

Annexure 2 ¹

Scale of Costs and Fees

RS 26, 2020 Annex p2-1

Table A — Costs

Part I — General provisions

Part II — undefended actions

Part III — Defended actions

Part IV — Matters other than those provided for in Table B

Table B — Costs (continued)

Part I — General provisions (proceedings in terms of section 65 of the Act) Tariff.

Part II — General provisions (proceedings in terms of section 72 of the Act) Tariff.

Part III — General provisions (proceedings in terms of section 74 of the Act) Tariff.

Table C — General provisions and tariff of fees (Sheriffs of the Court)

Part I — Sheriffs who are officers of the Public Service

Part II — Sheriffs who are not officers of the Public Service

Table D — Fees to assessors

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¹ 'The Second Annexure to the Magistrates' Courts Act is not merely an arbitrary gauge of costs to be applied mechanically; it is a rational scheme disclosing a definite policy. It was designed to inhibit the exuberance of litigants and to induce them to exercise discretion and moderation in the prosecution and defence of actions. A litigant may bring up big guns to slay gnats but he cannot do this at the expense of his adversary. Save for the latitude allowed under rule 33(8), therefore, the scale of costs recoverable *inter partes* is determined by the magnitude of the claim or judgment as the case may be' (per Van den Heever J in *Kruger v De Bruyn* 1943 OPD 38 at 40-1. See also *Reliable Motor and Cycle Works v Tocknell* 1954 (2) SA 606 (T); *Jacobson v Smit* 1954 (3) SA 799 (T)).

Table A ²

COSTS

[Table A amended by GN R1222 of 24 December 2010 with effect from 28 January 2011, substituted by GN R760 of 11 October 2013 with effect from 15 November 2013 and by GN R33 of 23 January 2015 with effect from 24 February 2015, amended by GN R2 of 19 February 2016 with effect from 22 March 2016, substituted by GN R1055 of 29 September 2017 with effect from 1 November 2017, amended by GN R842 of 31 May 2019 with effect from 1 July 2019, substituted by GN R858 of 7 August 2020 with effect from 11 September 2020 and amended by GN R1156 of 30 October 2020 with effect from 1 December 2020.]

Part I

General provisions

1. When the amount in dispute ³ is less than or equal to the amount of R7?000, costs shall be taxed on Scale A; when the amount in dispute exceeds the amount of R7?000, but is less than or equal to R50 000, costs shall be taxed on Scale B; when the amount in dispute exceeds R50?000, but is less than or equal to the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts, costs shall be taxed on Scale C; when the amount in dispute exceeds the maximum jurisdictional amount so determined by the Minister in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act, costs shall be taxed on Scale D.

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2. (a) For the purpose of computing costs, the expression 'amount in dispute' ⁴ means, where costs are awarded to the plaintiff, the amount or value of the judgment ⁵ and 'amount or value of the judgment' means, where more than one claim is involved in the action, the total of the amounts involved in the judgment. Where costs are awarded to the defendant, the expression 'amount in dispute' means, the amount or value of the claim, and 'amount or value of the claim' means, where more than one claim is involved in the action, ⁶ the total of the amounts of all the claims. The amount or value of the judgment or claim shall be inclusive of interest but exclusive of costs. ⁷ If a matter is settled at any time the costs shall be taxed on the scale laid down in the agreement of settlement.

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- (b) Where the amount in dispute is not apparent on the face of the proceedings and —
- (i) the matter is instituted in the Magistrates' [sic] Court for a District, costs shall be computed on Scale C; or
 - (ii) the matter is instituted in the Regional Court for a Regional Division, costs shall be computed on Scale D,
- unless the court orders otherwise.

3. Costs taxable in terms of rule 33(19) shall be deemed to have been awarded under a judgment for the amount offered or a judgment in the terms of the settlement, as the case may be.

4. Claims for ejectment shall be computed at two months' rent of the premises. ⁸

5. The rate at which costs are computed shall not be increased by reason of any claim for confirmation of any interdict or interlocutory order.

6. (i) Fees to advocates referred to in section 34(2)(a)(i) of the Legal Practice Act, 2014 (Act No. 28 of 2014) ⁹ shall be allowed on taxation only in cases falling within Scale B, C or D or where the court has made an order in terms of rule 33(8).

(ii) Fees to advocates referred to in section 34(2)(a)(ii) of the Legal Practice Act, 2014 (Act No. 28 of 2014) ¹⁰ shall be allowed on taxation for Scale A, B, C or D or where the court has made an order in terms of rule 33(8).

7. Where the amount allowed for an item is specified, the amount shall be inclusive of all necessary attendances and services (other than services by the sheriff for the magistrate's court) in connection therewith save that for the necessary filing of documents at court a charge shall be allowed at R30,00 per document. ¹¹

8. Where the amount allowed for an item is left blank —

- (a) the drawing of documents (not pleadings) shall be allowed at R30,00 for each folio; ¹²
- (b) copies for filing, service and an attorney's copy to retain shall also be allowed;
- (c) R30,00 shall be allowed for each necessary service;
- (d) R30,00 shall be allowed per document for the necessary filing of documents at court.

9. (a) Where any document appears to the court to be unnecessary prolix, the court may disallow the whole or any part of the fee therefor.

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(b) Where printed forms of documents to be copied are available, the fees for copying shall be limited to the necessary particulars inserted in such printed forms. ¹³

10. (a) A folio shall consist of 100 written or printed words or figures or part thereof.

(b) Four figures shall be reckoned as one word.

11. (a) Unless otherwise provided, a charge for perusal shall be allowed at R11,50 per folio in respect of any document or pleading necessarily perused. ¹⁴

(b) For necessary copies, including photocopies, of any document or papers not already provided for in this tariff, per A4 size page R4,50. ¹⁵

12. Where there are more defendants than one R19,00 shall be added in respect of each additional defendant for each of items 2 and 3 of Part II and items 2 and 7 of Part III.

13. Where the judgment debt is payable in instalments in terms of the judgment or an agreement, a fee of

10% on each instalment collected in redemption of the capital, costs and interest shall be allowed, subject to a maximum of R459,00 on each instalment. No additional fee shall be charged for any attendance in connection with the receipt or payment of any instalment.

14. The clerk or registrar of the court shall on taxation disallow any charge unnecessarily incurred. ¹⁶

15. Where the fee under any item is calculated on a time basis, the total time spent on any one day shall be calculated and the fee for that day calculated on such total.

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16. Any amount necessarily and actually disbursed in tracing the debtor shall be allowed in addition to the fees laid down in this tariff.

17. Item [sic] 10A and 14A of Part III in the tariff to Table A are also applicable to Part IV of the tariff to Table A.

18. Fees to advocates referred to in section 34(2)(a)(i) of the Legal Practice Act, 2014 (Act No. 28 of 2014) ¹⁷ shall be allowed on taxation only for items 21 to 26 of Part IV.

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Part II
Undefended actions ¹⁸

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Item 1 — Registered letter of demand in terms of section 56 of the Act ¹⁹	
(a) Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R45.00
(b) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R61.00
Item 2 — Summons, inclusive of a letter of demand other than the letter of demand referred to in item 1: ²⁰	
(a) Claim or claims where the aggregate amount of the claim or claims does not exceed R7 000.00	R151.50
(b) Claim or claims where the aggregate amount of the claim or claims exceeds R7 000.00 but does not exceed R50 000	R502.50
(c) Claim or claims where the aggregate of the claim or claims exceeds R50 000 but does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R743.00
(d) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act	R969.50

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Item 3 — Judgment:		
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the amount in 2(a)	R151.50
(b)	Claim or claims where the aggregate of the claim or claims exceeds the amount in 2(b) but is not more than R50 000	R383.50
(c)	Claim or claims where the aggregate of the claim or claims exceeds R50 000 but does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R627.00
(d)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act	R815.00

Item 4 — Notice in terms of rule 12(2)		
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R71.50
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act.	R93.00
Item 5 — Notice in terms of rule 54(1)		
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R71.50
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division.	R93.00
Item 6 — Affidavit or certificate		—
Item 7 — Attending court at the request of the magistrate when claim is referred to court for judgment or to obtain provisional sentence when claim is undefended		as allowed under item 15 on the scale for defended actions.

