



GOVERNMENT GAZETTE

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REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE JUDICIARY

No. 294

2018

AMENDMENT OF RULES OF COURT: MAGISTRATES' COURTS ACT, 1944

Under subsection (3) of section 25 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), the Rules Board has, as confirmed by Cabinet under subsection (5) of that section, amended the rules set out in the Schedule, effective 31 days after the date of publication of this notice in the *Gazette*.

J. SALIONGA

CHAIRPERSON

BY ORDER OF THE RULES BOARD

Windhoek, 31 October 2018

SCHEDULE

Definitions

1. In these rules "the Rules" means the Rules of Court published under Government Notice No. R.1108 of 21 June 1968, as amended by Government Notices Nos. R.3002 of 25 July 1969, R.490 of 26 March 1970, R.1752 of 16 October 1970, R.947 of 2 June 1972, R.1115 of 28 June 1974, R. 1285 of 19 July 1974, R.689 of 23 April 1976, R.261 of 25 February 1977, R.2221 of 28 October 1977, R.327 of 24 February 1978, R.2222 of 10 November 1978, R.1194 of 8 June 1979, R.1449 of 29 June 1979, R.652 of 28 March 1980, R.1314 of 27 June 1980, R.1800 of 28 August

1981, R.1139 of 11 June 1982, R.1689 of 29 July 1983, R.1946 of 9 September 1983, R.1338 of 29 June 1984, 148 of 31 December 1985, 36 of 16 March 1987, AG.58 of 15 August 1989, AG.86 of 13 October 1989, AG. 122 of 1 December 1989, 178 of 1 December 1992, 43 of 10 March 1997, 75 of 07 March 2000 and 200 of 5 November 2007.

Amendment of Annexure 2 to Rules

2. Annexure 2 to the Rules is amended by the substitution for Tables A, B, C, D and E of the following Tables:

“TABLE A

COSTS

PART I

GENERAL PROVISIONS

1. Undefended actions shall be taxed on the scale in Part II, defended actions shall be taxed on the scale in Part III and in other matters and interpleader proceedings on the scale in Part IV.
2. Costs taxable in terms of rule 33(20) shall be deemed to have been awarded under a judgment for the amount paid into court or a judgment in terms of the settlement, as the case may be.
3. Fees to counsel shall be allowed on taxation only in cases where the amount in dispute is N\$2 500-00 or more or where the court has made an order in terms of rule 33(8) and may not be so allowed unless payment of them is vouched by the signature of counsel.
4. Where the amount allowed for an item is specified, the amount is inclusive of all necessary copies, attendances and services (other than services through the messenger) in connection therewith.
5. Where the amount allowed for an item is left blank -
 - (a) the drawing of document shall be allowed at N\$40-00 for each folio;
 - (b) copies for filing and service (where the court requires more than one set) shall also be allowed, and in addition to such copies allowed, one set of copies to be kept by the legal practitioner of record drafting the original of such documents will also be allowed;
 - (c) service shall be allowed at N\$20-00 for each necessary service.
6.
 - (a) Where any document appears to the court to be unnecessary prolix, the court may disallow all or any part of the charge thereof;
 - (b) Where printed forms of documents are available and in fact used, the charges for copying shall be limited to the necessary matters inserted in such printed documents.
7. A folio is 100 written or printed words or figures. Four figures shall be reckoned as one word.
8.
 - (a) Unless otherwise provided, a charge for perusing shall be allowed at N\$15-00 per folio in respect of any document or pleading necessarily perused, subject to a minimum charge of N\$30-00.

- (b) Where a charge is allowed for copying, it shall be N\$5-00 per page, notwithstanding the number of words on the page.
9. Where there is more than one defendant, N\$40-00 shall be added in respect of each additional defendant for each of paragraph 2 and 3 of Part II, paragraph 2 of Part III and paragraph 10 of Part IV of this Table.
10. A fee of 10 per cent on each instalment collected in redemption of the capital and costs of the action shall be allowed, subject to a maximum amount of N\$1 500-00 on each instalment.
11. The clerk of the court shall on taxation disallow any charge unnecessarily incurred.
12. Where the fee under any paragraph is calculated on an hourly basis, the total number of hours on any one day shall be added together and the fee calculated on such total.
13. The amount allowable for the issue (inclusive of appearance in court) of a notice to show cause in terms of section 109(2) of the Act shall be N\$187-50.
14. Value added tax payable in terms of the Value Added Tax Act, 2000 (Act No. 10 of 2000) on fees and disbursements shall on taxations be allowed by the clerk of the court.

