

## 15 February 2013

### APPORTIONMENT OF FEES: CONVENTIONAL DEEDS: RECOMMENDED APPORTIONMENT OF FEES BETWEEN PRACTITIONERS IN KWAZULU-NATAL FOR CONVEYANCING AND NOTARIAL PRACTICE

**NOTE: THE FEES IN PAYABLE IN TERMS OF THESE APPORTIONMENT GUIDELINES ARE PAYABLE OUT OF THE TOTAL RECOMMENDED FEES, AND NOT IN ADDITION TO THE TOTAL RECOMMENDED FEES.**

**(These fees are payable to the lodging conveyancer in respect of all matters where the Instructing conveyancer receive instructions on or after the 1<sup>ST</sup> March 2013)**

#### A. DEEDS REGISTRIES ACT, NO. 47 OF 1937

##### 1. *Definitions.*

- (1) "Preliminary work" where referred to 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, payment of transfer duty and all rates levied by any lawful authority, obtaining or making all clearance or other certificates, obtaining endorsements and/or copies of documents from the Office of the Master or public officer, except where otherwise provided, or other public offices, the provision and perusal of guarantees and attending 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 partition agreements, Deeds of Suretyship and acknowledgements of debt and documents of a similar nature, as well as documents for which a special fee is provided in this tariff.

- (2) "Final Work" where referred to shall mean and include the drawing and preparation and signature of any documents for execution or registration at the Deeds Registry, Notarial execution of Notarial Deeds, obtaining registration thereof, arranging simultaneous lodgements with another conveyancer 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 of any other documents which may be necessary before or in connection with the first mentioned act of registration or for which special provision is made in the tariff.

- (3) "Lodgement" wherever a specific or proportionate fee is provided for, lodgement shall mean:

The fee payable by the instructing practitioner to the instructed practitioner for all attendances in connection with the lodgement (and where necessary registration) of any document, including arranging simultaneous lodgements, giving necessary reference, searches, attending to counter queries, and all other attendances and correspondence connected with such lodgement and registration, except where otherwise provided, and shall be payable out of the total recommended fee.

**2. Notes.**

- (1) Instructing Conveyancers are earnestly requested to take note of the provisions of category B(2) below as it is desirable that all deeds and other documents sent for lodgement should be prepared and signed by a Conveyancer in the instructing Conveyancer's office.
- (2) All references hereunder to Parts and/or items shall relate to the guide of fees recommended by the Society.
- (3) The fees specified hereunder shall be those accruing to the Registering Conveyancer, are net, and are not be subject to any allowance or discount.
- (4) The apportionment of fees shall be dealt with in the following three categories:
  - A. Where the instructing attorney, conveyancer or notary does all the work including the drawing and signature or notarial execution of all documents and signing them as preparer where necessary, and then instructs the registering conveyancer to attend to lodgement and registration.
  - B(1) Where the instructing attorney or conveyancer or notary does the "preliminary work" and then instructs the registering conveyancer to draw and prepare, sign or notarially execute the deeds and attend to lodgement and registration.
  - B(2) Where the instructing attorney, conveyancer or notary instructs the registering conveyancer or notary to sign as preparer or conveyancer, or to notarially execute, deeds or documents typed in the instructing conveyancer's or notary's office and attend to lodgement and registration, or where the registering conveyancer or notary signs such documents without being requested to do so.
  - C. Where the instructing practitioner merely takes instructions from his client and thereafter send his whole "file" to the registering conveyancer or notary, who does all the work.

**SECTION I**

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|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A. | 1. Transfer of Ownership                                                                                                                                                                               | A See Schedule 1 attached hereto<br>B 33 1/3 %<br>C 80 %                                                                                                                                           |
|    | Conveyancing in terms of Sections 16, 31, 45 and 45 bis                                                                                                                                                | A 50% of the fees set out under item A.1.A above, calculated of the value of the whole property<br>B 33 1/3 %<br>C 80 %                                                                            |
|    | 2. Additional Property                                                                                                                                                                                 | A Nil<br>B 33 1/3 %                                                                                                                                                                                |
| B. | Leasehold and Upgrading Transactions and Acts of Registration under the Black Communities Development Act, 1984, Proclamations R293/1962, R29/1988 and R30/1988 and the KwaZulu Land Affairs Act, 1992 | A Where the value of the property concerned is R70,000.00 or less – R165,00<br>B Where the value of the property exceeds R70,000.00, a fee in accordance with that applicable under item A.1 above |