Item 8 — For each registered letter forwarded to the debtor in terms of section 57(1) or (3) or section 58(2), [sic] of the Act by the creditor or his or her attorney, including copies	
(a) Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R46,50
(b) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division.	R62,50
Item 9 — Admission of liability and undertaking to pay debt in instalments or otherwise (section 57 of the Act)	
(a) Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R121,50
(b) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division.	R157,00

Item 10 — Consent to judgment or to judgment and an order for the payment of judgment debt in instalments (section 58 of the Act)	
(a) Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R121,50
(b) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division.	R157,00
<i>Note:</i> The amount of fees allowable under items 4, 5, 6, 7, 8, 9 and 10 shall be included without taxation in the amount of the costs for which judgment is entered	

PART III ²¹
Defended Actions (and Interpleader Proceedings ²²)

Item	Scale A R	Scale B R	Scale C R	Scale D R
1 Instructions to sue or defend or to	R606,00	R804,50	R968,50	R1

	counterclaim or defend a counterclaim, perusal of all documentation and consideration of merits and all necessary consultations to issue summons ²³				1258,00
2	Summons	R304,50	R423,00	R506,50	R656,00
2A	Particulars of Claim or Declaration	R304,50	R423,00	R506,50	R656,00
3	Appearance	R50,50	R50,50	R63,00	R81,00
4	Notice under rules 12(2) and 21B(2)	R50,50	R50,50	R63,00	R81,00
5	Plea	R304,50	R423,00	R506,50	R656,00
6	Claim in reconviction	R304,50	R423,00	R506,50	R656,00
7	Reply, if necessary	R304,50	R423,00	R506,50	R656,00
8	Drawing up of all documents not specifically mentioned, including request for further particulars, schedule of documents, all affidavits, subpoenas, any notice not otherwise provided for and drawing up of statements by witnesses	—	—	—	—
9	Production of documents for inspection, or inspecting documents, per quarter of an hour or part thereof of the time spent	R180,50	R180,50	R226,50	R292,00

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10				
10A	Pagination and indexing of pleadings per quarter of an hour or part thereof:	R121,00	R121,00	R147,50	R191,00
11	The recording of statements by witnesses, per quarter of an hour or part thereof ²⁴	R180,50	R180,50	R226,50	R292,00
12	Notice of trial or reinstatement	R50,50	R50,50	R63,00	R81,00
13	Preparing for trial (if counsel not employed) ²⁵	R1 007,00	R1 370,00	R1 643,00	R2 136,00
14	Attendance at settlement negotiations, for each quarter of an hour or part thereof actually spent in such negotiations	R180,50	R180,50	R226,50	R292,00
14A	Drawing up heads of argument per quarter of an hour or part thereof:	R180,50	R180,50	R226,50	R292,00
15	Attending court during trial, or at an on-the-spot inspection, ²⁶ or at				

postponement or examination on commission, for each quarter of an hour or part thereof spent in court while the case is actually being heard — ²⁷				
(a) if an advocate is not employed	R180,50	R180,50	R226,50	R292,00

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(b) if an advocate is employed ²⁸	Nil	R71,50	R88,00	R113,00
16 Attending pre-trial conference, for each quarter of an hour or part thereof actually spent in such conference ²⁹	R180,50	R180,50	R226,50	R292,00
17 Attending court to hear reserved judgment, per quarter of an hour or part thereof	R37,00	R37,00	R44,50	R57,50
18 Correspondence —				
(a) for each necessary letter or telegram, per folio ³⁰	R28,50	R28,50	R37,00	R46,50
(b) for each letter or telegram received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for ³¹	R19,50	R28,50	R37,00	R46,50
19 Attendances: For each necessary attendance not otherwise provided for, per attendance ³²	R19,50	R28,50	R37,00	R46,50
20 Necessary formal telephone calls, per call	R19,50	R28,50	R37,00	R46,50
21 Telephone consultations: For every 5 minutes or part thereof, subject to a maximum fee per consultation of R174,50 for Scales A to C and R225,50 for Scale D	R50,50	R50,50	R63,00	R81,00
22 Each necessary consultation, per quarter of an hour or part thereof	R180,50	R180,50	R226,50	R292,50

RS 26, 2020 Annex p2-11

23 The court may, on request made at the hearing, allow in addition to the fee				
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	prescribed in item 13 above a refresher fee in postponed or partly heard trials	R627,00	R887,00	R1 063,50	R1 381,00
24	Time spent waiting at court (owing to no court being available) per quarter of an hour or part thereof ³³	R121,00	R121,00	R147,50	R191,00
25	Travelling time [subject to the provisions of rule 33(9)] per quarter of an hour or part thereof	R121,00	R121,00	R147,50	R191,00
26	Subsistence and travelling expenses as laid down in rule 33(9)	The actual reasonable subsistence and travelling expenses as laid down in rule 33(9)			

RS 26, 2020 Annex p2-12

PART IV OTHER MATTERS

Exceptions, applications to strike out, applications for summary judgment, appearance to obtain provisional sentence when claim is defended, interlocutory applications, arrest, interdict, applications under rule 27(9), applications to review judgment, order or taxation, applications for liquidation of close corporations and applications in terms of section 65J of the Act, applications under rule 58 and any other applications.

Item	Scale A R	Scale B R	Scale C R	Scale D R
1(a) Instructions to make application or to oppose or to show cause (the court may on request allow a higher amount)	R152,00	R304,50	R361,50	R470,00
(b) Instructions to make application for liquidation of close corporation, perusal of all documentation and consideration of merits, and all necessary consultations	R743,00	R743,00	R890,50	R1 158,00
2 Drawing up of all documents, affidavits, applications and notices, orders, etc	—	—	—	—
3 Attending court on hearing:				
(a) If unopposed or opposed (if counsel not employed), for each quarter of an hour or part thereof actually spent in court	R180,50	R180,50	R226,50	R292,50
(b) If opposed (if counsel employed), for each quarter of an hour actually spent in court or part thereof	Nil	R71,50	R88,50	R113,00
4(a) Fee for preparation for argument when opposed	R627,00	R739,00	R890,50	R1 158,00
(b) Fee for preparation for trial where proceedings are referred to trial or oral evidence	R627,00	R739,00	R890,50	R1 158,00
5 Consultations and settlement				

negotiations — when opposed, per quarter of an hour or part thereof	R180,50	R180,50	R226,50	R292,50
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RS 26, 2020 Annex p2-13

Item	Scale
TAXATION OF COSTS In connection with a bill of costs for services rendered by an attorney, the attorney shall be entitled to charge:	R
6 For drawing the bill of costs, making the necessary copies and attending settlement, 11 percent of the attorney's fees, either as charged in the bill, if not taxed, or as allowed on taxation. ³⁴	
7 In addition to the fees charged under item 6, if recourse is had to taxation for arranging and attending taxation, and obtaining consent to taxation, 11 percent on the first R10 000,00 or portion thereof, 6 percent on the next R10 000,00 or portion thereof and 3 percent on the balance of the total amount of the bill.	
8 Attending on review of taxation, for each quarter of an hour or part thereof in court while review is actually being heard	R180,50
9 Notice of application for review of taxation and service	—
10 Affidavit, where necessary	—

EXECUTION	
11(a) Issue of warrant of execution, ejectment, and delivery up of possession ³⁵	R121,50
(b) For each reissue thereof ³⁶	R50,50
12 Inclusive fee for work done in connection with releasing of immovable property attached	R151,50

RS 26, 2020 Annex p2-14

13 Inclusive fee for work done in connection with sale in execution of immovable property only (excluding work in respect of which fees are already provided for elsewhere and the drawing up of the conditions of sale)	R384,00
14(a) Drawing up of notice of sale in terms of rule 41(8) or rule 43(6), ³⁷ or conditions of sale in terms of rule 43(7) ³⁸	—

(b)	For all other work done and papers and documents supplied to the sheriff of the magistrate's court in connection with a sale in execution of movable property, an inclusive fee of	R262,00
15	Security for restitution, where necessary	R99,50

WHERE COUNSEL IS EMPLOYED ³⁹		
16	Instructions for exception or application, where allowed	
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R180,50
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division	R234,50
17	Instructions on trial ⁴⁰	
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R230,50
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division	R290,00
18	Drawing brief on exception or application, where allowed	—