PART II

UNDEFENDED ACTIONS

	<i>N\$</i>
1. Registered letter of demand in terms of section 56 of the Act	60-00
2. Summons, inclusive of a letter of demand other than the letter of demand referred to in paragraph 1:	
(a) Where the claim does not exceed N\$2 500-00	270-00
(b) Where the claim exceeds N\$2 500-00 but not more than N\$7 500-00.....	500-00
(c) Where the claim exceeds N\$7 500-00	805-00
3. Judgment	
(a) Where the claim does not exceed N\$2 500-00	200-00
(b) Where the claim exceeds N\$2 500-00 but is not more than N\$7 500-00	405-00
(c) Where the claim exceeds N\$7 500-00	670-00
4. Notice in terms of rule 12(2)	80-00
5. Notice in terms of rule 54(1)	80-00
6. Affidavit or Certificate	-
7. Attending court at the request of the magistrate when claim referred to court for judgment	As allowed under paragraph 5 of Part III

8. For each registered letter which is forwarded to the debtor in terms of section 57(1), 57(3) or section 58(2) of the Act by the creditor or his legal practitioner 60-00
9. Admission of liability and undertaking to pay debt in installments or otherwise (section 57 of the Act) 160-00
10. Consent to judgment or to judgment and an order for the payment of judgment debt in installments (Section 58 of the Act) 160-00

Notes: (a) The amount of the fees allowed under paragraphs 4, 5, 6, 7, 8, 9 and 10 shall without taxation be included in the amount of the costs for which judgment is entered.

(b) For the purposes of computing costs, the expression "claim" referred to in paragraphs 2 and 3, shall mean -

(i) where costs are awarded to the Plaintiff on a default judgment, the amount or value of the judgment;

(ii) where more than one claim is involved in the action, the total of the amounts on which judgment was granted; and

(iii) on claims for ejectment, the amount of the claim of computing costs which shall be computed at two month's rent of the premises.

PART III**DEFENDED ACTIONS**

1	Instructions to sue or defend or to counterclaim or defend a counterclaim, perusal of all documentation and consideration of merits and all necessary consultations to issue summons	500-00
2	Summons	
	(a) Particulars of claim less than 100 words	600-00
	(b) Particulars of claim more than 100 words and contained in an annexure in terms of rule 6(3)(d), in addition to the fee allowed in paragraph (a), a fee for the annexure per folio, subject thereto that no additional fee(s) shall be chargeable for any other paragraph(s), but for drawing of document	-
3	Appearance to Defend.....	80-00
4	Notice under rule 12(1)(b) and (2)	80-00
5	Plea	600-00
6	(a) Claim in reconvension	600-00
	(b) Plea in reconvension.....	600-00
7	Reply if necessary.....	600-00
8	Drawing up of documents not specifically mentioned, including request for further particulars, further particulars, schedule of documents, affidavits, subpoenas, any other notice not otherwise provided for and drawing up of statements by witnesses, per folio	-
9	Production of documents for inspection or inspection of documents per quarter of an hour or any part thereof	235-00
10	Each copy for service, per page	5-00
11	The recording of statements by witnesses, per quarter of an hour or any part thereof	235-00
12	Notice of trial or re-instatement	70-00
13	Preparing for trial (if counsel not employed)	1400-00
14	Attendance at settlement negotiations, for each quarter of an hour or part thereof actually spent in such negotiations	235-00
15	Attending court during trial, or at on-the-spot inspection, for each quarter of an hour or part thereof spent in court while case is actually being heard:	
	(a) If counsel is not employed	235-00
	(b) If counsel is employed	120-00
16	Attending pre-trial conference for each quarter of an hour or part thereof actually spent on such conference	235-00
17	Attending court to hear reserved judgment, per quarter of an hour or any part thereof	235-00

18	Correspondence:	
	(a) Each necessary formal letter or telegram or telefax written, including copy to retain	40-00
	(b) Each necessary non-formal letter or telegram or telefax written, including copy to retain, per folio	40-00
	(c) Each necessary formal letter or telegram or telefax received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for	30-00
	(d) Each necessary non-formal letter or telegram or telefax, received, per folio, provided that an additional fee for perusal shall not be allowed in addition to the fee herein provided for	15-00
19	For each necessary attendance not otherwise provided for, per attendance	25-00
20	Necessary formal telephone calls, per call	40-00
21	Each necessary non-formal telephone consultations: For every 5 minutes or part thereof, subject to a maximum of N\$400-00 per consultation	40-00
22	Each necessary consultation, per quarter of an hour	235-00
23	The court may, on request made at the hearing, allow in addition to the fee prescribed in paragraph 13 above, a refresher fee in postponed or partly heard trials	1076-00
24	Time spent waiting at court (owing to no court being available) per quarter of an hour, or any part thereof	235-00
25	Travelling time (subject to the provisions of rule 33(9)), per quarter of an hour or any part thereof	235-00
26	Travelling expenses as laid down in rule 33(9)	5-00 / km

PART IV

OTHER MATTERS

Exceptions, applications to strike out, applications for summary judgments, interlocutory applications, arrest, interdict, *ex parte* applications under rule 27(9), applications to review judgment, including application for setting aside registration of foreign judgment order or taxation

1	Instructions to make application or to oppose or to show cause, including perusal of all documentation and consideration of merits and all necessary consultations to make application or to oppose application	940-00
2	Drawing up of all documents, affidavits, applications and notices, orders, etc, per folio	-
3	Attending court on hearing:	
	(a) If unopposed, for each quarter of an hour or any part thereof	235-00
	(b) If opposed, where counsel is employed, for each quarter of an hour or any part thereof	120-00
	(c) If opposed, where counsel is not employed, for each quarter of an hour or any part thereof	235-00

