

POLICY RATIONALISATION OF FEES AND FEE STRUCTURE OF ATTORNEYS

ITEM CL 7-2003
MC 06/02/2003

RATIONALISATION OF FEES AND FEE STRUCTURE FOR SERVICES
RENDERED BY ATTORNEYS

RESOLVED:

1. **That** the report on the rationalisation of fees and the fee structure for services rendered by attorneys on the approved panel of attorneys **BE NOTED** and that the base document attached as **Annexure 1** to the report for this purpose **BE APPROVED**.
2. **That** it **BE ACCEPTED** in principle, that legal action for the recovery of money **WILL NOT BE EMBARKED UPON** if the costs of recovery exceeds the money to be recovered, unless such will in all probability also be recoverable.



Ekurhuleni
METROPOLITAN MUNICIPALITY

RATIONALISATION OF FEES AND FEE STRUCTURE OF ATTORNEYS

ATTORNEY AND OWN CLIENT TARIFFS FOR 2003 IN RESPECT OF HIGH COURT AND MAGISTRATE'S COURT WORK DONE ON BEHALF OF THE EKURHULENI METROPOLITAN MUNICIPALITY

25th November 2002

1. The Ekurhuleni Metropolitan Council takes pleasure in furnishing herewith
 - 1.1 a document containing various general provisions applicable to work done by attorneys on behalf of the Ekurhuleni Metropolitan Council (hereinafter referred to as the "EMC") as from January 2003;
 - 1.2 copy of the attorney and own client High Court tariff (as amended w.e.f. 21.10.96) marked **Annexure "A"** which is based on the present party/party tariff, and amended to incorporate additional provisions. This is to be used in conjunction with and the contents of the document containing general provisions referred to in paragraph 1.1. above.
 - 1.3 copy of the Magistrate's Court party/party tariff (as amended w.e.f. 18.02.02) marked **"B"**, which is based on the present party/party tariff, and amended to incorporate additional provisions. This is to be used in conjunction with the contents of the document containing general provisions referred to in paragraph 1.1. above.
 - 1.4 a document marked **"C"** is a schedule of parameters of Counsel's fees in use (published by the Johannesburg Bar Council) and should be used as a guide when instructing counsel to accept a brief. (Also find document marked **"C1"** being parameters of counsel's fees used by the Road Accident Fund.

GENERAL PROVISIONS

relating to HIGH COURT and MAGISTRATE'S COURT work done as from January 2003 by attorneys acting for the Ekurhuleni Metropolitan Council

1. For work: done as from 1 January 2003 the EMC's attorneys are required:
 - 1.1 to draw their bills of costs/statements of account in accordance with the relevant party/party tariffs as amended to incorporate additional provisions (annexed hereto marked "A" and "B" respectively, with the following exceptions :—
 - 1.1.1 On HIGH COURT matters, to add a surcharge of 50% (which will increase the hourly rate for time spent on consultations etc., from R400 to R600; drawing of important documents eg., affidavits from R100 per page to R150 per page; drawing of formal documents / letters from R40 per page to R60 per page).
 - 1.1.2 On MAGISTRATE'S COURT matters — to use the applicable scale of the tariff, and to add a surcharge of 50%

1.1.3 the added surcharge will be reviewed in time, however, in an instance where the attorney is of the view that the rates referred to in paragraphs 1.1.1 and 1.1.2 above, together with the relevant surcharges mentioned therein is inadequate, he/she should submit a written motivation to the EMC for an increase thereof, so that the rate may be agreed on inception. The following criteria will be taken into account :

- the complexity of the matter in law or fact
- the experience/seniority of the attorney
- the urgency of the matter

2. The forum from out of which Summons was issued in a matter will determine whether the High Court or the Magistrates' Court tariff is applicable and on which relevant Scale on the Magistrate's Court tariff is applicable as follows :-

Value of claim from R 0,001 to R 3,000 — Scale A

Value of claim from R3,001 to R 50,000 — Scale B

Value of claim from R50,001 to R100,000 — Scale C

3. The tariff relating to High Court matters should be applied by attorneys acting for the EMC in the Labour Court, Constitutional Court, CCMA matters, Tribunals, Preparation and appearance before the Townships and Town planning Appeal Board and other Statuary Tribunals. The High Court of Appeal tariff will apply for all High Court Appeals.

4. On the HIGH COURT TARIFF, where the amount allowed for the item DRAWING of documents is specified, such amount shall be inclusive of typing and all necessary copies (up to 3 copies). Where more than 3 copies of documents drawn are required, an additional copying fee will be allowed at R1.00 per page (plus 50% surcharge).