RS 26, 2020 Annex p2-15

19	Drawing brief on trial ⁴¹	—
20	Attending each necessary consultation with counsel, per quarter of an hour or part thereof	
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R75,00
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division	R94,00

FEES TO COUNSEL		
21	With brief to argue exception or application	R887,00
22	With trial brief for the first day, not exceeding ⁴²	R2 514,50
23	In any court held more than 30 km from the nearest town where a provincial or local division (other than a Circuit Court) of the High Court sits, ⁴³ a travelling allowance (in addition to the fee on brief) may be allowed by special order of the court at	R6,00 per km
24	Each necessary consultation, per quarter of an hour ⁴⁴	R180,50

RS 26, 2020 Annex p2-16

25	For every day exceeding one on which evidence is taken or arguments heard, a refresher not exceeding ⁴⁵	R1 511,50
26	Drawing up pleadings	R404,50

<i>Notes:</i>		
(a)	In regard to items 22 and 25 a fee in lieu of the fee for the first day's hearing shall be allowed as follows when the case is settled or withdrawn or postponed at the instance of any party on or before the date of hearing: ⁴⁶	
	(i) not more than two days prior to the date of hearing: The fee otherwise allowable on taxation for the first day's hearing;	
	(ii) not less than three days and not more than seven days prior to the date of hearing: Two thirds of the fee under (i); and	
	(iii) not less than eight days and not more than 21 days prior to the date of hearing: Half of the fee under (i).	
(b)	The court may on request allow a higher fee for counsel in regard to items 22, 24, 25 and 26.	
(c)	A fee for travelling time by counsel shall be allowed at the same rate as for attorneys under rule 33(9).	

MISCELLANEOUS		
27	Obtaining certified copy of judgment	R91,00
28	Obtaining payment in terms of rule 18(4)	R63,00
29	Request for security in terms of rule 62(1)	—
30	Furnishing security in terms of rule 62(1)	—

- 2 By virtue of the provisions of rule 33(5), as between party and party, the only fees which may be allowed on taxation are those expressly provided for in Table A. See further the notes to rule 33(5) above.
- 3 'Amount in dispute' is defined in paragraph 2(a).
- 4 Until judgment has been given, the successful party cannot claim to tax costs upon Scale B, C or D, since 'the amount in dispute' has not been determined (*Villet v Rejailden* 1926 CPD 47). If the defendant has admitted and paid into court part of the claim and the plaintiff has uplifted this amount, the amount in dispute is the balance of the claim (*Osborne v Fleisch* 1926 TPD 165).
- 5 If the plaintiff is successful in proving his claim and the defendant in proving his counterclaim, the amount or value of the judgment, and accordingly the amount in dispute, is not the difference between the claim and the counterclaim. In order to determine which scale is applicable it is, therefore, not permissible to deduct the claim in convention from the claim in reconvention or vice versa (*MB Service Station v Sell-Mar Installations (Pty) Ltd* 1983 (2) SA 516 (T)).
- 6 The reference in this paragraph to totalling the claims in a case where more than one claim is involved is to a situation where the plaintiff has more than one claim against the defendant, or the defendant has more than one counterclaim against the plaintiff —? it does not permit of adding together a claim and a counterclaim, where one party was successful on both, in order to entitle the successful party to draw a bill of costs on a higher scale (*Trade Traffic (Pty) Ltd v Cook* 1979 (2) SA 1070 (C), cited with approval in *MB Service Station v Sell-Mar Installations (Pty) Ltd* 1983 (2) SA 516 (T) at 520).
- 7 The judgment includes interest not only when costs are awarded to the defendant but also when costs are awarded to the plaintiff (*J & I Motors v C & S Transport* 1993 (3) SA 168 (O) at 170H).
- 8 This paragraph is not designed to assist litigants in the calculation of the value of the right of occupation in ejectment actions under s 29(1)(b); it is designed merely to determine which of the scales of costs is to be sanctioned (*Smith v Coetzee* 1945 TPD 359 at 362–3; and see *Rose's Car Hire Co (Pty) Ltd v Harris & Co* 1944 WLD 159 at 171–2).
- 9 This means advocates rendering legal services upon receipt of a brief from an attorney.
- 10 This means advocates rendering legal services upon receipt of a request directly from a member of the public or from a justice centre for that service, subject to the provisions of s 34(2)(b) of the Legal Practice Act 28 of 2014.
- 11 Considered in *Fleetway Service Station v Osman* 1968 (3) SA 611 (N).
- 12 The word 'drawing' in this paragraph points to something more than merely the act of copying a number of documents and the annexing thereof to a pleading. Under the former rules it was held that an attorney cannot, therefore, in a bill of costs between party and party, demand a fee under paragraph 8(a) in respect of annexures to further particulars he has drawn (*Trust Bank van Afrika Bpk v Baker* 1976 (2) SA 342 (T)).
- 13 The word 'forms' in this paragraph refers to the forms to be found in Annexure I to the rules, and does not include a printed contract (*Shippard and Freel (Springs) (Pty) Ltd v Pennington* 1968 (2) SA 125 (T); *Leasing Corporation of Africa (Pty) Ltd v Elliott* 1984 (4) SA 32 (T)).
- 14 The wording of paragraph 11(a) makes it clear that the registrar or clerk of the court is empowered on taxation to allow a fee for perusal (*Luvuno v Southern Insurance Co Ltd* 1980 (2) SA 931 (D) at 933). There is no ground for limiting the meaning of 'document' in this paragraph to 'a document which is a pleading or a document which forms part of a pleading': the paragraph is general in its application and it does not, in itself, limit the right to claim a fee for perusal to documents emanating from either of the litigants (*Granite Investments (Pty) Ltd v Boshoff* 1978 (2) SA 340 (T)).
The word 'necessarily' does not mean that it must be absolutely necessary that the document

concerned be perused, but only that it must be necessary, tested against the reasonable demands of practice (*Van der Merwe v Randryk Beleggings (Edms) Bpk* 1976 (2) SA 414 (O)). Perusal costs are, for example, allowable where such perusal is necessary in order to determine what steps ought to be taken as a consequence of the production of the document perused (*Van Reenen v Versfeld* 1921 CPD 478; *Celebrity Engineering (Pty) Ltd v South African Railways and Harbours* 1976 (2) SA 346 (T)). A party who has been awarded costs is entitled to costs of perusal of any document which might — not must — be helpful to him, even though the document is not used by either side, and even though the party discovering it advises the other side that he will not use it, as it is irrelevant (*East London Municipality v SAR & H* 1953 (1) SA 433 (E)).
See further the notes to item 1 of Part III below.