4	Fee for preparing for trial, when opposed, if allowed by the court on request	500-00
5	(a) Consultations and settlement negotiations - per quarter of an hour or any part thereof	235-00
	(b) Correspondence:	
	(i) Each necessary formal letter or telegram or telefax written, including copy to retain	40-00
	(ii) Each necessary non-formal letter or telegram or telefax written, including copy to retain, per folio	40-00
	(iii) Each necessary formal letter or telegram or telefax received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for	40-00
	(iv) Each necessary non-formal letter or telegram or telefax, received, per folio, provided that an additional fee for perusal shall not be allowed in addition to the fee herein provided for	40-00
	(c) Telephone calls received and made:	
	(i) Necessary formal telephone calls, per call	-
	(ii) Each necessary non-formal telephone consultations: For every 5 minutes or part thereof, subject to a maximum of N\$400-00 per consultation	40-00
	<i>Note : The court may on request made at the hearing allow, as an alternative to the fees prescribed in paragraph 4, a fee for preparing argument under paragraphs 13 and 23 of Part III.</i>	
	INTERPLEADER PROCEEDINGS	
6	Instruction:	
	(a) Where interpleader proceedings are initiated by messenger	350-00
	(b) Otherwise	500-00
7	Summons if not sued out by messenger	450-00
8	Affidavit	450-00
9	(a) Attending court on return of summons, if not being heard or for interpleader hearing, if the matter is being heard, per quarter of an hour or any part thereof	235-00
	(b) Correspondence:	
	(i) Each necessary formal letter or telegram or telefax written, including copy to retain	40-00
	(ii) Each necessary non-formal letter or telegram or telefax written, including copy to retain, per folio	40-00
	(iii) Each necessary formal letter or telegram or telefax received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for	30-00
	(iv) Each necessary non-formal letter or telegram or telefax, received, per folio, provided that an additional fee for perusal shall not be allowed in addition to the fee herein provided for	15-00

	(c) Telephone calls received and made:	
	(i) Necessary formal telephone calls, per call	40-00
	(ii) Each necessary non-formal telephone consultations: For every 5 minutes or part thereof, subject to a maximum of N\$400-00 per consultation	40-00
	TAXATION OF COSTS	
10	Drawing up bill of costs : 5% of fees allowed	
11	Attending taxation : 5% of the total bill allowed	
12	Attending on review of taxation, for each quarter of an hour or part thereof in court, while review is actually being heard	235-00
13	Notice of application for review of taxation	-
14	Affidavit where necessary	-
	EXECUTION	
15	(a) Issue of warrant of execution, ejection, arrest and committal in terms of section 109 of the Act, delivery of possession	235-00
	(b) For re-issue thereof	120-00
16	Inclusive fee for work done in connection with releasing of immovable property attached	250-00
17	Inclusive fee for work done in connection with sale in execution of immovable property only (excluding work for which fees are already provided for elsewhere and the drawing up of the conditions of sale)	400-00
18	(a) Drawing up of notice of sale in terms of rule 41(8) or rule 43(6) or conditions of sale in terms of rule 43(7) per folio	-
	(b) For all other work done and papers and documents supplied to the messenger in connection with the sale in execution of movable property, an inclusive fee of	350-00
19	(a) Security for restitution, where necessary	450-00
	(b) Any amount necessary and actually disbursed in tracing the judgment debtor, where the capital amount of the debt at the time the tracing agent was employed was not less than N\$800-00, the total amount to be allowed for each tracing shall not exceed N\$400-00.	
	WHERE COUNSEL IS EMPLOYED	
20	Instructions to brief counsel for interpleader, exception or application, where allowed	235-00
21	Instructions to brief counsel on trial	450-00
22	Drawing brief on exception or application	-
23	Drawing brief interpleader on hearing	-
24	Drawing brief on trial	-
25	Attending each necessary consultation with counsel, per quarter of an hour or any part thereof	235-00

	<i>Note: Counsel is for all purposes of these tables defined to be another legal practitioner specifically employed for his or her expertise in a specific field, relevant to the matter in which he or she is briefed.</i>	
	FEES TO COUNSEL	
26	With brief to argue exception or application	1400-00
	<i>Note: a fee to counsel on application or on interpleader hearing shall be allowed only where the court certifies that the briefing of counsel was warranted.</i>	
27	With brief to argue at interpleader hearing	1400-00
28	With trial brief for the first day, not exceeding	5500-00
29	In any court held more than 30 kilometres from the town or city, where counsel's ordinary place of business is, there may be allowed by special order of the court a travelling allowance (in addition to the fee on brief) of	5-00/km
30	Each necessary consultation, per quarter of an hour or any part thereof	235-00
31	For every trial day exceeding one on which evidence is taken or arguments heard, a refresher fee not exceeding	4500-00
32	Drawing up pleadings, per folio	-
	<i>Notes:</i>	
	<i>(a) In regard to paragraphs 26, 27 and 28 a fee in lieu of the fee for the first day's hearing shall be allowed as follows when the case is settled or withdrawn or postponed at the instance of any party on or before the date of hearing:</i>	
	<i>(i) not more than 2 days prior to the date of hearing : the fee otherwise allowable on taxation for the first day's hearing;</i>	
	<i>(ii) not less than 3 days and not more than 7 days prior to the date of hearing : two-thirds of the fee under sub-paragraph (i); and</i>	
	<i>(iii) not less than 8 days and not more than 21 days prior to the date of hearing : half of the fee under sub-paragraph (i)</i>	
	<i>(b) The court may on request allow a higher fee for counsel in regard to paragraphs 26, 27, 28, 30 and 31</i>	
	<i>(c) A fee for travelling time by counsel shall be allowed by the court on request, at the same rate as for legal practitioners under paragraph 25 of Part III.</i>	
	MISCELLANEOUS	
33	Obtaining certified copy of judgment	100-00
34	Obtaining payment in terms of rule 18(4)	90-00
35	Request for security in terms of rule 62(1)	-
36	Furnishing security in terms of rule 62(1)	-
37	Preparation, Lodging and effecting registration of a foreign judgment in terms of Act No. 28 of 1994	470-00
38	Request in terms of Rule 48A(5)(a) and to make an inventory	60-00