5. A page referred to in the HIGH COURT TARIFF (a page drawn or perused) shall mean 250 words NOT a physical A4 page.

6. On the MAGISTRATE'S COURT TARIFF, where the amount allowed for an item is specified the amount shall be inclusive of all necessary copies, attendances and services (other than service by the sheriff in connection therewith)

7. A folio referred to in the MAGISTRATE'S COURT shall mean 100 words

8. If attorneys choose to submit interim statements/bills from time to time, the preamble/heading of the bill must indicate that this is an INTERIM statement of account or FINAL statement of account.

9. In instances in which payment is required in respect of various disbursements such as experts charges and Counsel's fees, attorneys are requested to attach proof thereof to their bills of costs/accounts. Insofar as counsel's fees are concerned the EMC would appreciate receiving copies of the marked briefs and/or counsel's account.

10. In instances where any expert is instructed on behalf of the EMC, prior authorization must be obtained. The fee must be discussed and confirmed with, the expert when instructions are given to the said expert.

11. Regarding the question of the **use of the services of Counsel** in matters, please note:
 - 11.1 it is expected of attorneys acting on behalf of the EMC to confer with the EMC before briefing Counsel. (Insofar as Magistrate's Court matters are concerned, attorneys are requested to deal with the same themselves unless the circumstances be such that the briefing of Counsel can be justified).
 - 11.2 in the event of attorneys being of the view that a Senior Counsel ought to be briefed, rather than a Junior Counsel, attorneys are required to motivate the need for the Senior Counsel's involvement.
 - 11.3 in the event of attorneys being of the view that a Senior Counsel **in addition** to a Junior Counsel ought to be briefed, attorneys are required to motivate the need for BOTH Senior and Junior Counsel's involvement.
 - 11.4 the EMC requires its attorneys to discuss and negotiate fees with Counsel before giving instructions to them and in this regard attorneys are required to have regard to the guideline of Counsel's fees contained in **Annexure "C" & "C1"** hereto.
12. In the event of Counsel NOT being instructed in a matter:
 - 12.1 The Magistrate's Court tariff makes provision for work done by attorneys acting on behalf of the EMC and provision is also made therefore in the High Court tariff

Attorneys are entitled, inter alia, to fees for preparation for trial and:

 - 12.1.1 in Magistrates' Court matters, an attorney is entitled to fees for appearing at the trial on the EMC's behalf and also fees for the attendance of a candidate attorney if this was necessary;
 - 12.1.2 in High Court matters, the position is more expansive in that apart from, inter alia, provision made for work done by an attorney or candidate attorney in preparation for trial the tariff allows for appearances an attorney (who has been granted the right of appearance ito Courts Act No 62 of 1995) at a trial and the assistance of a candidate if necessary,
 - 12.1.3 insofar as High Court work is concerned, in a matter in which counsel WOULD ordinarily be instructed having regard to factors such as, inter alia, the amount of the claim and/or the nature of the issues involved, the EMC, if it is considered to be to its advantage, will allow two attorneys in the same firm (the one attorney assisting the other) to, inter alia, represent the EMC at trials, such attorneys (the "appearing attorney" instead of counsel and the "assisting attorney") must necessarily have the right of appearance in the High Court and be regarded by the EMC as having the necessary experience and expertise.

It is a requirement before any work of the abovementioned nature is done, that a motivated request in writing be directed to the Corporate and Legal Services of the EMC, and that approval of the EMC be obtained.

12.1.4 in respect of **attorneys who appear on behalf of the EMC in High Court trial:**

the actual time spent in Court on trial by the attorney acting in lieu of counsel will be allowed at the rate applicable to a Junior Counsel as per Annexure "C" hereto

any other attendances on such a date (eg. consultations) are to be dealt with at the rates laid down in the tariffs for such attendances.

Irrespective of when a case, in which a trial date has been allocated, is settled or withdrawn or postponed (whether this takes place before or on the date of hearing), attorneys shall not be entitled to remuneration over the above amount laid down in the tariff for actual work done.

(I.E. NO COLLAPSE FEE FOR SUBSEQUENT DAYS FOR WHICH THE ATTORNEY WILL NOT BE ATTENDING COURT)

13. Application by the EMC's attorneys tariffs other than those laid down by the ENC is unacceptable to the EMC (unless a prior agreement in writing has been made).
14. In instances in which party/party bills of costs presented against the EMC are finalised by the EMC's attorney, the EMC would appreciate receiving a marked copy of the taxed/settled bill.

Insofar as charges for opposing/settling party/party bills presented against the EMC, the ENC regards as a reasonable fee equal to 10% of the amount taxed off a party/party bill of costs, whether the EMC's attorney opposes same or outsources same to a costs consultant.

Where a party/party bill of costs is drawn in favour of the EMC, an amount will be allowed equal to 10% of FEES (including drawing fee) plus VAT (where applicable). In the event of the abovementioned party/party bill of costs being taxed, an amount equal to 15% of the taxed fees (including drawing fee and attending taxation fee) plus VAT (where applicable) will be allowed.