- 15 Unlike paragraph 11(a), the effect of which is both to permit a perusal fee where no such fee appears in the tariff and to fix a charge for such perusal, the effect of paragraph 11(b) is not to permit a copying fee but merely to fix a rate where copying is by reason of some other provision allowable but where no rate is fixed (*Luvuno v Southern Insurance Co Ltd* 1980 (2) SA 931 (D) at 933).
- 16 An attorney who personally and successfully conducts his own case is entitled to be paid the same costs as if he had employed another attorney, save costs which under the circumstances are unnecessary, such as instructing himself or attending upon himself (*Webb v Union Government* 1917 TPD 195 at 205; *Bester & Grové v Benson* 1980 (1) SA 276 (C)). If an attorney employs his partner to act for him, the latter is entitled to recover the costs incurred in work actually performed and essential for the proper presentation of his partner's case (*Knoll v Van Druten* 1953 (4) SA 145 (T)). If a firm of attorneys instructs a professional assistant in its employ to act for it, the firm is entitled to recover the costs incurred by it for the time and effort expended by the professional assistant on its behalf (*Bester & Grové v Benson* 1980 (1) SA 276 (C)). See also *Vaatz v Law Society of Namibia* 1994 (3) SA 536 (Nm) at 540B–541A).
- 17 This means advocates rendering legal services upon receipt of a brief from an attorney.
- 18 It has been pointed out that the heading, 'Undefended Actions', is somewhat of a misnomer, as Part II includes items of costs and fees claimable in matters where there may be no action, whether defended or undefended (see *Independent Newspapers Kwazulu-Natal Ltd v Chief Magistrate, Durban* 1999 (1) SA 842 (N) at 844J–845A).
- 19 The costs of a letter of demand in terms of s 56 of the Act is recoverable by the plaintiff as part of the costs of the action and the plaintiff is consequently entitled to include the costs thereof in the summons (*Independent Newspapers Kwazulu-Natal Ltd v Chief Magistrate, Durban* 1999 (1) SA 842 (N)).
- 20 If a demand is made that does not comply with s 56 of the Act and the debtor does not pay the debt then the costs of the demand are not recoverable on taxation separately from the costs of the summons in an undefended action but are included in the amount allowed for the summons (*Independent Newspapers Kwazulu-Natal Ltd v Chief Magistrate, Durban* 1999 (1) SA 842 (N) at 846G).
- 21 It must be observed that Part III relates only to defended actions. Up to the stage where the defendant, having been summoned, delivers a notice of intention to defend, the action is still undefended, and the plaintiff's course, in the absence of delivery of a notice of intention to defend, is to apply for default judgment. The costs to which he will be entitled in such event are all provided for in Part II.
- 22 Interpleader proceedings. Rule 44(6) provides that where the matters in issue in interpleader proceedings are tried, whether summarily or otherwise, the provisions of rule 29 as to the trial of an action shall *mutatis mutandis* apply. It is clear, therefore, that when the issue in an interpleader proceeding is tried, it resembles a trial action in the manner in which the hearing is conducted, and consequently charges may be made for services attendant upon an ordinary trial.
- 23 Item 1. The taking of instructions for which a fee is allowed under this item cannot in all cases include a perusal of all necessary documents. Thus, for example, an attorney may become entitled to a fee under paragraph 11(a) of Part I of Table A for perusing his client's documents for the purpose of deciding whether or not they should be discovered (*Granite Investments (Pty) Ltd v Boshoff* 1978 (2) SA 340 (T); *Cobb v Levy* 1978 (4) SA 459 (T); *Nhlapo v Taxing Officer, Magistrate's Court, Johannesburg* 1993 (2) SA 414 (W) at 419). It is submitted that the change in the wording of this item since the decision of the latter two matters has not in any way altered the principle that the item does not cover all perusals of all necessary documents. Documents perused at the stage of taking instructions are not necessarily incorporated in the instructions to sue, i.e. an attorney may, apart from his fee under this item, become entitled to a fee under paragraph 11(a) of Part I of Table A for the perusal of documents for the purpose of instituting the action (*Ex parte Beaver Plant Hire (Pty) Ltd: In re Beaver Plant Hire (Pty) Ltd*

v Pillay 1986 (4) SA 355 (N)).

On taking instructions from a person who represents a large number of other persons, see *Gqukani v Eastern Cape Administration Board* 1981 (3) SA 928 (E).

24 Item 11. If the statements taken are not produced to the registrar or clerk of the court, he must be satisfied that they were actually taken (*Haidy v Pietermaritzburg Corporation* (1907) 28 NLR 27). They should be produced unless there is some good reason why they cannot be; but they need not be signed by the witness in order that costs thereof shall be allowable (*Van Reenen v Versfeld* 1921 CPD 478). A defendant is entitled to take statements from witnesses as soon as summons is issued against him, and such costs will be allowed even though the plaintiff subsequently withdraws the action (*Wocke v Williams* 1922 TPD 78).

25 Item 13. The word 'trial' in this item refers to the trial of an action on the merits after pleadings are closed; it does not cover the hearing of an 'objection' taken before plea (*Cronje v Van der Merwe* 1922 OPD 124). Unless special circumstances exist, no costs should be allowed on taxation between party and party for preparing for trial until it is clear that a trial is going to ensue, that is, until notice of trial is given (*Alexander v Groot Drakenstein Vineyards Co Ltd* (1908) 25 SC 624; *Scholtz v Van Niekerk* 1937 CPD 439, but see *Hastings v The Taxing Master* 1962 (3) SA 789 (N); *Henpet Shades CC v Garzouzie* 1998 (3) SA 929 (O) at 936D).

Under item 23 the court may on application made at the hearing, allow a refresher fee in postponed or partly heard trials.

26 Item 15. Inspection *in loco*. Previously, a separate item (31) provided for the recovery of a specified fee for an inspection *in loco* before trial, provided that the court so ordered. As the item currently reads, it could be interpreted to mean that a fee for an inspection *in loco* would only be recoverable if the inspection occurred while the case was actually being heard. It is submitted that such an interpretation would not be incorrect as such fees would in any event be recoverable under this item. It would seem that the leave of the court is no longer necessary for the recovery of a fee for a pre-trial inspection *in loco*.

27 Item 15. Postponement. The fee for any postponement clearly relates to the actual time spent by the court in hearing an application for postponement and the postponement itself. This item does not refer to waiting time (as to which, see item 24) prior to any postponement proceedings.

28 Item 15(b). If an advocate is employed by the successful party in a case falling under Scale A and fees to an advocate are not allowable, the successful party may recover costs for his appearance on the basis that the fee is to be assessed as if the person who appeared was an attorney (*Kruger v De Bruyn* 1943 OPD 38 at 42; *Lachman v Koch* 1956 (4) SA 371 (N)). Though the attorney leaves the court chamber in order to marshal witnesses outside, he is nevertheless still attending the court on trial, for going out occasionally to perform this function is part of his duty, especially when an advocate is conducting the case (*Kruger v De Bruyn* 1943 OPD 38 at 42).

29 Item 16. This item provides only for a fee for attending a pre-trial conference; no provision is made for fees in relation to the preparation of documents prepared for the purpose of or in consequence of the pre-trial conference (*Luvuno v Southern Insurance Co Ltd* 1980 (2) SA 931 (D) at 933).

30 Item 18(a). The letters charged for need not necessarily have been written to the other side, and a party's attorney is entitled to charge for letters notifying a postponement of trial to his own client, his witnesses, and the registrar or clerk of the court (*Wessels v Neethling* 1921 CPD 209). Similarly he may charge for writing a notice to a witness that the case, adjourned *sine die*, would be resumed on a particular date (*Van Reenen v Versfeld* 1921 CPD 478. See also *Ferreira v Ferreira* 1977 (4) SA 618 (O) at 621).

31 Item 18(b). Proviso. The proviso to item 18(b) stems from those decisions in which it was held that (formerly) no fee was provided for in the tariff for defended actions for the perusal of documents, and attempts by attorneys to recover fees under this item for 'attending on the perusing of documents' (see *Perosil Construction Co (Pty) Ltd v Brivik* 1965 (2) SA 573 (N); *Fleetway Service Station v Osman* 1968 (3) SA 611 (N)). The wording of paragraph 11(a) of Part I of Table A makes it clear that a charge necessarily incurred for perusing documents in a defended action is allowable.

32 Item 19. The word 'attendance' means being in attendance on or at a person, place or occasion, and does not include the giving of attention to something (*Perosil Construction Co (Pty) Ltd v Brivik* 1965 (2) SA 573 (N); *Fleetway Service Station v Osman* 1968 (3) SA 611 (N)).

33 Item 24. This supersedes the decisions in *City Real Estate Co v Ground Investment Group (Natal) (Pty) Ltd* 1973 (1) SA 93 (N) at 99 and *Paruk v Lallo* 1979 (3) SA 653 (D) at 655 to the effect that in the magistrate's court no provision is made in the rules for 'waiting time'.