TABLE B**COSTS****PART I****GENERAL PROVISIONS IN RESPECT OF PROCEEDINGS IN TERMS OF SECTION 65 AND 65A TO 65M OF ACT**

1. Subject to the provisions of paragraph 3, no fees other than those in the Tariff to this Part shall be allowed.
2. Subject to the provisions of section 65K of the Act, the fees laid down in paragraphs 1, 2 or 3 of the Tariff to this Part, as the case may be, shall be payable for the drawing up of the notice referred to in section 65A(1) of the Act, including appearance at the inquiry into the judgment debtor's financial position referred to in section 65D of the Act, or any appearance at subsequent suspension, amendment or rescission proceedings, and shall, with the exception of the fee allowed under paragraph 13 of the tariff, be chargeable only once for the drawing up, issue and all reissues of the notice and all postponements of the inquiry, irrespective of the number of days on which the proceedings are heard in court: Provided that where the debtor leaves the area of jurisdiction of the court after issue of the notice referred to in section 65A(1) of the Act and the notice is reissued in any other district, the aforesaid fee may also be charged in such other district if the court so orders.
3. The following shall be allowed in addition to the fees laid down in the Tariff to this Part:
 - (a) All necessary disbursements incurred in connection with the proceedings.
 - (b) A fee of 10% on each installment collected in redemption of the capital and costs of the action, subject to a maximum amount of N\$1 000-00 on every installment. Where the amount is payable in installments the collection fees shall be recoverable only on payment of every installment. Such fees shall be in substitution for and not in addition to the collection fees prescribed in paragraph 13 of Part 1 of Table A.
 - (c) All necessary disbursements incurred in connection with any prior abortive proceedings under section 72 of the Act, if the court has so ordered.
 - (d) Any amount necessarily and actually disbursed in tracing the judgment debtor, where the capital amount of the debt at the time the tracing agent was employed was not less than N\$750-00. The total amount to be allowed for each tracing shall not exceed N\$500-00.
4. For the purpose of the Tariff to this Part the amount of the claim shall, subject to the provisions of paragraph 3(d), be the total of the capital amount and costs outstanding at the date of the first institution of proceedings under section 65A(1) of the Act.
5. Value added tax payable in terms of the Value Added Tax Act, 2000 (Act No. 10 of 2000) shall be allowed on all fees and disbursements.

TARIFF

1.	Instructions to proceed with section 65 collection procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim does not exceed the amount of N\$5 000-00	330-00
2.	Instructions to proceed with section 65 collection procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim exceeds the amount of N\$5 000-00 but is not more than N\$10 000-00	500-00
3.	Instructions to proceed with section 65 collection procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim exceeds the amount of N\$10 000-00	1000-00
4.	Warrant of arrest and detention when prepared by the judgment creditor (Form 42)	250-00
5.	(a) Emoluments Attachment Order (Form 38)	350-00
	(b) Re-issue (Certificates included)	150-00
6.	Warrant of Liberation (Form 43) or Certificate of Liberation (Form 59).....	100-00
7.	Application for costs on notice (including appearance in court)	100-00
8.	Obtaining a certified copy of a judgment	100-00
9.	Affidavit or certificate by the judgment creditor or his/her legal practitioner	160-00
10.	For each registered letter forwarded to the debtor in terms of sections 65A(2), 65E(6) or 65J(2) of the Act by the creditor or his/her legal practitioner	60-00
11.	Affidavit or affirmation by debtor (rule 45(7))	80-00
12.	Request for an order under section 65 of the Act	120-00
13.	Attending postponed proceedings in terms of section 65E(3) or attending application for the suspension of a warrant issued in terms of section 65F(1) of the Act	470-00
14.	Subpoena:	
	(a) Drawing up of subpoena, per folio	40-00
	(b) Every necessary attendance, per attendance	25-00
15.	(a) Correspondence: For every necessary letter or telegram written, including copy to retain, per folio	40-00
	(b) Correspondence: For every necessary letter or telegram received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for, per folio	15-00
	(i) Attendances: For each necessary attendance not otherwise provided for, per attendance	150-00
	(ii) Necessary formal telephone calls, per call	40-00

