



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 549

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Government Notice

MINISTRY OF JUSTICE

No. 187

1992

AMENDMENT OF RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE HIGH COURT OF NAMIBIA

The Judge President has under section 39 of the High Court Act, 1990 (Act 16 of 1990), with the approval of the President, amended the rules regulating the conduct of the proceedings of the High Court of Namibia promulgated under Government Notice 59 of 1990, by the substitution for the Fourth and Sixth Schedules of the following Schedules:

“FOURTH SCHEDULE

Tariff for Deputy Sheriffs

	R, c
1. For registration of any document for service or execution, upon receipt thereof	1,25
2. (a) For service of summonses, petitions together with notice of motion or notice of set down, other notices, orders or any other documents, each	20,00:
<p>Provided that -</p> <p>(i) whenever any document to be served with any such process is mentioned in the process or forms an annexure thereto, no additional fee shall be charged for the service of such document, but otherwise a fee of R3 may be charged in respect of each separate document served;</p> <p>(ii) no fee for the service of a separate document shall be charged in respect of the service of process in criminal cases.</p>	
(b) Attempted service of summonses, petitions together with notice of motion or notice of set down, other notices, orders and any other documents	10,00:
<p>Provided that an attempted service of more than one document on the same person shall be treated as an attempted service of one document only.</p>	
3. Travelling allowance:	
(a) For the distance actually and necessarily travelled by the deputy sheriff or his or her officer, reckoned from the office of the deputy sheriff, both on the forward and the return journey, per kilometre or fraction of a kilometre	1,00
(b) When 2 or more summonses or other process, whether at the instance of the same party or of different parties, are capable of being served on one and the same journey, the travelling allowance for performing the round of service shall be fairly and equitably apportioned among the several cases, regard being had to the distance at which the parties against whom such process is directed respectively reside from the office of the deputy sheriff, but the fee for service shall be payable for each service made or attempted to be made.	

- (c) This allowance shall be payable only in cases where the duty in question is to be performed beyond a radius of one kilometre from the office of the deputy sheriff: Provided that if the office of the deputy sheriff is situated more than 3 kilometres from the office of the magistrate of his or her district the allowance shall be payable only where such duty is to be performed beyond a distance of one kilometre from the magistrate's office.
- (d) The restriction imposed by the proviso in the preceding paragraph (c) may however be relaxed by the Minister of Justice, in his or her discretion, where circumstances warrant this and on the recommendation of the sheriff, in which event the sheriff shall specially mention the extent of the recommended relaxation of the time of the appointment of the deputy sheriff.

- 4. (a) Postage in civil matters, as per postal tariff.
- (b) Postage in criminal matters, free.

NOTE: The deputy sheriff may take any postal matter to the registrar of the court, or if there is no registrar in his or her town or city, to the magistrate, who shall frank the envelope with his or her official franking stamp.

5. For the execution of any writ -

(a) (i) of personal arrest, including the conveyance of the person concerned to court, to any attorney's office or to a prison, per person per 1/2 hour	20,00
(ii) for conveying the person concerned to court from a place of custody on a day subsequent to the day of arrest and attending at court, per 1/2 hour	10,00
(identical notices where there are several lessees, occupiers or owners, for each after the first R 1,00)	
(iii) for attachment of property <i>ad fundandam jurisdictionem</i> or <i>ad confirmandam jurisdictionem</i> , per 1/2 hour	20,00
(iv) where an attachment in terms of subparagraph (iii) is withdrawn or suspended	5,00
(b) of ejectment: R 15,00 per 1/2 hour, subject to a minimum fee of	30,00
(in addition to reasonable expenses necessarily incurred);	