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- 34 Item 6. A charge under this item may only be made for a proper bill of costs and if it was necessary to draw a bill of costs (*Stahl v Smith* 1922 EDL 191).
- 35 An order for the payment of a sum of money and an accompanying order for costs do not constitute a single judgment debt. Consequently, recovery of the costs by separate execution does not constitute an improper splitting of a single judgment debt, and the registrar or clerk of the court is entitled, in terms of rule 36(2), to issue a separate warrant for what amounts to a separate and unsatisfied judgment debt (*Van der Merwe v Karstel* 1995 (4) SA 248 (W)). However, it is submitted, unless the execution debtor is at fault, he ought not to be burdened with the costs of two separate warrants of execution.
- 36 Item 11(b). As a general rule a warrant of execution that has been satisfied cannot be reissued, for example, in order to execute for a sum of interest which the execution creditor has omitted to include in the warrant when issuing it in the first instance (*Sonia Ltd v Linton* 1927 TPD 76. See also *Van der Merwe v Karstel* 1995 (4) SA 248 (W) at 250G). The position is different where, for example, the amount set out in the warrant is not fully recovered. In such an event, assuming the sheriff has attached as much of the debtor's property as he can for the time being, it is competent to reissue the warrant, in order to attach further property when such becomes available for attachment (*Gerber v Stolze* 1951 (2) SA 166 (T) at 173; and see *Muniamma v Ramalingam* 1932 NPD 29). In terms of rule 36(5) the registrar or clerk of the court may reissue process without the sanction of the court.
- 37 Now rule 43(7) pursuant to the substitution of rule 43 by GN R1272 of 17 November 2017 with effect from 22 December 2017.
- 38 Now rule 43(8) pursuant to the substitution of rule 43 by GN R1272 of 17 November 2017 with effect from 22 December 2017.
- 39 Items 16–20 are allowances to the attorney for the services listed and performed by him when his client employs counsel to conduct the case.
- 40 Item 17. See the footnote to item 19 below.
- 41 Item 19. The fact that there appears a dash against item 19 means that paragraph 8 of Part I of Table A applies. The application of paragraph 8 to item 19, and the interrelationship of items 17 and 19, have given rise to divergent decisions. In *Trust Bank van Afrika Bpk v Baker* 1976 (2) SA 342 (T) it was held that where item 17 of Part IV of Table A makes provision for 'instructions on trial' it embraces everything which is coupled with the making available of documents or copies of documents to counsel, and that item 19 relates to the drawing of specific instructions to counsel concerning such matters as the evidence which is available or can be obtained, the evidence which will probably be led by the opponent, or possible thoughts on cross-examination or argument. The better view seems to be that expressed in *Pensil v Naicker* 1968 (3) SA 279 (N) (followed in *Klerkscale (Pty) Ltd v Geiger & Klotzbucher (Pty) Ltd* 1978 (2) SA 952 (C)) by Caney J, who concluded that the charge for 'drawing brief on trial' is intended to include the services involved in sorting out and arranging the variety of papers necessary to be included in the brief so that counsel may conduct the trial, as well as the copying of documents necessary to be copied where the charge for copying had not already been allowed as well as the instructions to counsel and the paginating and indexing of the papers contained in the brief.
- 42 Item 22. The allowance, in paragraph (a) of the 'Notes', of a fee in lieu of the fee for the first day's hearing when the case is settled or withdrawn or postponed is clearly intended to obviate the uncertainty which has been caused by the question whether or not the briefing of counsel can be said to have been premature in any such case (as to which see *Ally v The Taxing Master* 1954 (3) SA 728 (W); *Van der Merwe v Wilkinson* 1970 (2) SA 480 (T); *Claassen v Protea Assurance Co Ltd* 1982 (2) SA 324 (SE)). See further paragraph (a) of the 'Notes' below.
- 43 Item 23. The words 'where a provincial or local division ... sits' mean where such division usually sits, and do not include the places where it may occasionally sit as a circuit court (*Smulowitz v Weincier* 1932 EDL 309).
- 44 Item 24. The wording of the item now makes it abundantly clear that each necessary consultation can be charged for at the rate stipulated per quarter hour (see *Johnson v Martin t/a Interior & Exterior Decorators* 1979 (1) SA 252 (C) on the uncertainty caused by the earlier wording of the item).
- 45 Item 25. 'Refresher' means a fee for an advocate's appearance per day after the first day of hearing a case (*Car Investments (Pty) Ltd v G Moss & Co (Pty) Ltd* 1972 (2) SA 206 (D)). The tariff permits of a refresher for an advocate only if evidence is taken or argument is heard on the day in question (*Jacobson v Smit* 1954 (3) SA 799 (T) at 802; *Luvuno v Southern Insurance Co Ltd* 1980 (2) SA 931

(D) at 934). If a refresher for an advocate is not allowable under this item, the fee cannot be claimed as a 'necessary expense' under rule 33(5) (*Jacobson v Smit* 1954 (3) SA 799 (T) at 802).

46

In *War Systems Technologies CC t/a Systems Technologies v United Computer Systems (Jhb) CC* [2004] 1 All SA 457 (W) it was held that magistrates' courts do not have jurisdiction to make orders requiring payment of counsel's fees as marked on brief. In *Roy v Basson NO* 2007 (5) SA 84 (C) at 88J and 89B-E it was held that it is beyond the power of a magistrate's court to make a costs order in respect of counsel's fees 'as per the Cape Bar Council parameters' because such an order has the effect 'of permitting someone other than the Taxing Master to fix the fees and thereby deprive the Taxing Master of exercising the power which is given in terms of s 80 of the Magistrates' Courts Act' and is *ultra vires* the provisions of the Act. In *The Road Accident Fund v Forbes* (unreported, ECD case no CA 197/05 dated 28 September 2006) it was held that an award of three times the amount specified in the tariff is specifically authorized by note (b), and that the award was neither incompetent nor arbitrary, and was not an unjustified interference with the taxing master's discretion.

Table B ⁴⁷
COSTS

[Table B substituted by GN R760 of 11 October 2013 with effect from 15 November 2013, by GN R33 of 23 January 2015 with effect from 24 February 2015, by GN R1055 of 29 September 2017 with effect from 1 November 2017 and by GN R858 of 7 August 2020 with effect from 11 September 2020.]

Part I

General provisions in respect of proceedings in terms of sections 65 and 65A to 65M of the Act

1. Subject to the provisions of paragraph 3, no fees other than those in the Tariff to this Part shall be allowed.
2. Subject to the provisions of section 65K of the Act, the fees laid down in items (a), (b) or (c) of the Tariff to this Part, as the case may be, shall be payable for the drawing up of the notice referred to in section 65A(1), including appearance at the inquiry into the judgment debtor's financial position referred to in section 65D, or any appearance at subsequent suspension, amendment or rescission proceedings, and shall, with the exception of the fee allowed under item (m) of the tariff, be chargeable only once for the drawing up, issue and all reissues of the notice and all postponements of the inquiry, irrespective of the number of days on which the proceedings are heard in court: Provided that where the debtor leaves the area of jurisdiction of the court after issue of the notice referred to in section 65A(1) and the notice is reissued in any other district, the aforesaid fee may also be charged in such other district if the court so orders.
3. The following shall be allowed in addition to the fees laid down in the Tariff to this Part:
 - (a) All necessary disbursements incurred in connection with the proceedings.
 - (b) A fee of 10% on each instalment collected in redemption of the capital and costs of the action, subject to a maximum amount of R459,00 on every instalment. Where the amount is payable in instalments the collection fees shall be recoverable only on payment of every instalment. Such fees shall be in substitution for and not in addition to the collection fees prescribed in paragraph 13 of Part 1 of Table A.
 - (c) All necessary disbursements incurred in connection with any prior abortive proceedings under section 72, if the court has so ordered.
 - (d) Any amount necessarily and actually disbursed in tracing the judgment debtor, where the capital amount of the debt at the time the tracing agent was employed was not less than R502,00. The total amount to be allowed for each tracing shall not exceed R383,50.
4. For the purpose of the Tariff to this Part the amount of the claim shall, subject to the provisions of paragraph 3(d), be the total of the capital amount and costs outstanding at the date of the first institution of proceedings under section 65A(1) of the Act.
5. Items 1 to 5 of Part IV of Table A of Annexure 2 are applicable in terms of section 65J of the Act.

