

GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA

N\$1.28

WINDHOEK - 14 November 1997

No. 1727

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Government Notice

MINISTRY OF JUSTICE

No. 221

1997

## AMENDMENT OF RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE HIGH COURT OF NAMIBIA

The Judge President has under section 39 of the High Court Act, 1990 (Act 16 of 1990), with the approval of the President, amended the rules regulating the conduct of the proceedings of the High Court of Namibia promulgated under Government Notice 59 of 1990, by the substitution for the Fourth Schedule of the following Schedule:

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r2 Government Gazette 14 November 1997 "FOURTH SCHEDULE Tariff for Deputy Sheriffs N\$ 1. For registration of any document for service or execution,

upon receipt thereof ....

No. 1727

3,00

2.

(a)

For service, of summonses, petitions together with notice of motion or notice of set down, other notices, orders or any other documents, each ..... Provided that (i) whenever any document to be served with any such process is mentioned in the process or forms an annexure thereto, no additional fee shall be charged for the service of such document, but otherwise a fee of N\$3 may be charged in respect of each separate document served; no fee for the service of a separate document shall be charged in respect of the service of process in criminal cases.

30,00

..,

(ii)

(b)

Attempted service of summonses, petitions together with notice of motion or notice of set down, other notices, orders and any other documents ..... Provided that an attempted service of more than one document on the same person shall be treated as an attempted service of one document only.

20,00

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3.

Travelling allowance: (a) For the distance actually and necessarily travelled by the deputy sheriff or his or her officer, reckoned from the office of the deputy sheriff, both on the forward and the return journey, per kilometre or fraction of a kilometre .....

When 2 or more summonses or other process, whe-

3,00

(b)

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ther at the instance of the same party or of different parties, are capable of being served on one and the same journey, the traveling allowance for performing the round of service shall be fairly and equitably apportioned among the several cases, regard being had to the distance at which the parties against whom such process is directed respectively reside

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No. 1727

Government Gazette 14 November 1997 from the office of the deputy sheriff, but the fee for service shall be payable for each service made or attempted to be made. (c) This allowance shall be payable only in cases where the duty in question is to be performed beyond a radius of one kilometre from the office of the deputy sheriff: Provided that if the office of the deputy sheriff is situated more than 3 kilometres from the office of the magistrate of his or her district the allowance shall be payable only where such duty is to be performed beyond a distance of one kilometre from the magistrate's office. The restriction imposed by the proviso in the preceding paragraph 3(c) may however be relaxed by the Minister of Justice, in his or her discretion, where circumstances warrant this and on the recommendation of the sheriff, in which event the sheriff shall specially mention the extent of the recommended relaxation of the time of the appointment of the deputy sheriff. Postage in civil matters, as per postal tariff. Postage in criminal matters, as per postal tariff. NOTE: The deputy sheriff may take any postal matter to the registrar of the court, or if there is no registrar in his or her town or city, to the magistrate, who shall frank the envelope with his or her official franking stamp.

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(d)

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(a) (b)

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5.

For the execution of any writ (a) (i) of personal arrest, including the conveyance of the person concerned to court, to an attorney's office or to a prison, per person, per 1/2 hour ..... for conveying the person concerned to court from a place of custody on a day subsequent to the day of arrest and attending at court, per 1/2hour ..... 20,00 (identical notices where there are several lessees, occupiers or owners, for each after the first N\$1 ,00)

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(ii)

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(iii)

for attachment of property ad fundandam jurisdictionem or ad confirmandam juris-

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dictionem, per 1/2hour.....

No. 1727 30,00

(iv)

where an attachment in terms of item 5(a) (iii) is withdrawn or suspended .....

7,50

(b)

of ejectment: N\$15,00 per 1/2hour subject to a minimum fee of ..... (in addition to reasonable expenses necessarily incurred);

20,00

(c)

against immovable property (i) for execution upon the registrar of deeds or other officer charged with the registration of such property and if the property is in occupation of some person other than the owner, also upon such occupier ..... for notice of attachment to a single lessee or occupier ..... (identical notices where there are severallessees, occupiers or owners, for each after the first N\$1 ,50) (iii) for making valuation or report for purposes of sale, N\$15,00 per 1/2hour, with a minimum of . .... when a deputy sheriff has been authorized to sell property and the property is not sold by reason

of the fact that the attachment is withdrawn or stayed, irrespective of the amount of the writ; and all the necessary notices for the withdrawal of the attachment

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(ii)

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(iv)

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(v)

for ascertaining and recording what bonds or other encumbrances are registered against the property, together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered, including any correspondence in connection therewith (in addition to reasonable expenses necessarily incurred) ..... for notifying the execution creditor of such bonds or other encumbrances and of the names and addresses of the persons In

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(vi)





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Government Gazette 14 November 1997 whose favour such bonds or other encumbrances are registered ..... (vii) for consideration of proof that a preferent creditor has complied with the requirements of rule 46(5)(a) ..... for the notice referred to in rule 46(6) ..... for consideration of notice of sale prepared by the execution creditor in consultation with the deputy sheriff; and for verifying that notice of sale has been published in the newspapers indicated and in the Gazette; and for forwarding a copy of the notice of sale to every judgment creditor who had caused the immovable property to be attached and to every mortgagee thereof whose address is known, for each copy, inclusive fee for (ix), (x) and (xi) ..... for affixing a copy of the notice of sale to the notice board of the magistrate's court referred to in rule 46(7)( e) and at or as near as may be to the place where the sale is actually to take place, an inclusive fee

of .....

