



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

N\$6.00

WINDHOEK - 20 September 2019

No. 7001

### CONTENTS

*Page*

#### GOVERNMENT NOTICE

|         |  |   |
|---------|--|---|
| No. 271 | Notification of compensation payable to assessors not in full-time employment of state: Criminal Procedure Act, 1977 ..... | 1 |
|---------|--|---|

## Government Notice

### MINISTRY OF JUSTICE

No. 271

2019

#### NOTIFICATION OF COMPENSATION PAYABLE TO ASSESSORS NOT IN FULL-TIME EMPLOYMENT OF STATE: CRIMINAL PROCEDURE, 1977

In terms of section 13 of the Interpretation of Laws Proclamation, 1920 (Proclamation No. 37 of 1920) I give notice that I have, under section 145(5) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in consultation with the Minister of Finance, determined the compensation payable to assessors not in full-time employment of the State, as set out in the Schedule, with effect from 1 January 2019.

**S. SHANGHALA**  
**MINISTER OF JUSTICE**

#### SCHEDULE

##### Definitions

1. In this Notice, a word or an expression to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates -

“assessor” means a person who -

- (a) in the opinion of a judge who presides at a trial, has experience in the administration of justice or skill in any matter which may be considered at the trial; and
- (b) subject to paragraph (a), is summoned to court under section 145(2) of the Act;

“court” means the High Court of Namibia constituted under Article 80(1) of the Namibian Constitution;

“compensation” means any fee contemplated in this Notice including, subsistence and travel allowances contemplated in paragraph 3;

“Executive Director” means the Executive Director responsible for the Office of the Judiciary;

“government owned motor vehicle” means a motor vehicle which is assigned to the Office of the Judiciary by the Government of the Republic of Namibia or which is leased by that Office of the Judiciary for official purposes;

“local authority area” means a local authority area as defined in the Local Authorities Act, 1992 (Act No. 23 of 1992);

“return journey” means a round trip from the place of ordinary residence of an assessor to the court and back to the place of ordinary residence of the assessor;

“the Act” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

### **Fees payable to assessors**

2. (1) The fees payable to an assessor who is not in full-time employment of the State is N\$4000 for every day or part of a day of actual attendance -

- (a) in court; or
- (b) in chambers when directed by a presiding judge.

(2) If exceptional circumstances exist as contemplated in paragraph 4, the fees payable under subparagraph (1) may be increased to an amount not exceeding N\$10 000 for every day or part of a day of actual attendance -

- (a) in court; or
- (b) in chambers when directed by a presiding judge.

(3) A presiding judge must keep a register of attendance, for each assessor, which is substantially similar to the register set out in Annexure 1.

### **Subsistence and travelling allowance**

3. (1) When an assessor is summoned in terms of section 145 of the Act and the assessor is not ordinarily resident in the local authority area where the court is situated -

- (a) the assessor is entitled to be paid, subject to subparagraph (2) -
  - (i) a subsistence allowance applicable to that of an executive director in the public service; and

- (ii) a travelling allowance for the journey to and from the court at the kilometre rates applicable for the use of a private vehicle on official duty by a public service staff member who is not in the management cadre; or
- (b) if it is economically more viable to make use of air transport, the Executive Director must -
  - (i) arrange and procure an air ticket for the assessor; and
  - (ii) provide a government owned motor vehicle for use by the assessor while the assessor is within the local authority area where the court is situated.
- (2) The allowances payable under item (a) of subparagraph (2) and the arrangement and provision under item (b) of that subparagraph are limited to two return journeys per calendar month.
- (3) Despite subparagraph (2) -
  - (a) the allowances under item (a); and
  - (b) the arrangement and provision under item (b),

of that subparagraph may in exceptional circumstances, with the approval of the Executive Director, be extended for additional return journeys which the court considers necessary.

#### **Loss of income**

4. An assessor is not entitled to any additional claim for loss of income but may, in the event of any exceptional circumstances and subject to paragraph 5, be paid an increased fee.

