INTERPROVINCIAL APPORTIONMENT GUIDELINES: SECTIONAL TITLES

CPI Reference: January 2018

Following the guideline changes, the LSSA Council has recommended that the guidelines set out below should, unless otherwise agreed, apply in respect of all conveyancing work performed in one Province on instructions received from a practitioner in another Province and for which such instructions were received by the instructing practitioner on or after the date when these Guidelines come into effect. This apportionment serves as a guideline only and conveyancers are free to negotiate the apportionment as they see fit.

DEFINITIONS for purposes of this guideline:

"PRELIMINARY WORK" where referred to in this guideline shall mean and include the taking and giving of instructions, preparation and attending signature of all powers of attorney, declarations, affidavits, resolutions and other necessary preliminary and ancillary documents such as extracts from companies' memorandum and articles of association and proof in regard to all matters required to be certified in terms of Section 15B(3) of the Act, payment of transfer duty and of all levies imposed by the body corporate, and of all rates levied by any lawful authority, obtaining or making all clearances or other certificates, the obtaining of endorsements or copies of documents from the office of the Master or other public office (except where otherwise provided) the making of all other financial arrangements including the provision and perusal of guarantees and attending to payment in terms thereof, all relevant correspondence, or such of the above work as may be necessary. "Preliminary work" shall, however, not include any attendances in connection with the drawing and execution of general powers of attorney, deeds of sale, deeds of exchange, preliminary agreements with regard to any lease, servitude or donation and documents of a similar nature as well as documents for which a special fee is provided in this guideline.

"FINAL WORK" shall mean and include, the drawing and preparation of any document for execution or registration at a deeds registry, obtaining of registration thereof, arranging simultaneous lodgment with another conveyancer or conveyancers where necessary, giving all references required by the deeds office for examination purposes and all attendances at the deeds office and correspondence in connection with registration, but shall not include any separate act of registration of any other document which may be necessary before or in connection with the first-mentioned act of registration or for which special provision is made in the guideline.
"LODGMEMT" wherever in this guideline a specific or proportionate fee is provided for lodgment, it shall mean the fee payable by the instructing practitioner to the instructed practitioner for all attendances in connection with the lodgment and where necessary, registration of any document, including arranging simultaneous lodgments, giving necessary references and all other attendances and correspondence connected with such lodgment and registration and shall be payable out of the total fee.

NOTES:

1. All references hereunder to sections and/or items shall relate to the guidelines as recommended by the Law Society.

2. Where a deed of transfer, a partition transfer or a mortgage bond is drawn, complete in every detail, and prepared by one conveyancer and is merely lodged and executed by another conveyancer, the instructing conveyancer shall be entitled to 85% and the instructed conveyancer to 15% of the total fee, provided that -

2.1 if such deeds are rejected by the deeds office by reason of a note or notes raised against such deeds which is/are incapable of being remedied on preparation/rectification and such deeds will have to be relodged, or where the instructing conveyancer expressly requested the instructed conveyancer to check such deeds and documents, and the deeds and/or supporting documents are patently incorrect or incomplete and would have been rejected, the instructed conveyancer shall immediately communicate with the instructing conveyancer and by arrangement, either

2.1.1 return the deeds to the instructing conveyancer to be redrawn and re-prepared, in which event, the instructed conveyancer shall be entitled to 20% of the fee, or

2.1.2 the instructed conveyancer shall redraw and re-prepare the deed in which event the instructed conveyancer shall be entitled to 25% of the total fee if the rejection was a result of a simple error and 33.3% of the total fee if the rejection was as a result of errors other than a simple error.

If the instructing conveyancer expressly requested the instructed conveyancer to check such deeds and supporting documents, the instructed conveyancer shall be entitled in any event to 20% of the total fee and if such deeds and documents would have been rejected, the instructed conveyancer shall immediately communicate with the instructing conveyancer and by arrangement proceed as in 2.1.1 or 2.1.2.
2.2 If the instructed conveyancer attends to any matter on preparation/rectification as the case may be, which is covered under the item "fees for apportionment for preliminary work", he shall charge such fee.

3. Where the instructing practitioner merely takes instructions from his client and thereafter sends his whole "file" to the instructed conveyancer who then does all the work, the former shall, as a general rule be entitled to 20% and the latter to 80% of the prescribed fee where the fees are divided on a percentage basis as set out hereunder.

4. Fees and percentages specified herein shall be net and shall not be subject to any allowances.

5. **APPORTIONMENT OF FEES FOR "PRELIMINARY WORK"**

Where a practitioner who attends to the preliminary work in connection with any conveyancing matter, requests another practitioner to do part of such preliminary work, the former shall, from his share of fees, pay the latter the amounts set out hereunder, and which amounts shall be net.

