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## GOVERNMENT NOTICES GOEWERMENSKENNISGEWINGS

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### DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No.R. 759

11 October 2013

#### **RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)**

#### **AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE SEVERAL PROVINCIAL AND LOCAL DIVISIONS OF THE HIGH COURT OF SOUTH AFRICA**

The Rules Board for Courts of Law has under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), with the approval of the Minister of Justice and Constitutional Development, made the rules in the Schedule.

#### **SCHEDULE**

##### **Definition**

1. In these rules "the Rules" means the rules regulating the conduct of the proceedings of the several provincial and local divisions of the High Court of South Africa published under Government Notice No. R. 48 of 12 January 1965, as amended by Government Notice Nos. R. 235 of 18 February 1966, R. 2004 of 15 December 1967, R. 3553 of 17 October 1969, R. 2021 of 5 November 1971, R. 1985 of 3 November 1972, R. 480 of 30 March 1973, R. 639 of 4 April 1975, R. 1816 of 8 October 1976, R. 1975 of 29 October 1976, R. 2477 of 17 December 1976, R. 2365 of 18 November 1977, R. 1546 of 28 July 1978, R. 1577 of 20 July 1979, R. 1535 of 25 July 1980, R. 2527 of 5 December 1980, R. 500 of 12 March 1982, R. 773 of 23 April 1982, R. 775 of 23 April 1982, R. 1873 of 3 September 1982, R. 2171 of 6 October 1982, R. 645 of 25 March 1983, R. 841 of 22 April 1983, R. 1077 of 20 May 1983, R. 1996 of 7 September 1984, R. 2094 of 13 September 1985, R. 810 of 2 May 1986, R. 2164 of 2 October 1987, R. 2642 of 27 November 1987, R. 1421 of 15 July 1988, R. 210 of 10 February 1989, R. 608 of 31 March 1989, R. 2628 of 1 December 1989, R. 185 of 2 February 1990, R. 1929 of 10 August 1990, R. 1262 of 30 May 1991, R. 2410 of 30 September 1991, R. 2845 of 29 November 1991, R. 406 of 7 February 1992, R. 1883 of 3 July 1992, R. 109 of

22 January 1993, R. 960 of 28 May 1993, R. 974 of 1 June 1993, R. 1356 of 30 July 1993, R. 1843 of 1 October 1993, R. 2365 of 10 December 1993, R. 2529 of 31 December 1993, R. 181 of 28 January 1994, R. 411 of 11 March 1994, R. 873 of 31 May 1996, R. 1063 of 28 June 1996, R. 1557 of 20 September 1996, R. 1746 of 25 October 1996, R. 2047 of 13 December 1996, R. 417 of 14 March 1997, R. 491 of 27 March 1997, R. 700 of 16 May 1997, R. 798 of 13 June 1997, R. 1352 of 10 October 1997, R. 785 of 5 June 1998, R. 881 of 26 June 1998, R. 1024 of 7 August 1998, R. 1723 of 30 December 1998, R. 315 of 12 March 1999, R. 568 of 30 April 1999, R. 1084 of 10 September 1999, R. 1299 of 29 October 1999, R. 502 of 19 May 2000, R. 849 of 25 August 2000, R. 373 of 30 April 2001, R. 1088 of 26 October 2001, R. 1755 of 5 December 2003, R. 229 of 20 February 2004, R. 1343 of 12 December 2008, R. 1345 of 12 December 2008, R. 516 of 8 May 2009, R. 518 of 8 May 2009, R. 86 of 12 February 2010, R. 87 of 12 February 2010, R. 88 of 12 February 2010, R. 89 of 12 February 2010, R. 90 of 12 February 2010, R. 500 of 11 June 2010, R. 591 of 09 July 2010, R. 980 of 19 November 2010, R. 981 of 19 November 2010, R. 464 of 22 June 2012, R. 992 of 7 December 2012, R. 114 of 15 February 2013, R. 262 of 12 April 2013, R. 471 of 12 July 2013 and R. 472 of 12 July 2013.

