correct after receipt thereof;
- (b) that each description therein with reference to work, time and numbers is in concurrence with what was necessarily done by him or her; and
- (c) that the items and tariff are drafted and claimed strictly according to party-and-party practice rules,

and the taxing master may, where it is evident from the bill of costs that the requirements of paragraph (a), (b) or (c), or parts thereof, are not complied with, refuse to tax such bill, and the taxing master may also, when he or she is convinced that a party-and-party bill of costs is claimed for work not done, or for work which belongs in an attorney-and-client bill of costs or that excessive fees are being charged, deny the instructing counsel the remuneration mentioned in item G1 if more than 30 per cent of the number of items or the total of fees of the bill are taxed off).

#### **I. - FACSIMILE AND COURIER COSTS**

The taxing master may allow the following items in a Bill of Costs on a party and party basis:

- (i) The costs to send a facsimile N\$5,00
  - (ii) The costs in receiving a facsimile N\$2,00 per page
  - (iii) Upon proof, the full amount incurred in respect of courier charges.”.
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