ANNEXURE 'A'

Tariffs relating to **HIGH COURT** work done by attorneys acting for the Ekurhuleni Metropolitan Council

A. Consultations/appearances

1	Taking INITIAL instructions to institute or defend (unless unusually lengthy or complex)	R400 plus surcharge
2	Taking instructions on interlocutory application (unless unusually lengthy or complex)	R100 plus surcharge
3	Consultation/inspections pre-trial conferences appearances in court, etc by attorney by candidate attorney NB: preparing for trial - to be allowed on time basis as actual time spent	R100 per ¼ hour plus surcharge R 30 per ¼ hour plus surcharge
4	Travelling time :- NB to specify when and for what purpose these expenses were incurred as well as the distance/s travelled - by attorney by candidate attorney	R50 per ¼ hour plus surcharge R15 per ¼ hour plus surcharge
4a	Travelling expenses	R2.00 per kilometre

B. Drafting and Drawing

1.	Formal statement opinion verifying/formal/confirm arty affidavit, brief, file notes, memoranda etc..	R40 per page plus surcharge
2.	Instructions for opinion or advocates guidance in preparing, petitions, affidavits non-formal notices	R100 per page plus surcharge
3	Pleadings and non-formal (i.e. important) notices (which require counsel to settle) BUT drawn by the attorney ito Act 62 of 1995	R150 per page plus surcharge
4	Letters :— (includes drawing, checking typing printing delivery and copies). (a) Written (b) Received (perused) NB Letters written and received need not be specified — may be globularised at end of bill	R40 per page R20 per page

C. Attendance and Perusal

1	Summons, petition, affidavit, pleading, advocate's advice and drafts, report, important letter, notice or document	R20 per page
2	Plan, exhibit or photograph or other material document which was necessary for the conduct of the action NB: in the instance of a complex plan or engineering diagram with motivation - a higher fee will be allowed	R20 each
3	Records, stock sheets, judgments, court records, accounts, financial statements, cheques etc., (i.e. any homogeneous) documents	R10 per page
4	RE-PERUSAL i.e. any documentation referred in C1 & 2 above, perused subsequently i.e. NOT RES NOVA	R10 per page
5	RE-PERUSAL - i.e. any documentation referred in C3 above, perused subsequently i.e. NOT RES NOVA	R5 per page
6	Sorting, arranging and paginating papers for pleadings, advice on evidence or brief on trial or appeal :- by attorney by candidate attorney	R100 per ¼ hour plus surcharge R 30 per ¼ hour plus surcharge -

D. Miscellaneous

1	For making necessary copies, including photocopies of any document or papers not already provided for in this tariff	R1.00 per A4 page
2	Attending to arrange translation, thereafter to procure same by attorney by candidate attorney	R100 per ¼ hour R 30 per ¼ hour
3	Telephone. calls: NON-formal to be detailed & itemised by attorney by candidate attorney	R100 per ¼ hour R30 per ¼ hour plus the actual cost thereof
4	Formal telephone calls NB need not be specified - may be globalised at end of bill	R20 each
5	Service of pleadings/notices and attendances at court to file - will be allowed as follows "Attend to serve, peruse acknowledgement & file"	R20

D. Miscellaneous (ctd)

6	Sending facsimile letters: The actual cost of sending the fax, in addition to the fee allowed for drawing under item B.4(a) above —MAY be included as “Sundry Disbursement” see item 7 below	
7	Sundry disbursements for postages, telephone and telefax costs NB may be globularised at end of bill	

E. Bill of Costs

1	For drawing the bill of costs and making the necessary copies	5% of the attorneys fees to be INCLUDED in the ALLOCATUR
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ANNEXURE 'B'

Tariffs relating to **MAGISTRATES COURT** work done by attorneys acting for the Ekurhuleni Metropolitan Council

A. Consultations/appearances and attendances

DEFENDED ACTIONS	SCALE A	SCALE B	SCALE C
1 Instructions to sue or to counterclaim or defend, including all necessary consultations	R225.00	R300.00	R360.00
(i) A fee for perusal and consideration of all documentation for purposes of considering merits will be allowed in addition to the above — see C 1 below			
2 Instructions to make application or to oppose or to show cause including all necessary consultations (interlocutory)	R 56.00	R113.00	R135.00
(i) A fee for perusal and consideration of all documentation for purposes of considering merits will be allowed in addition to the above — see C 1 below			
3 Instructions to make application for liquidation of close corporation including all necessary consultations	R277.00	R277.00	R332.00
(i) A fee for perusal and consideration of all documentation for purposes of considering merits will be allowed in addition to the above see C 1 below			
4 Production of documents for inspection or inspecting documents, per ¼ hour or part thereof of time spent	R 67.00	R 67.00	R 80.00
5 Preparing for trial/ hearing if Counsel NOT employed	R375.00	R510.00	R612.00
6 Travelling time:— per ¼ hour or part thereof	R 45.00	R 45.00	R 54.00
NB to specify when and for what purpose these expenses were incurred as well as the distance travelled			
7 Consultations including attendance at settlement negotiations, attending court, attending inspection in loco, on pre—trial conference etc., — per ¼ hour or part thereof			
if counsel NOT employed	R 67.00	R 67.00	R 80.00
if counsel employed	R 27.00	R 27.00	R 32.00