(c) against immovable property -

(i) for execution, including service of notice of attachment upon the owner of the immovable property and upon the registrar of deeds or other officer charged with the registration of such property and if the property is in occupation of some person other than the owner, also upon such occupier	35,00
(ii) for notice of attachment to a single lessee or occupier	4,00
(identical notices where there are several lessees, occupiers or owners, for each after the first R1,50)	
(iii) for making valuation or report for purposes of sale, R15,00 per 1/2 hour, with a minimum of ...	30,00
(iv) when a deputy sheriff has been authorized to sell property and the property is not sold by reason of the fact that the attachment is withdrawn or stayed, irrespective of the amount of the writ; and all the necessary notice for the withdrawal of the attachment	30,00
(v) for ascertaining and recording what bonds or other encumbrances are registered against the property, together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered, including any correspondence in connection therewith (in addition to reasonable expenses necessarily incurred)	30,00
(vi) for notifying the execution creditor of such bonds or other encumbrances and of the names and addresses of the persons in whose favour such bonds or other encumbrances are registered	3,00
(vii) for consideration of proof that a preferent creditor has complied with the requirements of rule 46(5)(a)	1,00
(viii) for the notice referred to in rule 46(6)	2,50
(ix) for consideration of notice of sale prepared by the execution creditor in consultation with the deputy sheriff; and	
(x) for verifying that notice of sale has been published in the newspapers indicated and in the <i>Gazette</i> ; and	

(xi) for forwarding a copy of the notice of sale to every judgment creditor who has caused the immovable property to be attached and to every mortgagee thereof whose address is known, for each copy, inclusive fee for (ix), (x) and (xi)	30,00
(xii) for affixing a copy of the notice of sale to the notice board of the magistrate's court referred to in rule 46(7)(e) and at or as near as may be to the place where the sale is actually to take place, an inclusive fee of	7,50
(xiii) for considering the conditions of sale	20,00
(xiv) on the sale of immovable property by the deputy sheriff as auctioneer, 5 per cent of the proceeds of the sale which shall be paid by the purchaser, subject to a minimum fee of	50,00
(this includes call to pay into the deposit account of the magistrate of the district all moneys received in respect of the purchase price)	
(xv) for any report referred to in rule 46(11)	15,00
(xvi) for giving transfer to the purchaser	15,00
(xvii) for preparing a plan of distribution of the proceeds (including the necessary copies) and for forwarding a copy to the registrar, R10 per creditor with a minimum of	20,00
(xviii) for giving notice to all parties who have lodged writs and to the execution debtor that the plan will lie for inspection, for every notice	5,00
(xix) for request to magistrate to pay out in accordance with the plan of distribution	2,00
(d) against movable property -	
(i) when a writ is paid on presentation, 7½ per cent on the first R5 000 or portion thereof and 2½ per cent on the amount in excess of R5 000 of the amount so paid	
(ii) for any abortive attempt at attachment, including search and enquiry, per ½ hour	10,00
(iii) when a writ is withdrawn or stayed before any property is attached	4,00
(iv) for making an attachment, including search and enquiry, per ½ hour	30,00

(v) notice of attachment, if necessary, to a single person	2,50
(identical notices, when there is more than one person to be given notice, for each after the first)	1,50
(vi) when an attachment is withdrawn by a judgment creditor or stayed before sale, $2\frac{1}{2}$ per cent on the value of the property attached or the amount of the writ, whichever is the lesser, but subject to a maximum fee of	100,00
(vii) when a writ is paid by the debtor to the deputy sheriff after attachment but before sale, $7\frac{1}{2}$ per cent on the first R5 000 or portion thereof, and $2\frac{1}{2}$ per cent on the amount in excess of R5 000 of the amount so paid	
(viii) when moneys are taken in execution, $7\frac{1}{2}$ per cent of the amount so taken, but subject to a maximum fee of	2 500,00
(ix) for drawing advertisements of sale of goods attached	20,00
(x) for selling in execution (whether auctioneer employed or not) including distribution of the proceeds, $7\frac{1}{2}$ per cent on the proceeds of the sale	
(xi) the deputy sheriff himself or herself shall sell movable property in execution but he or she shall engage the services of an auctioneer if directed thereto in writing by the judgment creditor, provided the judgment creditor bears the additional commission, if any;	
(xii) commission shall not be chargeable against a judgment debtor on the value of movable property attached and subsequently claimed by a person other than the judgment debtor and released in consequence of such claim unless such property has been attached at the express direction of the judgment creditor in writing, in which event the judgment creditor shall be liable to the deputy sheriff for the commission.	
(xiii) for insuring movable property attached when it is considered necessary and when the deputy sheriff is directed thereto in writing by the judgment creditor, in addition to the amount of premium paid, an inclusive fee of	5,00
(e) for keeping possession of property (money excluded) -	