(i) (a) Obtaining all necessary endorsements from the Master for any number of endorsements which are applied for simultaneously

   per estate     R1350

(b) Furnishing a certificate in terms of Section 42(1) of the Administration of Estates Act 1965, including investigations and attendances on Master's Office

   per estate     R1350 for any number of Certificates

(c) Obtaining copies of all necessary documents which are or can be included in one application

   per estate     R500

(ii) Obtaining copies of all documents for lodgment in a deeds registry which are or can be included in one application (inclusive of searches)

   per application R500

(iii) Obtaining a clearance or other similar certificate from a public or local authority or body corporate

   per certificate R500

(iv) Attending on payment of transfer duty or VAT and uplifting receipt or obtaining an exemption certificate     R500
(v) Any other attendance per quarter hour or part thereof
   Reporting per folio
   R230
   R170

(vi) Furnishing a conveyancer's certificate or drawing any document not provided elsewhere in this guideline
   R230

(vii) Perusing and certifying a guarantee for payment
   R340

The above fees shall be net.

6. APPORTIONMENT OF FEES FOR "FINAL WORK" AND "LODGEMENT"

6.1 For attendances in order to have any conveyancing matter expedited, restored or put forward for execution, including completion of application forms and searches in connection therewith:
   R670

The above fees shall be net.

SECTION I

Application for the opening of a Sectional Title Register

DEFINITIONS

For the purpose of this section.

"Preliminary work" shall mean and include, drawing the application in terms of Section 11 of the Act, perusing the sectional plan, obtaining the certificate required (where necessary) in terms of Section 11(3)(a) and all correspondence and attendances in connection with all such matters.

"Final Work" shall mean and include the drawing and preparation of certificates of registered sectional title in terms of Section 11(3), obtaining registration of such sectional plan, arranging simultaneous lodgment with another conveyancer or conveyancers, where necessary giving all references required by the deeds office for examination purposes all attendances at the deeds office for examination purposes and all attendance at the deeds office and correspondence in connection with registration of the sectional plan.
Preliminary work .................................................. R4000 plus R340 per section
Final work .......................................................... R2700 plus R340 per section
Lodgment ............................................................ R1300 plus R340 per section

SECTION II

Transfer of Ownership

Preliminary work .................................................. 66.6%
Final work .......................................................... 33.3%
Lodgment ............................................................ 15%

SECTION III

Partition Transfers

Preliminary work .................................................. 40%
Final work .......................................................... 60%
Lodgment ............................................................ 15%

SECTION IV

Endorsement in terms of the Administration of Estate Act

If the instructed conveyancer attends only to lodgment he will be entitled to R340 out of the overall fee.

SECTION V

Subdivision and re-subdivision and extensions of a section

Preliminary work .................................................. R2700 plus R340 per section
Final work .......................................................... R1350 plus R340 per section
Lodgment ............................................................ R340 plus R340 for each additional section after the first two sections.
SECTION VI
Application for Sectional Title Deed in respect of an undivided share in a Unit

- Preliminary work: 40%
- Final work: 60%
- Lodgment: R340

SECTION VII
1. Reversion from Sectional Title register to Land register

- Preliminary work: 40%
- Final work: 60%
- Lodgment: R340

SECTION VIII
Sectional Mortgage Bond

- Preliminary work: 66.6%
- Final work: 33.3%
- Lodgment: 15%

Collateral Bond

- Preliminary work: 66.6%
- Final work: 33.3%
- Lodgment: R340

SECTION IX
Cession, cancellation or modification of bonds.

- Lodgment: R340
- Further bond: R230

SECTION X
Notarial Deeds

- Preliminary work: 60%
- Final work: 40%
- Lodgment: R340
SECTION XI
Certificates of Real Rights

Preliminary work 60%
Final work 40%
Lodgment R340

SECTION XII
Cessions (Notarial)

Preliminary work 60%
Final work 40%
Lodgment R340

SECTION XIII
Miscellaneous

Item 1

Instructing conveyancer 33.3%
Instructed conveyancer 66.6%

Item 2

(a) Instructed Conveyancer 100%
(b) Instructing conveyancer 33.3%
Instructed conveyancer 66.6%

Item 3 & 4

Instructing conveyancer 15%
Instructed conveyancer 85%

Item 5

Instructing conveyancer 15%
Instructed conveyancer 85%
Lodgment R340
Item 6

Preliminary work 60%
Final work 40%
Lodgment R340

Any matter for which provision is not made in this apportionment, the apportionment applicable under the conventional deeds guidelines shall apply.