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TARIFF

		R
(a)	Where the claim does not exceed the amount of R1 000,00	R253,00
(b)	Where the claim exceeds the amount of R1 000,00 but is not more than R2 000,00	R383,50
(c)	Where the claim exceeds the amount of R2 000,00	R452,00
(d)	Warrant of arrest (Form 40A)	R99,50
(e)	(i) Emoluments attachment order (Form 38)	R202,00
	(ii) Reissue (Certificates included)	R161,00
(f)	Application for costs on notice (including appearance in court)	R99,50
(g)	Obtaining a certified copy of a judgment	R99,50
(h)	Affidavit or certificate by the judgment creditor or his or her attorney	R71,00
(i)	For each registered letter forwarded to the debtor in terms of sections 65A(2), 65E(6) or 65J(2) of the Act by the creditor or his or her attorney	R46,00
(j)	Affidavit or affirmation ⁴⁸ by debtor [Rule 45(7)]	R121,00
(k)	Request for an order under section 65 of the Act	R71,00
(l)	Attending postponed proceedings in terms of section 65E(3) of the Act or attending proceedings at court pursuant to the arrest of a judgment debtor, director or officer or pursuant to a notice referred to in 65A(8)(b)	R99,50
(m)	Subpoena:	
	(i) Drawing up of subpoena, per folio	R28,50
	(ii) Every necessary attendance, per attendance	R19,00
(n)	(i) Correspondence: For every necessary letter or telegram written or received, including copy to retain, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for, per folio	R28,50
	(ii) Attendances: For each necessary attendance not otherwise provided for, per attendance	R28,50
	(iii) Necessary formal telephone calls, per call	R28,50

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Part II
General Provisions in respect of Proceedings in terms of Section 72 of the Act

1. Subject to the provisions of paragraphs 2 and 3 no fees other than those laid down in the Tariff to this Part shall be allowed. ⁴⁹

2. Paragraph 3(a), (b) and (d) of the general provisions under Part 1 of this Table shall apply *mutatis mutandis* to this Part.

3. All necessary disbursements incurred in connection with any prior abortive proceedings under section 65 shall be allowed if the court has so ordered.

4. For the purpose of the Tariff to this Part the amount of the claim shall, subject to the provisions of paragraph 3(d) of the general provisions under Part 1 of this Table, be the total of the capital amount outstanding at the date of the first institution of proceedings in terms of section 72 of the Act.

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TARIFF

(a) Where the claim does not exceed R200.00 [<i>sic</i>]	R152.00
(b) Where the claim exceeds R200.00 [<i>sic</i>]	R323,00
(c) Obtaining certified copy of a judgment	R91,00
(d) Application for an order of execution against the garnishee	R91,00
(e) Garnishee order (Form 39)	R121,00

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**Part III
General Provisions in respect of Proceedings in terms of Section 74 of the Act**

1. The following fees shall be allowed in addition to those laid down in the Tariff to this Part:
 - (a) All necessary disbursements incurred in connection with the proceedings.
 - (b) In addition to the fees stated below, the administrator shall be entitled to a fee of 10% on each instalment collected for the redemption of capital and costs, which amount is included in the 12,5% in terms of section 74L(2) of the Act.
2. For the purposes of items 4 and 5 of the Tariff to this Part, a folio shall consist of 100 written or printed words or figures and four figures shall be reckoned as one word.

TARIFF 50

Item	One to ten creditors	Eleven to twenty creditors	Twenty-one or more creditors
	R	R	R
1. Instructions to apply for administration order, including the necessary perusal of summonses, demands, etc, and ascertaining the amount of assets and liabilities, including all attendances and correspondence necessary in connection therewith	R180,50	R252,50	R403,50
2. Instructions on application under section 74Q(1) or to oppose such application or the granting of administration order	R142,00	R142,00	R142,00
3. Drawing up application for administration order or review thereof and affidavit, including all annexures thereto and all attendances, excluding attendance in court	R252,00	R252,00	R252,00
4. Making copies of application, affidavit and annexures for creditors, per page	R4,50	R4,50	R4,50
5. Perusal of application and other documents served, if any, per folio. <i>Note:</i> The fees under this item are only claimed by the attorney or an opposing party.	R11,00	R11,00	R11,00

6.	Attending court:			
	(a) On postponement or setting aside, if not occasioned by the attorney or his or her client;	R68,00	R68,00	R68,00

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	(b) On any other hearing ⁵¹	R142,00	R271,00	R271,00
7.	For furnishing to a creditor by the administrator of the information referred to in section 74m[sic](a) of the Act, per application	R19,00	R19,00	R19,00
8.	For furnishing of a copy of the debtor's statement of affairs referred to in sections 74 and 74A(1) of the Act by the administrator in terms of section 74M(b) or of a list or account referred to in section 74G(1) or 74J of the Act or of the debtor's statement of affairs referred to in section 65I(2) of the Act, per page	R4,50	R4,50	R4,50
9.	Correspondence and attendances	R29,00	R29,00	R29,00

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⁴⁷ In terms of rule 33(5) the scale of fees set out in Parts I and II of Table B is applicable only as between party and party; the fees set out in Part III are applicable both as between party and party and between attorney and client (see *Sybrand Smit Trust (Edms) Bpk v Fouche* 1972 (2) SA 804 (C)).

⁴⁸ Rule 45 was substituted by GN R632 of 22 June 2018 with effect from 1 August 2018, and subrule (7) no longer makes provision for an affirmation by the judgment debtor.

⁴⁹ See *Bhagwan's v Swanepoel* 1963 (4) SA 42 (E).

⁵⁰ In this tariff the fees to be allowed are specified according to the number of creditors listed by the applicant, i e the magnitude of the case is not determined by the amount in issue but by the number of creditors (*In re Lubbe* 1964 (1) SA 855 (T)).

⁵¹ The tariff allows only one fee for the hearing irrespective of the time taken; a separate fee is not allowed for a second or further day's hearing (*In re Lubbe* 1964 (1) SA 855 (T)).

**Table C
GENERAL PROVISIONS AND TARIFF OF FEES (SHERIFFS)**

**Part I
Sheriffs who are Officers of the Public Service**

1. For each service or execution or attempted service of any process or document: R7,00.
2. The service of a notice referred to in rule 54(1) simultaneously with the summons shall not be regarded as a separate service.

Part II

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Sheriffs who are not Officers of the Public Service

[Part II substituted by GN R115 of 15 February 2013 with effect from 22 March 2013, by GN R32 of 23 January 2015 with effect from 24 February 2015, by GN R 1055 of 29 September 2017 with effect from 1 November 2017, by GN R842 of 31 May 2019 with effect from 1 July 2019 and by GN R858 of 7 August 2020 with effect from 11 September 2020.]

1A. For registration of any document for service or execution upon receipt thereof: R11,00.

1B.(a) For the service of a summons, subpoena, notice, order or other document not being a document mentioned in item 2, the journey to and from the place of service of any of the above-mentioned documents —

- (i) within a distance of 6 kilometres from the court-house of the district for which the sheriff is appointed: R44,00; ⁵²
- (ii) within a distance of 12 kilometres, but further than 6 kilometres from the court-house of the district for which the sheriff is appointed: R52,00;
- (iii) within a distance of 20 kilometres, but further than 12 kilometres from the court-house of the district for which the sheriff is appointed: R71,00;
- (iv)

(b) For the attempted service of the documents mentioned in paragraph (a), the journey to and from the place of attempted service of any of the above-mentioned documents —

- (i) within a distance of 6 kilometres from the court-house of the district for which the sheriff is appointed: R37,50;
- (ii) within a distance of 12 kilometres but further than 6 kilometres from the court-house of the district for which the sheriff is appointed: R44,00;
- (iii) within a distance of 20 kilometres but further than 12 kilometres from the court-house of the district for which the sheriff is appointed: R63,00;
- (iv)

(c)(i) Where a document must be served together with a process of the court and is mentioned in such process or is an annexure thereto, no additional fees shall be charged for service of the document, otherwise R11,00 may be charged for every separate document served.

(ii) No fees shall be charged for a separate document when process in criminal matters is served.

(iii) The service of a notice referred to in rule 54(1) simultaneously with the summons shall not be regarded as a separate service.

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(iv) Where a mandator instructs the sheriff, in writing, to serve or execute a document referred to in item 1B(a) or (2)(a) on an urgent basis or after hours, the sheriff shall charge an additional fee of R235,00 for such service irrespective of whether the service or execution was successful, which additional fee shall be paid by the mandator, save where the court orders otherwise.

(v) For the purpose of sub-paragraph (iv) —

(aa) “urgent” means on the same day or within twenty four hours of the written instruction; and

(bb) “after hours” means any time —

(aaa) before 7h00 or after 19h00 on Mondays to Fridays; or

(bbb) on a Saturday, Sunday or public holiday.