**SECTION II****Endorsements**

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|----|--------------------------------------------------------------------------------|-------------------------------|
| 1. | Sections 24 bis (2), 25(3) and also the Administration of Estates Act, 66/1965 | A R220.00<br>B 50 %<br>C 80 % |
| 2. | Additional Property                                                            | A. Nil                        |

**SECTION III****Partition, Rectification and Exchange Transfers**

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|-------------------------------------------------|-----------------------------------|
| Partition, Rectification and Exchange Transfers | A R360.00<br>B 33 1/3 %<br>C 80 % |
|-------------------------------------------------|-----------------------------------|

**SECTION IV****Certificates of Registered Title**

1.	Certificates of Title	A	R450.00
		B	66 2/3 %
		C	80 %
	Note - Additional Property	A	Nil
		B	66 2/3 %
		C	80 %
2.	Certificate of Consolidated Title	A	R500.00
		B	66 2/3 %
		C	80 %
3.	Substitution of lost or destroyed Title Deed of rights to minerals in terms of Section 74 <i>ter</i>		R260.00

**SECTION V****Deregistration of Mineral Rights**

1.	Application for deregistration of Mineral Rights	A	R160.00
		B	50 %
		C	80 %
2.	Additional Property	A	Nil
		B	50 %
		C	80 %

**SECTION VI****A. Bonds**

1.	Mortgage Bonds and Surety	A	See Schedule 2 attached hereto.
		B	33 1/3 %
		C	80 %
2.	Collateral Bond	A	70% of the fee under A.1.A. above
		B	33 1/3 %
		C	80 %
3.	Waiver included in Bond	A	Nil
		B	33 1/3 %
		C	80 %

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|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| 4. | Additional Property                                                                                                                                                                                          | A Nil<br>B 33 1/3 %<br>C 80 % |
| B. | Leasehold and deed of grant mortgage bonds, including surety bonds, under the Black Communities Development Act, 1984, Proclamations R293/1962, R29/1988 and R30/1988 and the KwaZulu Land Affairs Act, 1992 | A The fee under A.1.A. above  |

## SECTION VII

### Notarial Bonds

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|----|-------------------------------------|--------------------------------|
| 1. | Notarial Bond, Surety Notarial Bond | A. R325.00<br>B 50 %<br>C 80 % |
| 2. | Collateral Notarial Bond            | A R325.00<br>B 50 %<br>C 80 %  |

## SECTION VIII

### Marriage contracts including all notarial contracts under the Matrimonial Property Act, 1984 (Act No. 88 of 1984)

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|-------------------|-------------------------------|
| Marriage Contract | A R255.00<br>B 50 %<br>C 80 % |
|-------------------|-------------------------------|

## SECTION IX

### Other notarial deeds

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|----|-------------------------------|-------------------------------|
| 1. | Notarial Waiver of Preference | A R265.00<br>B 50 %<br>C 80 % |
| 2. | Other Notarial Deeds          | A R220.00<br>B 50 %<br>C 80 % |

**SECTION X****Cancellation, cession or variation of bonds, release of persons or property from bonds, and waiver of preference in regard to ranking of bonds**

1.	(a)	Consent to cancellation, release, part payment, waiver, etc.	A	R275.00
			B	50 %
			C	80 %
	(b)	Consent in respect of any further bond	A	R55.00
			B	50 %
			C	80 %
	(c)	Additional Property	A	Nil
			B	50 %
			C	80 %
2.		Cession of bonds, and section 45 applications in relation to registered bonds	A	R300.00
			B	50 %
			C	80 %
3.		Agreement to vary mortgage or notarial bond	A	R200.00
			B	50 %
			C	80 %
4.	(a)	Consents to Substitution i.t.o. Section 24 bis(3), 45(2)(b) or 45 bis(2)	A	R385.00
			B	50 %
			C	80 %
	(b)	Substitution in terms of Section 57	A	50 % of the fee which would be chargeable under Section VI, item A.1 above for a new bond of the same amount
			B	50 %
			C	80 %
	(c)	Application and consent under Section 40(5)(a) (Form WW)		R385.00
5.		Additional Signature	A	Nil
			B	50 %
			C	80 %
6.		Master's Certificate or copy		Practitioner Obtaining