(i) for an officer necessarily left in possession, reasonable inclusive fee per day not exceeding	50,00
(for an additional officer, where necessary, limited to one, per day, a fee not exceeding)	30,00
NOTE: 'Possession' means the continuous and necessary presence on the premises for the period in respect of which possession is charged of a person employed and paid by the deputy sheriff for the sole purpose of retaining possession;	
(ii) for removal and storage, the reasonable and necessary expenses for such removal and storage; and if an animal is to be stabled or fed, the reasonable charges for such stabling and feeding;	
(iii) for tending livestock, the necessary expenses for tending such stock;	
(iv) when no officer is left in possession and no security bond is taken, but movable property attached remains under the supervision of the deputy sheriff, per day	0,50
6. (a) For making an inventory, including all necessary copies and time spent in stocktaking, per 1/2 hour	20,00
(b) For assistance, where necessary, in taking inventory, per 1/2 hour	10,00
7. (a) For making return of service or execution, including drawing and typing original for court, limited to one person upon each original process; and	
(b) copy thereof for party desiring service or execution	10,00
8. Drawing and completing bail bond, deed of suretyship or indemnity bond	10,00
9. Copies of process and orders necessarily made, per folio ...	1,00
10. Copying of summonses, orders, subpoenas, writs, etc, received by telegram, R1 per folio of 100 words, with a minimum of	2,00
11. Taking statement from accused, who is not represented and who desires witnesses to be subpoenaed at the expense of the State, as to his or her means, the names and addresses of the witnesses and what they can say in his or her defence, in order to enable the registrar to decide whether the witnesses should be subpoenaed, per 1/2 hour	5,00

NOTE: This information is to be obtained at the time of serving the notice of trial and indictment and conveyed to

the registrar or clerk of the court in the same letter under cover of which the documents are returned.

12. Attending any criminal session of the court, per 1/2 hour	15,00
13. Each necessary letter excluding formal letters accompanying process or returns	3,00
14. Each necessary attendance by telephone (in addition to prescribed trunk charges)	2,50
15. Each necessary attendance by telephone (in addition to prescribed trunk charges)	2,50

SIXTH SCHEDULE

Tariff of Fees of Attorneys

A — Taking Instructions

R, c

1. To institute or defend any proceeding	25,00 to 225,00
2. For advice on evidence or on commission	25,00 to 110,00
3. For case on opinion, or for advocate's guidance in preparing pleadings, including exceptions	A fee equivalent to the fee allowed under item 2 of Section D for drafting the document.
4. For statement of witness	25,00 to 110,00
5. To set down case, issue subpoena or writ or any other simple instructions	6,00
6. To draft a petition or affidavit	A fee equivalent to one half of the fee allowed under item 7 of Section D for drafting the document: Provided that in cases where no affidavit is actually drawn the taxing master shall allow a fee in his or her discretion, but not less than R22,50.

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| 7. To note an appeal | 22,50 |
| 8. To prosecute or defend an appeal, exclusive of the perusal of the record | 25,00 to 65,00 |