### **Amendment of rule 70 of the Rules**

**2.** Rule 70 of the Rules is hereby amended by the substitution for the Tariff of Fees of Attorneys of the following Tariff of Fees of Attorneys:

#### **"TARIFF OF FEES OF ATTORNEYS**

##### **A - CONSULTATIONS, APPEARANCES, CONFERENCES AND INSPECTIONS**

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|---|---------|
| 1. Consultation with a client and witnesses to institute or to defend an action, for advice on evidence or advice on commission, for obtaining an opinion or an advocate's guidance in preparing pleadings, including exceptions, and to draft a petition or affidavit, per quarter of an hour or part thereof— |         |
| (a) by an attorney  | R235,00 |
| (b) by a candidate attorney   | R72,00  |
| 2. Consultation to note, prosecute or defend an appeal, per quarter of an hour or part thereof—   |         |
| (a) by an attorney  | R235,00 |
| (b) by a candidate attorney   | R72,00  |
| 3. Attendance by an attorney in court at proceedings in terms of rule 37 of these Rules, per quarter of an hour or part thereof   | R235,00 |
| 4. Attendance by a candidate attorney, where necessary, to assist at a contested proceeding, per quarter of an hour or part thereof   | R72,00  |

5. Any conference with an advocate, with or without witnesses, on pleadings, including exceptions and particulars to pleadings, applications, petitions, affidavits and testimony, and on any other matter which the taxing officer may consider necessary, per quarter of an hour or part thereof—
- (a) by an attorney R235,00
- (b) by a candidate attorney R72,00
6. Any other conference which the taxing officer may consider necessary, per quarter of an hour or part thereof—
- (a) by an attorney R235,00
- (b) by a candidate attorney R72,00
7. Any inspection *in situ*, or otherwise, per quarter of an hour or part thereof—
- (a) by an attorney R235,00
- (b) by a candidate attorney R72,00
8. Attending to give or take disclosure, per quarter of an hour or part thereof—
- (a) by an attorney R235,00
- (b) by a candidate attorney R72,00
9. Inclusive fee for necessary consultations and discussions with a client, witness, other party or advocate not otherwise provided for, per quarter of an hour or part thereof—
- (a) by an attorney R235,00
- (b) by a candidate attorney R72,00
10. Appearance by an attorney in court or the performance by an attorney of any of the other functions of an advocate, in terms of the Right of Appearance in Courts Act, 1995 (Act No. 62 of 1995) The tariff under rule 69 shall apply.
11. The rates of remuneration in items 1 to 9 do not include time spent travelling or waiting and the taxing officer may, in respect of time necessarily so spent, allow such additional remuneration as he or she in his or her discretion considers fair and reasonable, but not exceeding R235.00 per quarter of an hour or part thereof in the case of an attorney and R72.00 per quarter of an hour or part thereof in the case of a candidate attorney plus a reasonable amount for necessary conveyance.

## B - DRAFTING AND DRAWING

1. The drawing up of a formal statement in a matrimonial matter, verifying affidavits, affidavits of service or other formal affidavits,

index to brief, short brief, statements of witnesses, powers of attorney to sue or defend, as well as other formal documents and summonses, including all documents such as the prescribed forms in the First Schedule to these Rules, but not the particulars of claim in an annexure to the summons: an inclusive tariff - drawing up, checking, typing, printing, copies, delivery and filing thereof, per page of the original only R94,00

2. The drawing up of other necessary documents, including—

(a) instructions for an opinion, for an advocate's guidance in preparing pleadings, including further particulars and requests for same, including exceptions;

(b) instructions to advocate in respect of all classes of pleadings;

(c) a petition, exception or affidavit, any notice (except a formal notice), particulars of claim or an annexure to the summons, opinion by an attorney or any other important document not otherwise provided for,

an inclusive tariff - drawing up, checking, typing, printing, copies, delivery and filing thereof, per page of the original only R235,00

3. Letters, telegrams and facsimiles: Inclusive tariff for drawing up, checking, typing, printing, delivery, copies, postage, posting thereof, per page R94,00

*NOTE 1:* Particulars of dispatched letters, telegrams and facsimiles need not be specified in a bill of costs. The number of letters written must be specified, as well as the total amount charged. The opposing party, as well as the taxing officer, is entitled to inspect the papers should the correctness of the item be disputed.