2. (a) For the execution of a warrant (other than against immovable property), interdict, garnishee order or emoluments attachment order, the journey to and from the place of execution of the above-mentioned documents —

- (i) within a distance of 6 kilometres from the court-house of the district for which the sheriff is appointed: R63,00; ⁵³
- (ii) within a distance of 12 kilometres, but further than 6 kilometres from the court-house of the district for which the sheriff is appointed: R71,00;
- (iii) within a distance of 20 kilometres, but further than 12 kilometres from the court-house of the district for which the sheriff is appointed: R88,00;
- (iv)

(b) For the attempted execution of the documents mentioned in paragraph (a), the journey to and from

the place of attempted execution of the above-mentioned documents —

- (i) within a distance of 6 kilometres from the court-house of the district for which the sheriff is appointed: R52,00;
- (ii) within a distance of 12 kilometres, but further than 6 kilometres from the court-house of the district for which the sheriff is appointed: R63,00;
- (iii) within a distance of 20 kilometres, but further than 12 kilometres from the court-house of the district for which the sheriff is appointed: R78,50;
- (iv)

(c) (i) For the ejection of a defendant from the premises referred to in the warrant of ejection: R37,50 per half hour or part thereof (except extraordinary expenses necessarily incurred).

(ii) A further fee of R24,50 shall be paid after execution for every person over and above the person named or referred to in the process of ejection, in fact ejected from separate premises: Provided that where service on any person other than the judgment debtor, respondent or garnishee is necessary in order to complete the execution, the fee laid down in item 1B(a) may be charged in respect of each such service.

(d) for the execution of any writ against immovable property —

- (i) for execution, including service of notice of attachment upon the owner of the immovable property and upon the registrar of deeds or other office charged with the registration of such property, and if the property is in

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- occupation of some other person other than the owner, also upon such occupier: R208,50;
- (ii) for notice of attachment to a single lessee or occupier: R19,00;
- (iii) identical notices where there are several lessees, occupiers or owners, for each after the first: R6,50;
- (iv) for making valuation report for purposes of sale, per half hour or part thereof: R52,50;
- (v) when a sheriff has been authorised to sell property and the property is not sold by reason of the fact that the attachment is withdrawn or stayed, all the necessary notice [*sic*] for the withdrawal or stay of the attachment: R208,00; Upliftment of judicial attachment on immovable property: R208,00;
- (vi) 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): R104,50;
- (vii) for notifying the execution creditor of such bonds or other encumbrances and of the names and addresses of the persons in whose favour such bonds or other encumbrances are registered: R19,00;
- (viii) for consideration of proof that a preferent creditor has complied with the requirements of rule 43(5)(a): R11,00;
- (ix) for notice referred to in rule 43(6): R19,00;
- (x) for considering of notice of sale prepared by the execution creditor in consultation with the sheriff; and for verifying that notice of sale has been published in the newspapers indicated and in the *Gazette*, inclusive fee for such consideration and verification: R104,50.[*sic*]
- (xi) 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: R19,00;
- (xii) for affixing a copy of the notice of sale to the notice board of the magistrates' [*sic*] court referred to in rule 43(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 R45,00 and travelling costs referred to in item 4(a);
- (xiii) for considering the conditions of sale prepared by execution creditor; for considering further or amended conditions of sale submitted by interested party: settling of conditions of sale: R104,50 for each attendance;
- (xiv) for all necessary attendances prescribed by any law related to auctions, in particular the Consumer Protection Act, 2008 (Act No. 68 of 2008): R315,00;
- (xv) for the conducting of an auction, save that this fee may not be charged if commission is claimed in terms of items 2(d)(xvi) and (xvii): R208,00;

- (xvi) On the sale of immovable property by the sheriff as auctioneer, ⁵⁴ 6 per cent on the first R100 000,00, 3.5 per cent on R100 001,00 to R400 000,00 and 1.5 per cent on the balance of the proceeds of the sale, subject to a maximum commission of R40 000,00, in total, and a minimum of R3 000,00 (inclusive in all instances of the sheriff's bank charges and other expenses incurred in paying the proceeds into his or her trust account), which commission shall be paid by the purchaser;
- (xvii) If an auctioneer is employed as provided in rule 43(10), 3 per cent on the first R100 000,00, 2 per cent on R100 001,00 to R400 000,00 and 1 per cent on the balance thereof, subject to a maximum commission of R22 850,00, in total, and a minimum of R3 000,00 (inclusive in all instances of the sheriff's bank charges and other expenses incurred in paying the proceeds into his or her trust account), which commission shall be paid by the purchaser;
- (xviii) for written notice to the purchaser who has failed to comply with the conditions of sale: R52,50;
- (xix) for any report referred to in rule 43(11): R52,50;
- (xx) for informing judgment debtor of the cancellation referred to in rule 43(11)(a)(iii): R19,00;
- (xxi) for giving notice referred to in rule 43(11)(c): R19,00
- (xxii) for giving transfer to the purchaser: R25,00;
- (xxiii) for receipt of certificate referred to in rule 43(14)(a): R19,00;
- (xxiv) for preparing a plan of distribution of the proceeds (including necessary copies) and for forwarding a copy to the registrar: R104,50;
- (xxv) for giving notice to all parties who have lodged writs and to the execution debtor that the plan of distribution will lie for inspection, for every notice: R19,00;
- (xxvi) for the report referred to in rule 43A(9)(d): R52,50.

3. Compilation of any return in terms of rule 8, in duplicate: R17,50.

4. (a) The Sheriff shall, in addition to the fees mentioned in items 1B(a), 1B(b), 2(a) and 2(b), but subject to item 4(b) and (c), be allowed a travelling allowance of R6,00 per kilometre, or part thereof, for the shortest possible forward and return journey from the office of the Sheriff to the place of service or execution and back.

(b) The travelling allowance mentioned in items 4(a), 5(a) and 5(c)(i) shall be calculated on the distance reckoned from the office of the sheriff if —

- (i) the sheriff's office is situated within the area of jurisdiction allocated to the sheriff by the Minister; and
- (ii) the distance from the sheriff's office is less than the distance reckoned from the court-house closest to the address for service.

(c) If the requirement in item 4(b) is not met, then the travelling allowance mentioned in items 4(a), 5(a) and 5(c)(i) shall be calculated on the distance reckoned from the court-house closest to the address for service.

5. (a) In respect of the discharge of any official duty other than those mentioned in items 1 and 2, but subject to item 4(b) and (c), a travelling allowance of R6,00 per kilometre for every kilometre, or part thereof, shall be payable to the sheriff for going and returning.

(b) A travelling allowance shall include all the expenses incurred in travelling, including train fares.

(c) A travelling allowance shall be calculated in respect of each separate service, except that —

- (i) where more services than one can be done on the same journey, the distance from the sheriff's office to the first place of service may be taken into account only once, and shall be apportioned equally to the respective services, and the distance from the first place of service to the remaining places of service shall similarly be apportioned equally to the remaining services; and
- (ii) where service of the same process has to be effected by a sheriff on more than one person at the same service address, only one charge for travelling shall be allowed.

(d) When it is necessary for the sheriff to convey any person under arrest, an allowance of R6,00 per kilometre in respect of that portion of his or her journey on which he or she was necessarily accompanied by such person shall be allowed.

6.(a) Making an inventory, including the making of all necessary copies and time spent on stock-taking:

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R37,50 per half hour or part thereof.

(b) For assistance, if necessary, with the making of an inventory, R37,50 per half hour or part thereof.

7. The perusing, drawing up and completing of a bail bond, deed of suretyship or indemnity bond: R11,00.

8. Charge or custody of property (money excluded):

(a) (i) For each officer necessarily left in possession, a reasonable inclusive amount not exceeding R132,00 per day.

(ii) Travelling allowances, to include board in every case.

(b) If livestock is attached, only the necessary expenses of herding and preserving the stock shall be allowed.

(c) If the goods are removed and stored, only the cost of removal and storage shall be allowed.

9. (a) '**possession**' shall mean actual physical possession by a person employed and paid by the sheriff, whose sole work for the time being is to remain on the premises where the goods have been attached, and who, in fact, remains in possession for the period for which possession is charged.

(b) '**cost of removal**' shall mean the amount actually and necessarily disbursed for removal or attempted removal if the goods were removed by a third party or an attempt was made to remove them, if they were removed by the sheriff him- or herself, such amount as would fairly be allowable in the ordinary course of business if the goods were removed by a third party, or an attempt was made to so remove them.