B — Attendance and Perusal

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| 1. Attending the receipt of and perusing, and considering - | |
| (a) any summons, petition, affidavit, pleading advocate's advice and drafts, report, or important letter, notice or document per folio | 3,50 |
| (b) any formal letter, record, stock-sheets in voluntary surrenders, judgments or any other material document not elsewhere specified (per folio) | 1,25 |
| subject to a minimum fee of | 2,25 |
| 2. Attending the receipt of and considering any plan or exhibit or other material document in respect of which the basis of remuneration set out in item 1 of this Section cannot be applied | 5,00 to 65,00 |
| 3. Making searches in offices of record, per 1/2 hour or part thereof - | |
| (a) by an attorney | 33,00 |
| (b) by a clerk | 10,00 |
| 4. Sorting out, arranging and paginating papers for pleading, advice or brief on trial or appeal, per 1/2 hour or part thereof | 10,00 |
| 5. Attending to give or take disclosure, per 1/2 hour or part thereof | |
| (a) by an attorney | 22,50 to 45,00 |
| (b) by a clerk | 10,00 |
| 6. Attending on witness to obtain particulars of his or her claim and to settle same | 10,00 |
| 7. Attending to bespeak and thereafter to procure translation | 10,00 |
| 8. Other attendances including telephone calls other than formal telephone calls | 6,00 to 65,00 |

NOTE: The fees allowed under this Section shall be in addition to such fees as may be allowed for instructions under Section A. In computing the fees chargeable for perusal of documents in connection with instructions under items A1 and A6, the number of words in all documents to be perused, should be added together and the total divided by 100.

C — Attendance (Formal)

1. To serve or deliver (other than by post) any necessary document or letter or despatch any telegram	4,50
2. To sue out any process or file any document	4,50
3. To set down cases for trial	4,50
4. To search for any return	4,50
5. On receipt of notice of intention to defend	4,50
6. On advocate, e.g. with brief or to make appointment	4,50
7. On signature of powers of attorney to sue or defend	4,50
8. Other formal attendances, including telephone calls	4,50
9. Attending receipt of a formal acknowledgement	2,25

D — Drafting and Drawing

1. Any entry in the chamber book, where used, including all attendances	9,00
2. Instructions for case on opinion, for advocate's guidance in preparing pleadings, including further particulars and requests for same, including exceptions (per folio)	7,00
3. Instructions to advocate for advice on evidence for brief on trial or on commission (per folio)	7,00
4. Instructions to advocate for argument in respect of all classes of pleading: Provided that a fee for drafting instructions on motion, petition, exception or appeal, shall only be allowed in discretion of the taxing master (per folio)	4,50

5. Statements of witnesses (per folio)	7,00
6. (a) Powers of attorney to sue or defend (per folio)	7,00
(b) Formal notices and subpoenas (per folio)	3,50
7. (a) A petition affidavit, any notice (except a formal notice), summons, further particulars requested and furnished for trial, writs of execution, arrest or attachment and any other important document not otherwise provided for (per folio)	15,00
(b) A formal affidavit of non-return in restitution suits, verifying affidavits, affidavits of service and other formal affidavits (per folio)	4,50
8. (a) Letter or telegram (per folio)	2,50 to 7,00
(b) Copy or telegram (per folio)	0,50
9. Drawing index to brief (per folio)	3,50
10. Short brief	4,50

NOTE 1: In computing the number of folios of any document referred to in items 2, 3, 4, 5 and 7 of this Section, the taxing master shall deduct, but treat as annexures where relevant, any portions consisting of quotations from other documents and papers.

NOTE 2: The charges allowed in this Section for drafting and drawing do not, save in the case of items 1, 6, 8 and 10, include making the first fair copy, which shall be charged for under item 1 of Section F.

E — Appearance, Conference and Inspection

1. (a) Attendance by attorney when an advocate is employed in court or before a judge or before a commissioner or referee or at an inspection directed by the Court -	
(i) to note judgment only -	
(aa) by an attorney	33,00
(bb) by a clerk	10,00
(ii) otherwise per 1/2 hour or part thereof	45,00 to 70,00
(b) Appearance by attorney without an advocate before a judge on request by the judge, or before a commissioner or referee, per 1/2 hour or part thereof	45,00 to 70,00

NOTE: The above rates of remuneration shall not be applicable in respect of the time spent in travelling or waiting, but the taxing master shall, in respect of time necessarily so spent, allow such additional remuneration not exceeding R70 *per diem* as he or she in his or her discretion may deem fair and reasonable, and shall also allow a reasonable amount to cover the cost of necessary conveyance.