PART II**GENERAL PROVISIONS IN RESPECT OF PROCEEDINGS IN TERMS OF SECTION 72 OF ACT**

1. Subject to the provisions of paragraphs 2 and 3 no fees other than those laid down in the Tariff to this Part shall be allowed.
2. Paragraph 3(a), (b) and (d) of the general provisions under Part 1 of this Table shall apply *mutatis mutandis* to this Part.
3. All necessary disbursements incurred in connection with any prior abortive proceedings under section 65 shall be allowed if the court has so ordered.
4. For the purpose of the Tariff to this Part the amount of the claim shall, subject to the provisions of paragraph 3(d) of the general provisions under Part 1 of this Table, be the total of the capital amount outstanding at the date of the first institution of proceedings in terms of section 72 of the Act.
5. General Sales Tax in terms of the Income Tax Act, shall be allowed on all fees and disbursements, where payable.

TARIFF

	NS
(a) Instructions to proceed with section 72 procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim does not exceed N\$5 000-00	235-00
(b) Instructions to proceed with section 72 procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim exceeds N\$5 000-00	470-00
(c) Obtaining certified copy of a judgment	100-00
(d) Application for an order of execution against the garnishee, including drafting the application with all relevant annexures and appearing at court to obtain order	500-00
(e) Garnishee Order (Form 39)	235-00

PART III**GENERAL PROVISIONS IN RESPECT OF PROCEEDINGS IN TERMS OF SECTION 74 OF ACT**

1. The following fees shall be allowed in addition to those laid down in the Tariff to this Part:
 - (a) All necessary disbursements incurred in connection with the proceedings.
 - (b) In addition to the fees stated below, the administrator shall be entitled to a fee of 10% on each installment collected for the redemption of capital and costs.
 - (c) Value added tax in terms of the Value Added Tax Act, 2000 (Act No. 10 of 2000), payable on all fees and disbursements.

2. For the purposes of paragraphs 4 and 5 of the Tariff to this Part, a folio shall consist of 100 written or printed words or figures and four figures shall be reckoned as one word.

	ITEM	1-10 CREDITORS	11-20 CREDITORS	21 OR MORE CREDITORS
1.	Instructions to apply for administration order, including demands, etc, and ascertaining the amount of assets and liabilities, including all attendances and correspondence necessary in connection therewith	150-00	225-00	300-00
2.	Instructions on application under section 74(1) of the Act or to oppose such application or the granting of administration order	131-25	131-25	131-25
3.	Drawing up application for administration order or review thereof and affidavit, including all annexures thereto and all attendances, excluding attendance in court	187-50	225-00	262-50
4.	Making copies of application, affidavit and annexures for creditors, per page	5-00	5-00	5-00
5.	Perusal of application and other documents served, if any, per folio.....	9-00	9-00	9-00
	<i>Note: The fees under this item are only claimed by the legal practitioner of an opposing party.</i>			
6.	Attending court: (a) On postponement or setting aside, if not occasioned by the legal practitioner or his or her client	131-25	131-25	131-25
	262-50	262-50	262-50
	(b) On any other hearing			
7.	For furnishing to a creditor by the administrator of the information referred to in section 74M(a) of the Act, per application	22-50	22-50	22-50
8.	For furnishing of a copy of the debtor's statement of affairs referred to in sections 74 and 74A(1) of the Act by the administrator in terms of section 74M(b) or of a list or account referred to in section 74G(1) or 74J of the Act or of the debtor's statement of affairs referred to in section 651(2) of the Act, per page	5-00	5-00	5-00
9.	Correspondence	22-50	22-50	22-50
10.	Attendances	15-00	15-00	15-00

TABLE C**GENERAL PROVISIONS AND TARIFF OF FEES****(MESSENGERS OF THE COURT)****PART I****MESSENGERS WHO ARE OFFICERS OF THE PUBLIC SERVICE**

1. For each service or execution or attempted services or execution of any process or document: N\$20-00.
2. The service of a notice referred to in rule 54(1) simultaneously with the summons shall not be regarded as a separate service.

PART II**MESSENGERS WHO ARE NOT OFFICERS OF THE PUBLIC SERVICE**

- 1A. For registration of any document for service or execution upon receipt thereof: N\$7-50.
- 1B.
 - (a)
 - (i) For the service of a summons, subpoena, notice, order or other document not being a document mentioned in paragraph 2: N\$75-00.
 - (ii) Where a mandator instructs the messenger in writing to serve a document referred to in subparagraph (a)(i) urgently on the day of receipt of such document or after normal office hours, the costs shall be calculated at double the tariff in subparagraph (a)(i) which additional costs shall be paid by the mandator, save where the court orders otherwise.
 - (b)
 - (i) For the attempted service of the documents mentioned in subparagraph (a) - N\$40.00.
 - (ii) where a mandator instructs the messenger in writing to serve a document referred to in subparagraph (a)(i) urgently on the day of receipt of such document or after normal office hours and the messenger is unsuccessful in his or her attempt to effect service, the costs shall be calculated at double the tariff in (b)(i), which additional costs shall be paid by the mandator, save where the court orders otherwise.
 - (c)
 - (i) Where the document must be served together with a process of the court and is mentioned in such process or an annexure thereto, no additional fees shall be charged for service of the document, but N\$7-50 may be charged for every separate process of the court served whether accompanied by documents or not.
 - (ii) Fees may not be charged for a document which is served together with a process of the court in a criminal matter.
 - (iii) The service of a notice referred to in rule 54(1) simultaneously with the summons shall not be regarded as a separate service.
2.
 - (a)
 - (i) For the execution of a warrant, interdict or garnishee order: N\$105-00 and from the place of execution of the above-mentioned documents;