**SECTION XI****Miscellaneous**

1.	Supervising	Practitioner Supervising
2.	Section 44 Endorsement	A R110.00 B 50 % C 80 %
3.	Registrar's Certificate	Practitioner Obtaining – R165.00
4.	Township registration	A R1200.00 B 50 % C 80 %
5.	(1)(a) & (b) Change of name	A R110.00 B 50 % C 80 %
	Additional Deed	A R50.00 per deed B 50 % C 80 %
(2)	Amendment Section 4(1)(b)	A R140.00 B 50 % C 80 %
	Additional Deed	A R50.00 B 50 % C 80 %
(3)	Consent to section 4(1)(b) Amendment	A R50.00 B 50 % C 80 %
(4)	Company Conversion/change of name	R85.00
	Additional Deed	R35.00 per deed
6.	(a) Searching and Reporting per ¼ hour and per folio	R165.00 per ¼ hour, R110.00 per folio
	(b) Searching Rights to Minerals per hour	R1 000.00 per hour, R110.00 per folio
7.	Certified Copy to replace original: Reg 68	A R175.00 B 50 % C 80 %

8.	Certified Copy for Information	A	R115.00
		B	50 %
		C	80 %
	Additional Deed	A	R35.00 per deed
		B	50 %
		C	80 %
9.	Metrication, Amendment or copy of Diagram	A	R130.00
	Additional Diagram	A	R35.00 per diagram
10.	(a) Private Townships Board or Local Authority Declaration for sub-division	A	R1500.00
		B	50 %
		C	80 %
	(b) Local or Other Authority Endorsement of Power of Attorney or Diagram		R550.00
11.	(a) Affidavit or Application - Lodgement	A	R200.00
		B	50 %
		C	80 %
	(b) Master's Endorsement in terms of sec 42(2)		R400.00
	(c) Registration of Powers of Attorney		R125.00
	(d) Certificate in terms of Section 42(1) of Administration of Estates Act		R350.00
	(e) Application to lapse usufruct (not notarial)		R140.00
12.	(a) Cession of Servitude or of Rights to Minerals	A	R600.00
		B	33 1/3 %
		C	80 %
	(b) Additional Property	A	Nil
		B	33 1/3 %
		C	80 %
13.	Filing per document filed		R330.00
14.	Upliftment of attachment interdict per interdict		R220.00



15. Attendance on taxation
- For attendance on taxation where required, including all necessary relevant attendances and correspondence, a recommended fee equal to 5% (Five per cent) of the fees allowed on taxation be chargeable by the conveyancer submitting the bill of costs, and a recommended fee equal to 5% (five per cent) of the total fees originally reflected in that bill of costs be chargeable by the conveyancer opposing taxation

#### **SCHEDULE OF FEES FOR ADDITIONAL WORK**

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|-------------------------------------------------------------------------------------------------------|----------|
| 1. Obtaining Master's endorsement in terms of Section 42(2)                                           | R400.00  |
| 2. Obtaining certified copies from Master of the High Court, per application                          | R165.00  |
| 3. Obtaining a rates or water rates certificate from a local authority, per application               | R250.00  |
| 4. Obtaining a Transfer Duty Receipt or Exemption from South African Revenue Service, per application | R250.00  |
| 5.(a) Searching at the Deeds Office per ¼ hour                                                        | R165.00  |
| 5.(b) Reporting per folio                                                                             | R110.00  |
| 6. Drawing any document not provided for elsewhere, per folio                                         | R110.00  |
| 7. Perusing and Certifying a guarantee for payment                                                    | R110.00  |
| 8. Applying for restoration of rejected Deeds                                                         | R110.00  |
| 9. Applying for expedition of set not previously lodged                                               | R375.00  |
| 10. Collaborating outside of KwaZulu-Natal, per Transaction                                           | R 500.00 |

#### **Alienation of Land Act**

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|---------------------------------------------------|---------|
| Recordal of Contract and cancellation of recordal | R165.00 |
|---------------------------------------------------|---------|