#### **Increased fees**

5. (1) If the fee contemplated in paragraph 2(1) is less than the income of an assessor or in the event of exceptional circumstances contemplated in paragraph 4, the assessor must -

- (a) in writing, to the Judge President or Deputy Judge President, as the case may be, request for an increase of that fee;
  - (b) in the request under item (a), state -
    - (i) the exceptional circumstances for which the assessor requests for increased fees;
    - (ii) the amount to which the fee must be increased; and
    - (iii) the facts supporting the amount under subitem (ii); and
  - (c) submit, to the Registrar the request under item (a) together with documents which support the request for increased fees for the assessor.
- (2) On receipt of the submission under subparagraph (1)(c), the Registrar must present the submission to the Judge President or Deputy Judge President as the case may be.
- (3) If the Judge President or Deputy Judge President as the case may be, is satisfied with the request made under subparagraph (1), that Judge President or Deputy Judge President may, after

hearing the Executive Director on the availability of funds, make an order directing the Executive Director to pay the assessor, subject to paragraph 2(2) -

- (a) the increased fees requested under subparagraph (1); or
- (b) the increased fees which that Judge President or Deputy Judge President considers appropriate.

(4) Subject to the direction of the Judge President or Deputy Judge President under subparagraph (3), the Executive Director must give instructions to the responsible office to pay the assessor the increased fees -

- (a) requested under subparagraph (1); or
- (b) which the Judge President or Deputy Judge President considers appropriate.

(5) An assessor may make the request for payment of increased fees at any time after the assessor is summoned to assist, but not later than 30 calendar days after the trial is finalised.

### **Claim**

**6.** An assessor who claims compensation must submit to the Registrar a claim form, which is substantially similar to the form set out in Annexure 2, accompanied by -

- (a) an extract of the register contemplated in paragraph 2(3) which is certified by the presiding judge;
- (b) if the claim includes increased fees -
  - (i) the request for increased fees made under paragraph 5(1);
  - (ii) the supporting documents attached to the request for increased fees as contemplated in paragraph 5(1)(c); and
  - (iii) the order made by the Judge President or Deputy Judge President, under paragraph 5(3); and
- (c) if the claim includes subsistence and travelling allowance, proof of ordinary residence of the assessor.



## ANNEXURE 2



## REPUBLIC OF NAMIBIA

**OFFICE OF THE JUDICIARY**  
**ASSESSOR IN CRIMINAL PROCEEDINGS**  
**HIGH COURT OF NAMIBIA**  
**CLAIM FORM**

|                       |  |
|-----------------------|--|
| DIVISION OF THE COURT |  |
| CASE NUMBER           |  |
| CASE NAME             |  |
| PRESIDING JUDGE       |  |
| ASSESSOR              |  |

Claim for Daily Fee or Increased fees as determined by the Judge President or Deputy Judge President:

| Date                            | Daily Fee, as published<br>Yes / No | Increased Fees<br>Yes / No | Daily Fee |
|---------------------------------|-------------------------------------|----------------------------|-----------|
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
|                                 |                                     |                            | N\$       |
| <b>TOTAL DAILY FEES CLAIMED</b> |                                     |                            |           |

Claim for Subsistence Allowance:

| Date From                              | Departure Time | Date To | Arrival Time | Seat of Court | OFFICIAL USE |
|--|----------------|---------|--------------|---------------|--------------|
|  |                |         |              |               |              |
|  |                |         |              |               |              |
| <b>TOTAL DAILY SUBSISTENCE ALLOWED</b> |                |         |              |               |              |

## Claim for Travelling Allowance:

| Place or ordinary Residence           | Seat of Court | Departure Date | Return Date | Distance between place of ordinary residence and Seat of court | OFFICIAL USE |
|---------------------------------------|---------------|----------------|-------------|--|--------------|
|                                       |               |                |             |  |              |
|                                       |               |                |             |  |              |
| <b>TOTAL TRAVEL ALLOWANCE ALLOWED</b> |               |                |             |  |              |

The following documents in support of this claim are annexed:

1. Extract from Attendance Register
2. Determination by the Judge President or Deputy Judge President<sup>1</sup>
3. Proof of ordinarily residence<sup>2</sup>

Signed on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF CLAIMANT

|   |
|---|
| <p style="text-align: center;">REGISTRAR OF THE SUPREME AND HIGH COURTS</p> <p style="text-align: center;">Certified to be correct and not previously presented for payment</p> <p>NAME: _____</p> <p>RANK: _____</p><br><br><br><br><p>SIGNATURE: _____</p> <p>OFFICIAL DATE STAMP</p> |
|---|

<sup>1</sup> Delete if not applicable

<sup>2</sup> Delete if not applicable