- (ii) where a mandator instructs the messenger in writing to serve a document referred to in subparagraph 2(a)(i) urgently on the day of receipt of such document or after normal office hours, the costs shall be calculated at double the tariff in subparagraph 2(a)(i) which additional costs shall be paid by the mandator, save where the court orders otherwise.
 - (b)
 - (i) For the attempted execution of the documents mentioned in paragraph (a): N\$80.00
 - (ii) Where a mandatory instructs the messenger in writing to serve a document referred to in paragraph 2(a) urgently on the day of receipt of such document or after normal office hours and the messenger is unsuccessful in his or her attempt to effect execution, the costs shall be calculated at double the tariff in subparagraph 2(b)(i), which additional costs shall be paid by the mandatory, save where the court orders otherwise.
 - (c)
 - (i) For the ejectment of a defendant from the premises referred to in the warrant of ejectment: N\$150-00 per half an hour or part thereof (except extraordinary expenses necessarily incurred).
 - (ii) A further fee of N\$50-00 shall be paid after execution for every person over and above the person named or referred to in the process of ejectment, in fact ejected from separate premises: Provided that where service on any person other than the judgment debtor, respondent or garnishee is necessary in order to complete the execution, the fee laid down in paragraph 1B(a) may be charged in respect of each such service.
 - (d) For the arrest of a defendant in terms of an order *tanquam suspectus de fuga*, or an order to found or confirm jurisdiction in terms of section 30bis or an order in terms of section 65 of the Act or any other arrest in terms of the Act, not otherwise provided for, the messenger shall be entitled to, in addition to the tariff in subparagraph 2(a), an amount of N\$150-00 per half an hour or part thereof, for waiting time during negotiations between the several parties or waiting time at the court, due to the unavailability of a court.
3. Compilation of any return in terms of rule 8, in duplicate: N\$30-00.
4. If it is necessary for the messenger to travel, a traveling allowance of N\$5-00 per kilometre for each kilometre or part thereof travelled to and from the place of service or execution, calculated from the court-house of the district for which the messenger is appointed, shall be allowed in addition to the fees mentions in subparagraphs 1B(a)(i), 1B(b)(i), 2(a)(i), 2(b)(i), 2(c)(i) or 2(d).
5.
 - (a) In respect of the discharge of any official duty other than those mentioned in paragraphs 1 and 2, a travelling allowance of N\$5-00 per kilometre for every kilometre or part thereof beyond a radius of one kilometer from the office of the messenger, shall be payable for the forward and return journey and it shall be calculated from the court house of the district for which the messenger is appointed.
 - (b)
 - (i) A travelling allowance shall include all the expenses incurred in travelling, including train fares.
 - (iii) In respect of the discharge of any official duty, should it be necessary for a messenger, due to the lack of possible roads, to travel on foot or means of animal transportation, such messenger is in addition to the fee allowed in

paragraph 4 entitled to a subsistence allowance of N\$200-00 per 24 hours in excess of the first 24 hours or part thereof so travelled provided that not less than 20 kilometres per day is travelled in such manner.

- (c) Travelling allowance shall be calculated in respect of each separate service, except that -
 - (i) where more services than one can be done on the same journey the first place of service may be taken into account only once, and shall be apportioned equally to the respective services, and the distance from the first place of service to the remaining places of service shall similarly be apportioned equally to the remaining services; and
 - (ii) where service of the same process has to be effected on more than one person by a messenger within the area served by him or her, only one charge for travelling shall be allowed.
- (d) When it is necessary for the messenger to convey any person under arrest for any distance of more than 20 kilometres, an allowance of N\$5-00 per kilometre in respect of that portion of his or her journey on which he or she was necessarily accompanied by such person shall be allowed.
- (e) The drawing up and handing over of a warrant of liberation or certificate of liberation to the officer-in-charge of a prison: N\$22-50. A travelling allowance at the tariff mentioned in paragraph 5(a) shall be payable for the execution of this duty.
- 6. (a) Making an inventory, including the making of all necessary copies and time spent on stock-taking: N\$85-00 per half hour or part thereof.
- (b) For assistance, if necessary, with the making of an inventory, N\$50-00 per half an hour or part thereof, for each assistant, provided that not more than two assistants are to be used.
- 7. The perusing, drawing up and completing of a bail bond, deed of suretyship or indemnity bond: N\$15-00
- 8. Charge or custody of property (money excluded), hereinafter referred to a "possession".
 - (a) (i) For each officer necessarily left in possession, a reasonable inclusive amount not exceeding N\$75-00 per day
 - (ii) In addition to the fee in subparagraph (a)(i), a reasonable allowance for board and subsistence shall be allowed, provided that the person referred to in paragraph 8(a), actually stays on the premises, not being the premises from where the messenger usually conducts business and that such allowance is a reasonable inclusive amount: Provided further that such board and subsistence is not included in the invoice of the security company.
 - (b) If livestock is attached, only the necessary expenses of herding and preserving the stock shall be allowed.
 - (c) If the goods are removed and stored, only the cost of removal and storage shall be allowed.