2. Attending of attorney's articled clerk to assist a contested proceeding -
 - (a) if advocate employed, per hour or part thereof 10,00
 - (b) if advocate not employed, per hour or part thereof 10,00
 - (c) when assisting attorney, *per diem* if necessary 45,00
3. Any conference or consultation with advocate with or without witnesses and on pleadings including exceptions and particulars to pleadings, applications, petitions, affidavits, testimony and on any other matter which the taxing master may consider necessary, per 1/2 hour or part thereof 45,00 to 70,00
4. (a) Any conference or consultation with client, witness or opposite party, and any other conference or consultation which the taxing officer may consider necessary, per 1/2 hour or part thereof 45,00 to 70,00
 - (b) Attending conference in terms of Rule 37, per 1/2 hour or part thereof -
 - (i) by an attorney 45,00 to 70,00
 - (ii) by a clerk 22,50 to 35,00
5. Any inspection *in situ*, or otherwise, per 1/2 hour or part thereof -
 - (a) by an attorney 45,00 to 70,00
 - (b) by a clerk 22,50 to 35,00

NOTE: The above rates of remuneration shall not be applicable in respect of time spent in travelling but the taxing master shall in respect of time necessarily so spent allow additional remuneration not exceeding R50 per service and shall also allow the reasonable cost of necessary conveyance.

6. Evidence: Such just and reasonable charges and expenses as may, in the opinion of the taxing master, have been properly incurred in procuring the evidence and attendance of witnesses whose fees have been allowed on taxation: Provided that the qualifying expenses of a witness shall not be allowed without an order of court or the consent of all interested parties.

F — Miscellaneous

1. (a) Briefing and copying: for making typewritten copies for the court, counsel or attorney, or for service or of any other necessary purpose, the charge shall be, for the first copy at the rate of 75c per folio (including the first copy of any document drafted in respect of which a charge is recoverable under items 2, 3, 4, 5, 7 and 9 of Section D of this tariff) and for further copies, per folio 0,50
- (b) For making typewritten copies of the record in a civil appeal from a magistrate's court the charge shall be as set out above.
- (c) Where any of the above copies are made other than by typewriter, the charge shall be, for the first copy, 75c per page, for the next 4 copies, 30c per page and for further copies, per page 0,25
2. For giving a written opinion (as between attorney and client) 15,00 to 150,00
3. General: Inclusive fee for consultations and discussions with client or advocate not otherwise provided for 22,50 to 125,00

G — Bill of Costs

In connection with a bill of costs for service rendered by an attorney, an attorney shall be entitled to charge:

1. For drawing the bill of costs, making the necessary copies and attending settlement, 5 per cent on the first R1 000 or portion thereof, 2½ per cent on the second R1 000 or portion thereof, and 1 per cent on the amount in excess of R2 000 of the amount of the attorney's fees, either as charged in the bill if not taxed, or as allowed on taxation.
2. In addition thereto, if recourse is had to taxation for arranging and attending taxation and obtaining con-

sents to taxation, 5 per cent on the first R1 000 or portion thereof, and 2½ per cent on the second R1 000 or portion thereof, and 1½ per cent on the amount in excess of R2 000 of the fees allowed.

NOTE:

- (1) The minimum fee under each item of this Section shall be R10,00
 - (2) The fee under each item of this Section shall be calculated on the same amount.
3. The general sales tax payable under any law on an attorney's and advocate's fees allowed on taxation by the taxing master.

H — Notarial Charges

1. Noting of bills of exchange and promissory notes:

(a) Attending to present note or bill and noting answer	7,00
(b) Letter or notice to maker, drawer or endorser, each	2,50
(c) Copy to keep	0,50
(d) Paid for conveyance	—
(e) Copy each letter or document to annex to protest, if necessary (per folio)	0,70
(f) Protest in duplicate	7,00
(g) Paid in stamps	—
(h) Certificate of presentation in duplicate	7,00
(i) Copy documents to annex, if necessary (per folio)	0,70
(j) Paid stamps	—

2. Charges for services rendered by a notary public other than those above set forth shall be assessed upon the same scale as is allowed to attorneys.”
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