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(c) '**cost of storage**' shall mean the amount actually and necessarily paid for storage if the goods were stored with a third person or, if the sheriff provided the storage, such amount as would fairly be allowable in the ordinary course of business if the goods were stored with a third person.

10. (a) (i) Where a garnishee order is paid in full or in part, to the sheriff, 9 per cent on the amount paid with a minimum fee of R70,50 and a maximum of R691,50.

(ii) For the execution of any warrant against movable property —

(aa) when a warrant is paid in full or in part on presentation to the sheriff, 9 per cent on the amount so paid with a minimum fee of R70,50, and a maximum of R691,50;

(bb) when a warrant is paid in full or in part to the sheriff after attachment but before sale, 9 per cent on the amount so paid with a minimum fee of R70,50 and a maximum of R691,50; or

(cc) when moneys are taken in execution, 9 per cent of the amount so taken, but subject to a maximum of R691,50.

(b) Notice of attachment to defendant and to each person to be notified: R11,00.

11. Where property is released from attachment in terms of rule 41(7)(f)(i), or the warrant of execution is withdrawn or stayed, or the judgment debtor's estate is sequestrated after the attachment, but before the sale, 2.3 per cent of the value of the goods attached, subject to a maximum of R208,00: ⁵⁵ Provided that if a sale subsequently takes place in consequence of the said attachment, the amount so paid shall be deducted from the commission payable under item 12.

12. Where the warrant of execution against movables is completed by sale, 9 per cent for the first R15 000,00 or part thereof, and thereafter 6 per cent, with a maximum of R9 209,50. ⁵⁶

13. For the insurance of attached property, if deemed necessary, and on written instructions of the judgment creditor to the sheriff, in addition to the premium to be paid, an all-inclusive amount of R37,50.

14. . . .

15. When immovable property has been attached in execution and the attachment lapses, as referred to in section 66(4) of the Act: R63,00.

16. . . .

17. In addition to the fees allowed by items 10 to 13, both inclusive, there shall be allowed —

(a) the sum actually and reasonably paid by the sheriff or the auctioneer for printing, advertising and giving publicity to any sale or intended sale in execution.

(b) . . .

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18. Where the sheriff is in possession under more than one warrant of execution, he or she may charge

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fees for only one possession, and such possession shall, as far as possible, be apportioned equally to the several warrants issued during the same period: Provided that each execution creditor shall be jointly and severally liable for such possession to an amount not exceeding what would have been due under his or her execution if it had stood alone.

19. Fees payable on the value of goods attached or on the proceeds of the sale of goods in execution shall not be chargeable on such value or proceeds so far as they are in excess of the amount of the warrant.

20. The fees and expenses of the sheriff in execution of a garnishee order shall be added to the amount to be recovered under the order, and shall be chargeable against the judgment debtor.

21. If it is necessary for the sheriff to return a document received by him or her for service or execution to the mandator because —

- (a) the address of service which appears on the process does not fall within his or her jurisdiction; or
- (b) the mandator requested, before an attempted service or execution of the process, that it be returned to him or her,

an amount of R11,00 shall be payable.

22. For the conveyance of any person arrested by the sheriff or committed to his or her custody from the place of custody to the court on a day subsequent to the day of arrest: R37,50 per journey and R71,00 per hour, or part thereof, for attending at court.

23. For the examination of indicated newspapers and the *Gazette* in which the notice of sale has been published, as referred to in rule 41(8)(c): R11,00.

24. . . .

25. For affixing a copy of the notice of sale on the notice board or door of the court-house or other public building and at or as near as may be to the place where the said sale is actually to take place referred to in rule 41(8)(b): R25,50 and travelling costs, referred to in item 5(a).

26. For the drawing up and issuing of an interpleader summons: R104,50.

27. In addition to the fees prescribed in this Table, the sheriff shall be entitled to the amount actually disbursed for postage and telephone calls.

28. For the writing of each necessary letter, facsimile or electronic mail, excluding formal letters accompanying process or returns: R19,00.

29. Each necessary attendance by telephone: R18,00.

30. Sending and receiving of each necessary facsimile or electronic mail per page (in addition to telephone charges): R6,50.

31. . . .

32. For the making of all necessary copies of documents: R5,00, per A4 size page.

33. (a) A request to tax an account of a sheriff shall be done within 90 days after the date on which the account of which the fees are disputed, has been rendered.

(b) For the drawing up of the bill for taxation and attendance of the taxation by the sheriff: R71,00.

34. Bank charges: Actual costs incurred relating to bank charges and cheque forms.

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35. (a) Drafting of notice to the judgment debtor in terms of section 65A(8)(b) of the Act: R19,00.

(b) Service of the notice referred to in paragraph (a): Tariff as prescribed in item 1B(a).

(c) Attempted service of the notice referred to in paragraph (a): Tariff as prescribed in item 1B(b).

(d) The tariff, as prescribed in item 4, shall apply to paragraphs (b) and (c).

36. (a) For the arrest or attempted arrest of a judgment debtor in terms of section 65A(6) of the Act:

(i) The tariff as prescribed in item 2(a) or item 2(b), as the case may be.

(ii) The tariff, as prescribed in item 4, shall apply to this item.

(b) For the handing over of the judgment debtor to the South African Police Service, prisoners' friend or clerk of the court or other lawful place of detention:

(i) The tariff, as prescribed in item 2(a).

(ii) Travelling costs from place of arrest to place of handing over to the relevant authority, referred to in paragraph (b), per kilometre or part thereof: R6,00.

(iii) Waiting time in regard to handing over the judgment debtor to the relevant authority, referred

to in paragraph (b): R37,50, per half hour or part thereof, with a maximum of R139,00.

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- 52 In this paragraph as well as in paragraphs (ii) and (iii) the distance travelled by the sheriff in the discharge of his duties is measured 'from the court-house of the district for which the sheriff is appointed'. Cf *Re Taxation Messenger's Account, Stilfontein* 1964 (2) SA 241 (T).
- 53 See the footnote to paragraph 1B(a)(i) above.
- 54 Item (xvi). The sheriff is entitled to remuneration under this item only if the sale is perfected (*Sheriff, Magistrate's Court, Simonstown v Groll* 1996 (1) SA 905 (C)).
- 55 Item 11. Where, *inter alia*, the debtor's estate is sequestrated after attachment but before sale (there being no further requirement after sale to perfect the transaction, as in the case of immovables where transfer is necessary) the sheriff becomes entitled to a nominal fee, with an upper limit (*Sheriff, Magistrate's Court, Simonstown v Groll* 1996 (1) SA 905 (C) at 908H).
- 56 Item 12. The sheriff is entitled to remuneration under this item only if the sale is perfected (*Sheriff, Magistrate's Court, Simonstown v Groll* 1996 (1) SA 905 (C)).

Table D
FEES PAYABLE TO ASSESSORS

- 1 For every attendance when the case is wholly or partly heard: R70 for each hour or part of an hour of such attendance, but not to be less than R140 or more than R350 for every such attendance.
 - 2 For every attendance when the case is not heard but is postponed or settled, at the above rate, but the minimum to be R70.
 - 3 Attendance to be reckoned from the hour for which the assessor is summoned to the hour at which judgment is given or reserved, or to the hour at which the assessor is expressly released by the court from further attendance, whichever shall be the earlier.
 - 4 When the case is adjourned, postponed or settled, attendances to be reckoned from the hour for which the assessor is summoned to the hour at which the case is adjourned, postponed or settled, or to the hour at which the assessor is expressly released by the court from further attendance, whichever shall be the earlier.
 - 5 An assessor shall be entitled to the following travelling allowance for each journey actually and necessarily taken between the court house and his or her residence or place of business:
 - (a) R1,10 per kilometer in the case of a motorcar with an engine swept volume of 2 150 cm³ or less;
 - (b) R1,14 per kilometer in the case of a motorcar with an engine swept volume of 2 151 cm³ up to and including 2 500 cm³;
 - (c) R1,27 per kilometer in the case of a motorcar with an engine swept volume of 2 501 cm³ up to and including 3 500 cm³;
 - (d) R1,42 in the case of a motorcar with an engine swept volume of more than 3 500 cm³.
 - 6 The party who desires an assessor in terms of rule 59(6) shall pay to the clerk or registrar of the court an amount of R350 for each assessor applied for.
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