9. For purposes of paragraph 8 -

“possession” means actual physical possession by a person employed and paid by the messenger, whose sole work for the time being is to remain on the premises where the goods have been attached, and who, in fact, remains in possession for the period for which possession is charged;

“cost of removal” means the amount actually and necessarily disbursed for removal attempted removal if the goods were removed by a third party or an attempt was made to remove them, if they were removed by the messenger himself or herself, such amount as would fairly be allowable in the ordinary course of business if the goods were removed by a third party, or an attempt was made to so remove them;

“cost of storage” means the amount actually and necessarily paid for storage if the goods were stored with a third person or, if the messenger provided storage, such amount as would fairly be allowable in the ordinary course of business if the goods were stored with the third person.

10. (a) (i) Where a warrant of execution or garnishee order is paid in full, or in part, to the messenger or moneys attached in execution against movables, 7.5 per cent of the amount so paid or attached, with a minimum of N\$50-00 and a maximum of N\$1 500-00.
- (ii) Notice of attachment to defendant and to each person to be notified: N\$5-00.
- (b) (i) Where an execution debtor at the attempted execution of a warrant of arrest and detention, pays the amount due in full or in part to the messenger, 7.5 per cent of the amount so paid, with a minimum of N\$50-00 and a maximum of N\$1 500-00.
- (ii) The rules that apply to the collection of money on warrants of execution or garnishee orders shall apply with the necessary changes to money received in terms of this paragraph.
11. Where the property is released from attachment in terms of rule 41(7)(e), or the warrant of execution is withdrawn or stayed, or the judgment debtor’s estate is sequestered after the attachment, but before the sale, 2 per cent of the value of the goods attached, subject to a maximum of N\$150-00: Provided that if a sale subsequently takes place in consequence of the said attachment, the amount so paid shall be deducted from the commission payable under paragraph 12.
12. Where the warrant of execution against movables is completed by sale, 7.5 per cent for the first N\$15 000-00 or part thereof and thereafter 5 per cent.
13. For the insurance of attached property if deemed necessary and on written instructions of the judgment creditor to the messenger, in addition to the premium to be paid, an all inclusive amount of N\$50-00.
14. When immovable property has been attached in execution and is not sold, either by reason of the warrant having been withdrawn or stayed or of the sequestration of the estate of the execution debtor, the expenses in connection with the attempted sale and the sum of N\$150-00 shall be payable to the messenger or to the person in fact authorised to act as auctioneer, as the case may be.

15. (a) The drawing up of a report of the improvements on the property for the purpose of sale, N\$85-00 per half an hour or part thereof.
 - (b) Written notice to the purchaser who has failed to comply with the conditions of the sale: N\$30-00.
 - (c) Consideration of conditions of sale: N\$80-00.
16. When immovable property has been attached in execution and the attachment lapses as referred to in section 66(4) of the Act: N\$60-00.
17. When an execution against immovable property is completed by sale, the following auctioneer's fees shall be allowed to the messenger on the proceeds of the sale:
- (a) On the sale of immovable property by the messenger as auctioneer 5 per cent on the proceeds of the sale, subject to a minimum of N\$260-00 (inclusive in all instances of the messenger's bank charges and other expenses incurred in paying the proceeds into his or her trust account), which commission shall be paid by the purchaser.
 - (b) If an auctioneer is employed as provided in rule 43(9), 2.5 per cent on the proceeds of the sale and, subject to a minimum of N\$260-00 (inclusive in all instances of the messenger's bank charges and other expenses incurred in paying the proceeds into his or her trust account), which commission shall be paid by the purchaser.
18. In addition to the fees allowed by paragraph 11 to 17, both inclusive, there shall be allowed -
- (a) the sum actually and reasonably paid by the messenger or the auctioneer for printing, advertising and giving publicity to any sale or intended sale in execution;
 - (b) the sum of N\$40-00 to the messenger for giving transfer to the purchaser.
19. Where the messenger is in possession under more than one warrant of execution, he or she may charge fees for only one possession, and such possession shall, as far as possible, be apportioned equally to the several warrants issued during the same period: Provided that each execution creditor shall be jointly and severally liable for such possession to an amount not exceeding what would have been due under his or her execution if it had stood alone.
20. Fees payable on the value of goods attached or on the proceeds of the sale of goods in execution shall not be chargeable on such value or proceeds so far as they are in excess of the amount of the warrant.
21. The fees and expenses of the messenger in execution of a garnishee order, shall be added to the amount to be recovered under the order, and shall be chargeable against the judgment debtor.
22. If it is necessary for the messenger to return a document received by him or her for service or execution to the mandator because -
- (a) the address of service which appears on the process does not fall within his or her jurisdiction; or
 - (b) the mandator requested, before an attempted service or execution of the process, that it be returned to him or her;
- an amount of N\$10-00 shall be payable.