*NOTE 2:* Whenever an attorney performs any of the work listed in this section, the fees set out herein in respect of such work shall apply and not any fees which would be applicable in terms of the tariff under rule 69 if an advocate had performed the work in question.

#### C - ATTENDANCE AND PERUSAL

1. Attending the receipt, entry, perusing, considering and filing of—

(a) any summons, petition, affidavit, pleading, advocate's advice and drafts, report, important letter, notice or document;

(b) any formal letter, record stock sheets in voluntary surrenders, judgments or any other material document not elsewhere specified;

(c) any plan or exhibit or other material document which was necessary for the conduct of the action,

per page R47,00

2. Sorting, arranging and paginating papers for pleadings, advice

on evidence or brief on trial or appeal, per quarter of an hour or part thereof—

- |                             |         |
|-----------------------------|---------|
| (a) by an attorney          | R235,00 |
| (b) by a candidate attorney | R72,00  |

*NOTE:* Particulars of received papers need not be specified in bills of costs. The number of papers and pages received, as well as the total amount charged therefor, must be specified. The opposing party as well as the taxing officer is entitled to inspect the papers received if the correctness of the item is disputed.

#### D - MISCELLANEOUS

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|--|---------|
| 1. For making necessary copies, including photocopies, of any document or papers not already provided for in this tariff, per A4 size page   | R2,50   |
| 2. Attending to arrange translation and thereafter to procure same, per quarter of an hour or part thereof—  |         |
| (a) by an attorney   | R235,00 |
| (b) by a candidate attorney  | R72,00  |
| 3. Necessary telephone calls: The actual cost thereof, plus per quarter of an hour or part thereof—  |         |
| (a) by an attorney   | R235,00 |
| (b) by a candidate attorney  | R72,00  |
| 4. Sending facsimile letters: The actual cost of sending the facsimile letter, in addition to the fee allowed for the drawing thereof under item B3 above.   |         |
| 5. Testimony: Fair and reasonable charges and expenses which in the opinion of the taxing officer were duly incurred in the procurement of the evidence and the attendance of witnesses whose witness fees have been allowed on taxation: Provided that the preparation fees of a witness shall not be allowed without an order of the court or the consent of all interested parties. |         |

#### E - BILL OF COSTS

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

1. For drawing the bill of costs, making the necessary copies and attending settlement, 10,60 per cent of the attorney's fees, either as charged in the bill, if not taxed, or as allowed on taxation.
2. In addition to the fees charged under item 1, if recourse is had to taxation for arranging and attending taxation and obtaining consent to taxation, 10,60 per cent on the first R10 000,00 or portion thereof, 5,10

per cent on the next R10 000,00 or portion thereof and 2,12 per cent on the balance of the total amount of the bill.

3.(a) Whenever an attorney employs the services of another person to draft his or her bill of costs, a certificate shall accompany that bill of costs in which that attorney certifies that—

- (i) the bill of costs thus drafted was properly perused by him or her and found to be correct; and
- (ii) every description in such bill with reference to work, time and figures is consistent with what was necessarily done by him or her.

(b) The taxing officer may—

- (i) if he or she is satisfied that one or more of the requirements referred to in item 3(a) has not been complied with, refuse to tax such bill;
- (ii) if he or she is satisfied that fees are being charged in a party-and-party bill of costs—
  - (aa) for work not done;
  - (bb) for work for which fees are to be charged in an attorney-and-client bill of costs; or
  - (cc) which are excessively high,

deny the attorney the remuneration referred to in items 1 and 2 of this section, if more than 20 per cent of the number of items in the bill of costs, including expenses, or of the total amount of the bill of costs, including expenses, is taxed off.

NOTE: The minimum fees under items 1 and 2 shall be R187.50 for each item.

#### F - EXECUTION

1. Drafting, issue and execution of a warrant of execution and attendances in connection therewith, excluding sheriffs fees (if not taxed)	R469,00
2. Reissue	R118,00".

#### Commencement

3. These rules come into operation on **15 November 2013**.