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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. 113

15 February 2013

#### AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE SUPREME COURT OF APPEAL 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

##### GENERAL EXPLANATORY NOTE:

- [ ] Expressions in bold type in square brackets indicate omissions from existing rules.  
\_\_\_\_ Expressions underlined with a solid line indicate insertions into existing rules.

##### Definition

1. In this Schedule "the Rules" means the rules regulating the conduct of the proceedings of the Supreme Court of Appeal of South Africa published under Government Notice R. 1523 of 27 November 1998, as amended by Government Notices R. 979 of 19 November 2010 and R. 191 of 11 March 2011.

##### Amendment of Rule 18 of the Rules

2. The Rules are hereby amended by the substitution for rule 18 of the following rule:

**"18 Attorneys' fees**

The following shall be allowed to attorneys conducting appeals or other matters before the Court:

**A – TAKING INSTRUCTIONS**

		R	
1.	(a) To note an appeal or cross-appeal when leave to appeal is not required <u>per quarter of an hour</u> .....	<b>[56,00]</b>	
	(i) <u>by an attorney</u> .....		<u>235.00</u>
	(ii) <u>by a candidate attorney</u> .....		<u>72.00</u>
	(b) To prosecute or defend an appeal, including continuation of a cross-appeal <u>per quarter of an hour</u> ..... to .....	<b>[91,00]</b> <b>532,00]</b>	
	(i) <u>by an attorney</u> .....		<u>235.00</u>
	(ii) <u>by a candidate attorney</u> .....		<u>72.00</u>
	(c) To make or oppose an application <u>per quarter of an hour</u> ..... to .....	<b>[84,00]</b> <b>to</b> <b>280.00]</b>	
	(i) <u>by an attorney</u> .....		<u>235.00</u>
	(ii) <u>by a candidate attorney</u> .....		<u>72.00</u>
2.	To draft any application or affidavit <u>per page</u> .....	<b>[Half</b> <b>the charge</b> <b>allowed</b> <b>under</b> <b>item E1</b> <b>for</b> <b>drafting]</b>	<u>94.00</u>

**B – PREPARATION OF RECORDS**

		R	c
1.	Making, for the purpose of preparing copies of the record on appeal (except where a charge is made under paragraph 5 hereof), a copy of such particulars of the record as were not in the possession of the appellant or his or her attorney at the time when the order appealed from was made, per <b>[folio]</b> <u>page</u> .....	<b>[1,50]</b>	<u>2.50</u>
2.	Arranging record for printing or typing, excluding unnecessary documents therefrom, and preparing an index and list of documents not included in the record on appeal, per <b>[half-hour]</b> <u>quarter of an hour</u> or part thereof.....	<b>[91.00]</b>	
	(i) <u>by an attorney</u> .....		<u>235.00</u>
	(ii) <u>by a candidate attorney</u> .....		<u>72.00</u>

- |    |   |                    |
|----|---|--------------------|
| 3. | Correcting [printer's proof or] typed [or roneoed] copy, per [half-hour] <u>quarter of an hour</u> or part thereof  | <b>[91.00]</b>     |
|    | (i) <u>by an attorney</u> .....   | 235.00             |
|    | (ii) <u>by a candidate attorney</u> .....   | 72.00              |
| 4. | Attending at the office of the registrar or officer of the court appealed from to peruse or authenticate the record, per [half-hour] <u>quarter of an hour</u> or part thereof..... | <b>[56.00]</b>     |
|    | (i) <u>by an attorney</u> .....   | 235.00             |
|    | (ii) <u>by a candidate attorney</u> .....   | 72.00              |
| 5. | <b>[(a)]</b> Making typed copies of record on appeal and heads of arguments, per [folio] <u>page</u> .....  | <b>[1.50] 2.50</b> |
|    | <b>[(b)]</b> Where copies are made other than by typewriter, the charge shall be R1.50 per page for the first copy, and for further copies per page...0.75]                         |                    |

C – PERUSAL

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|----|--|--------------------------------|
| 1. | (a) Perusing judgment of court <i>a quo</i> when taking instructions for the continuation of an appeal or cross-appeal, where leave to appeal is not required, per page..... | <b>[27.00] 47.00</b>           |
|    | (b) Perusing record of appeal, for each page [or part thereof.]  | <b>[0.75] 3.50</b>             |
|    | (c) Perusing judgment of court <i>a quo</i> by which leave to appeal was denied, when taking instructions to apply for leave to appeal to the Court, per page.....           | <b>[17.00] 3.50</b>            |
|    | <b>[(Note: The minimum fee under items (a) and (b) shall be R168,00)]</b>  |                                |
| 2. | Perusing any plan, diagram, photograph or other annexure to the record to which the remuneration hereinbefore set out cannot be applied <u>per page</u> .....                | <b>[10,00 to 182.00] 47.00</b> |
| 3. | (a) Attendance on and perusal of any application or affidavit or any other document not elsewhere provided for, per page.  | <b>[17.00] 47.00</b>           |
|    | (b) Attendance on and perusal of any annexure to an application and answering affidavit, per page.....   | <b>[0.75] 3.50</b>             |
|    | (c) Attendance on and perusal of an application or affidavit composed or corrected by counsel, per page.....   | <b>[2.00] 10.00</b>            |