23. For the conveyance of any person arrested by the messenger or committed to his or her custody from the place of custody to the court on a day subsequent to the day of arrest: N\$30-00 per journey and N\$50-00 per half an hour or part thereof for attending at court.
24. For the examination of indicated newspapers and the *Gazette* in which the notice of sale has been published as referred to in rule 43(6)(c) and rule 41(8)(c): N\$10-00.
25. For forwarding a copy of the notice of sale to every execution creditor who has lodged a warrant of execution and to every mortgagee in respect of the immovable property concerned whose address is reasonable ascertainable, for each copy: N\$80-00.
26. (a) For affixing a copy of the notice of sale on the notice board or door of the court-house or other public building referred to in rule 41(8)(b) and rule 43(6)(e): N\$10-00.

(b) For affixing a copy of the notice of sale on the property due to be sold, the amount in paragraph (a) above and travelling costs referred to in subparagraph 5(a).
27. For the drawing up and issuing of an interpleader summons: N\$110-00.
28. In addition to the fees prescribed in this Table, the messenger shall be entitled to the amount actually disbursed for postage and telephone calls.
29. For the writing of each necessary letter, excluding formal letters accompanying process or returns: N\$10-00.
30. Each necessary attendance by telephone (in addition to prescribed trunk charges and cellular charges): N\$10-00.
31. Sending and receiving of each necessary facsimile per A4 size paper (in addition to telephone charges): N\$10-00.
32. For the perusal of the records of the Registrar of Deeds in terms of rule 43(3) to determine the order of precedence of creditors:
 - (a) if investigated by the messenger personally: N\$70-00 per case;
 - (b) if the messenger utilizes the services of a third party for the investigation, the actual cost as required by the third party, provided that it is reasonable.
33. For the making of all necessary copies of documents: N\$5-00 per A4 size copy.
34. For the drawing up of the bill for taxation and attendance of the taxation by the messenger: N\$35-00.
35. Bank charges: Actual costs incurred relating to bank charges and cheque forms.
36. The value added tax payable on messengers' fees shall be allowed on taxation by the clerk of the court.
37. For drawing a plan of distribution of proceeds (including the necessary copies): N\$35-00.

TABLE D**FEEES TO ASSESSORS**

1. For every attendance when the case is wholly or partly heard: N\$75-00 for each hour or part of an hour of such attendance, but not to be less than N\$150-00 or more than N\$1 400-00 for every such attendance.
2. For every attendance when the case is not heard but is postponed or settled, at the above rate, but the minimum to be N\$200-00.
3. Attendance to be reckoned from the hour for which the assessor is summoned to the hour at which judgment is given or reserved, or to the hour at which the assessor is expressly released by the court from further attendance, whichever shall be the earlier.
4. When the case is adjourned, postponed or settled, attendances to be reckoned from the hour for which the assessor is summoned to the hour at which the case is adjourned, postponed or settled, or to the hour at which the assessor is expressly released by the court from further attendance, whichever shall be the earlier.
5. An assessor shall be entitled to a travelling allowance of N\$5-00 per kilometre actually and necessarily taken between the courthouse and his or her residence or place of business.
6. The party who desires an assessor in terms of rule 59(6) shall pay to the clerk of the court an amount of N\$1 400-00 for each assessor applied for.

TABLE E**COURT FEES**

	ITEM	N\$
1.	On every initial summons, or the initial documents in an application which are not related to civil proceedings already on record in that court, or an application for an order under section 74 of the Act or an application for a spoliation order	75-00
2.	On any request to inspect any record - (a) if the correct number is furnished	4-00
	(b) if an incorrect or no number is furnished, for every 100 records searched	10-00
3.	For a copy of a record made by the clerk of the court - (a) for every 100 typed words or part thereof	5-00
	(b) for every photocopy of an A4-size page or part thereof	5-00
4.	For examining and certifying a copy of a record - each 100 words or part thereof	5-00
5.	For completion of the statement referred to in section 74A(4)	75-00

NOTES

1. *For purposes of paragraph 1 the expression 'action' does not include a counter-claim.*
 2.
 - (a) *Where any dispute arises between the clerk of court and any person desiring to lodge any documents as to whether the document is or is not sufficiently stamped, the question shall be referred to a judicial officer, who shall decide the same in a summary manner.*
 - (b) *Such judicial officer's decision shall be final for the purpose of the action or matter in respect to which document is lodged, but such decision shall be without prejudice to any other rights of any person interested.*
 3. *No charge shall be made for the inspection of the record of any case -*
 - (a) *on the next business day succeeding the day on which judgement was delivered in such case if the number of civil cases recorded in that court exceeded 5000 during the preceding year; or*
 - (b) *within 7 days after judgement if the number of civil cases recorded in that court during the preceding year did not exceed 5000; or*
 - (c) *to any party to any case at any time before judgement or within seven days after judgment."*
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