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(viii) (ix)

(x)

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(xi)

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(xii)

10,00 20,00

(xiii)

for considering the conditions of sale ..... on the sale of immovable property by the deputy sheriff as auctioneer, S per cent of the proceeds of the sale which shall be paid by the purchaser, subject to a minimum fee of ..... (this includes call to pay into the deposit account of the magistrate of the district all moneys received in respect of the purchase price)

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(xiv)

50,00

(xv)

(xvi)

for any report referred to in rule 46(11) ..... for giving transfer to the purchaser ..... for preparing a plan of distribution of the proceeds (including the necessary copies) and for forwarding a copy to the registrar

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20,00

6 (xviii)

Government Gazette 14 November 1997 for giving notice to all parties who have lodged writs and to the execution debtor that the plan will lie for inspection, for every notice.. .....  
..... for request to magistrate to payout in accordance with the plan of distribution .....

No. 1727

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(xix)

2,00

(d)

against movable property (i) when a writ is paid on presentation, 7 1/2 per cent on first N\$1 0 000,00 or portion thereof and 2 1/2 per cent on the amount in excess of N\$10 000,00 of the amount so paid for any abortive attempt at attachment, including search and enquiry, per 1/2 hour ..... when a writ is withdrawn or stayed before any property is attached ..... for making an attachment, including search and enquiry, per 1/2 hour ..... notice of attachment, if necessary, to a single person ..... (identical notices, when there is more than one person to be given notice, for each after the first) ..... (vi) when an attachment is withdrawn by a judgment creditor or stayed before sale, 2 1/2 per cent on the value of the property

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attached or the amount of the writ, whichever is the lesser, but subject to a maximum fee of .....

150,00

(vii)

when a writ is paid by the debtor to the deputy sheriff after attachment but before sale, 7 1/2 per cent on the first N\$5 000,00 or portion thereof, and 3 per cent on the amount in excess of N\$5 000,00 of the amount so paid;

when moneys are taken in execution, 7 1/2 per cent of the amount so taken, but subject to a maximum fee of ..... for drawing advertisements of sale of goods attached .....

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(viii)

(ix)

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(x)

Government Gazette 14 November 1997 for selling in execution (whether auctioneer employed or not) including distribution of proceeds, 7 1/2 per cent on the proceeds of the sale; the deputy sheriff himself or herself shall sell movable property in execution but he or she shall engage the services of an auctioneer if directed thereto in writing by the judgment creditor, provided the judgment creditor bears the additional commission, if any; commission shall not be chargeable against a judgment debtor on the value of movable property attached and subsequently claimed by a person other than the judgment debtor and released in consequence of such claim unless such property has been attached at the express direction of the judgment creditor, in writing, in which event the judgment creditor shall be liable to the deputy sheriff for the commission. for insuring movable property attached when it is considered necessary and when the deputy sheriff is directed thereto in writing by the judgment creditor, in addition to the amount of premium paid, an inclusive fee of .....

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(xi)

(xii)

(xiii)

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(e)

for keeping possession of property (money excluded) (i) for an officer necessarily left in possession, reasonable inclusive fee per day not exceeding ..... (for an additional officer, where necessary, limited to one, per day, a fee not exceeding) . ..... NOTE: 'Possession' means the continuous and necessary presence on the premises for the period in respect of which possession is



charged for a person employed and paid by the deputy sheriff for the sole purpose of retaining possession; (ii) for removal and storage, the reasonable and necessary expenses for such removal and storage; and if an animal is to be

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Government Gazette 14 November 1997 stabled or fed, the reasonable charges for such stabling and feeding; (iii) for tending livestock, the necessary expenses for tending such stock; when no officer is left in possession and no security bond is taken, but movable property attached remains under the supervision of the deputy sheriff, per day .....

No. 1727

(iv)

5,00

6.

(a)

For making an inventory, including all necessary copies and time spent in stocktaking, per 1/2hour .....  
For assistance, where necessary, in taking inventory, per 1/2 hour ..... For making return of service or execution, including drawing and typing original for court, limited to one person upon each original process; and copy thereof for party desiring service or execution .....

30,00

(b)

20,00

7.

(a)

(b)

20,00

8.

Drawing and completing bail bond, deed of suretyship or indemnity bond ..... Copies of process and orders necessarily made, per folio Copying of summonses, orders, subpoenas, writs, etc., received by telegram, N\$1 per folio of 100 words, with a minimum of ..... Taking statement from accused, who is not represented and who desires witnesses to be subpoenaed at the expense of the State, as to his or her means, the names and addresses of the witnesses and what they can say in his or her defence, in order to enable the registrar to decide whether the witnesses should be subpoenaed, per 1/2hour  
NOTE: This information is to be obtained at the time of serving the notice of trial and indictment and conveyed to the registrar or clerk of the court in the same letter under cover of which the documents are returned.

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12.

Attending any criminal session of the court, per 1/2hour .....

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Government Gazette 14 November 1997 Each necessary letter, excluding formal letters, accompanying process or returns ..... Each necessary attendance by telephone (in addition to prescribed trunk charges) .....

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