**[(Note I: The minimum fees under item (a) shall be as follows: For formal affidavits, R17,00; for affidavits other than formal affidavits R35,00.)]**

**[(Note II: In the calculation of the number of pages the total number of words of all necessary annexures is to be divided by at least 250, i.e. the entire record is to be**

**treated as one document.)]**

- 4. Attendance on and perusal of heads of argument, excluding annexures for example unreported judgments of court or copies of publications attached as confirmation of heads of arguments, **[for every 10 pages or portion thereof] per page**..... **[35.00]** 47.00

**[(Note: The minimum fee under this item shall be R70,00)]**

**D - ATTENDANCE**

R c

- 1. Any formal attendance on an acknowledgement, receipt, etc ..... **[7,00]** 47,00
- 2. (a) Attendance on any letter [, **telegram,**] or document [**telephone call,** **[10,00** **or any other necessary attendance not otherwise provided for]** to **35,00]** to ..... 47,00
- (b) Necessary telephone calls made, per quarter of an hour or part thereof
  - (i) by an attorney ..... 235,00
  - (ii) by a candidate attorney ..... 72,00
- (c) Attendance on telephone calls, per quarter of an hour or part thereof
  - (i) by an attorney..... 235,00
  - (ii) by a candidate attorney..... 72,00

**[(Note: A composite fee shall be charged for all letters received: Provided that a short summary of the contents of such letters is to be attached to the bill of costs before taxation.)]**

- 3. (a) Attendance at office of registrar to deliver a letter or document, or to uplift an order, etc, per quarter of an hour or part thereof..... **[7,00]**
  - (i) by an attorney ..... 235,00
  - (ii) by a candidate attorney ..... 72,00
- (b) Attendance on business other than formal business, per **[half-hour] quarter of an hour** or part thereof..... **[70,00]**
  - (i) by an attorney ..... 235,00
  - (ii) by a candidate attorney ..... 72,00
- 4. (a) Attendance at any consultation with counsel or client, **[70** per **[half-hour] quarter of an hour** or part thereof **to 105]**
  - (i) by an attorney ..... 235,00
  - (ii) by a candidate attorney ..... 72,00
- (b) A comprehensive fee for attendance, obtaining and payment of counsel for noting of judgment per quarter of an hour **[56,00]**
  - (i) by an attorney ..... 235,00
  - (ii) by a candidate attorney ..... 72,00

- 5. Attendance at court to **[enter] note judgment per quarter of an hour**
  - (a) by an attorney..... **[70,00]** 235,00
  - (b) by a **[clerk] candidate attorney**..... **[27,00]** 72,00
  
- 6. Attendance at court on hearing of appeal or application, per **[half-hour] quarter of an hour** or part thereof-
  - (a) by an attorney..... **[70,00]**  
to  
**105,00]** 235,00
  - (b) by a **[clerk] candidate attorney**..... **[42,00]** 72,00

E - DRAWING UP OF DOCUMENTS

R c

- 1. Any application or affidavit, per **[folio] page**..... **[21,00]** 94,00
  
- [(Note: In the calculation of the number of folios, the taxing master shall deduct, but treat as annexures, any relevant portion consisting of quotations from other documents.)]**
  
- 2. Instructions to counsel **[, whether written or verbal]**
  - (a) on appeal per page ..... **[84,00]**  
to  
**350,00]** 94,00
  
  - (b) on application per page..... **[84,00]**  
.....to  
**350,00]** 94,00
  
  - (c) in justifiable cases, for the drawing up or correcting of application or affidavit for an application for leave to appeal..... **[56 to**  
or disputing thereof per page..... **112,00]** 94,00
- 3. Drawing up of notice of appeal or other necessary notices, per **[folio] page**..... **[17,00]** 94,00
- 4. Letters **[and telegrams,]** per **[folio] page**, including copy to keep ... **[11,00]** 94,00  
**[(Note: A composite fee shall be charged for all letters written: Provided that a short summary of such letters is to be attached to the bill of costs before taxation.)]**
- 5. Drawing up power of attorney, per **[folio] page**..... **[11,00]** 94,00
- 6. Drawing up short brief to counsel per page..... **[11,00]** 94,00
- 7. Drawing up bond of security, per **[folio] page**..... **[22,00]** 94,00

F - COPYING

- Other documents not specially provided for, per page 2,50
- [(a) First copy,] per page**..... **[1,50]**
- (b) [Each further necessary copy, per page**..... **[0,75]]**

## G - BILLS OF COSTS

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

1. For drawing up the bill of costs, making the necessary copies and attending settlement: **[5] 11** per cent of the **[amount of]** attorney's fees, either as charged in bill if not taxed or as allowed on taxation.
2. For arranging and attending taxation: **[ 5 per cent of the fees allowed] 11 per cent on the first R10 000,00 or portion thereof, 6 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.**

**[(Note I: The minimum fee under each of these items shall be R70, 00.)]"**

**Commencement**

3. These rules shall come into operation on **22 March 2013**.