8	Telephonic consultations per 5 mins or part thereof	R 19.00	R 19.00	R 23.00
9	FORMAL attendances (per attendance)	R 7.00	R 11.00	R 13.00
10	FORMAL telephone calls (per telephone call)	R 7.00	R 11.00	R 13.00
11	Service of documents (for each necessary service)	R 7.00	R 7.00	R 7.00
	An item will be allowed as follows	R 18.00	R 18.00	R 18.00
	"Attend to serve notice/ pleading, peruse acknowledgement and file"			

B Drafting and Drawing

DEFENDED ACTIONS		SCALE A	SCALE B	SCALE C
1	Summons	R113.00	R157.00	R188.00
2	Appearance to defend	R 19.00	R 19.00	R 23.00
3	Notice ito Rule 12(1)(b) and 2	R 19.00	R 19.00	R 23.00
4	Plea	R113.00	R157.00	R188.00
5	Claim in reconvention (counterclaim)	R113.00	R157.00	R188.00
6	Notice of trial/set down or reinstatement	R 19.00	R 19.00	R 23.00
7	Drawing up of all other documents NOT otherwise specified per folio plus additional copying charges plus additional service and filing charges	R 11.00	R 11.00	R 13.00
8	Correspondence			
	Letters written per folio	R 11.00	R 11.00	R 13.00
	Letters received per folio			
	NB may be globularised at end of bill			

C Perusal

DEFENDED ACTIONS		SCALE A	SCALE B	SCALE C
1	1st perusal per folio	R 4.00	R 4.00	R 4.00
2	re—perusal per folio	R 2.00	R 2.00	R 2.00

D Miscellaneous

DEFENDED ACTIONS	SCALE A	SCALE B	SCALE C
1 Making copies per A4 page including photocopies of any document or papers not already provided for in this tariff	R 1.50	R 1.50	R 1.50
2 Disbursements for postages, telephone and telefax costs — actual costs of telephone calls and postages NB may be globularised at end of bill			
3 Travelling, expenses per kilometre NB to specify when and for what purpose these expenses were incurred as well as the distance travelled	R2.00	R2.00	R2.00

E Bill of Costs

DEFENDED ACTIONS	SCALE A	SCALE B	SCALE C
1 For drawing the bill of costs and making the necessary copies 5% of the attorneys fees to be INCLUDED in the ALLOCATUR			

ANNEXURE 'C'

FEES PARAMETERS

CIVIL WORK		
1. HIGH COURT	SENIORS R	JUNIORS R
Litigious work in the form of consultation, drawing pleadings, settling affidavits, advices on evidence, preparation for Court and Court appearances (save for those items set out below in respect of which a standard charge is provided).		
(a) Per hour of consultation or preparation	750 - 1 500	300 - 900
(c) Per day	7 500 - 15 000	2 400 - 9 000
2. MAGISTRATE COURT		
Litigious work as above		
(a) Per hour of service rendered	As in High Court	200 - 600
(b) Per day	As in High Court	1 200 - 4 500
3. Appearance before Administrative Tribunals and arbitrations	As in High Court litigation	As in High Court litigation
4. Unopposed applications of the standard type	(High Court & Magistrates Court)	180 - 500
5. Unopposed applications with evidence	(High Court & Magistrates Court)	350 - 850
6. Rule 43 Applications		Maximum fee as laid down in Rule 43
7. Unopposed urgent application	(High Court & Magistrates Court)	350 - 2000
8. Unopposed divorces (including pre-hearing consultation)	(High Court & Magistrates Court)	300 - 500
9. Opposed summary judgement applications (High Court & Magistrates Court)	As in High Court litigation	1 200 - 7 500
CRIMINAL WORK		
HIGH COURT AND REGIONAL COURT		
10. Litigious work in the form of consultations, preparation for Court appearances		
(a) Per hour of consultation	750 - 1 500	300 - 900
(b) Per day	7 500 - 15 000	2 000 - 9 000
11. Criminal appeals	7 500 - 15 000	2 000 - 9 000
MAGISTRATES COURT		
12. Criminals trials in Magistrates Court		
(a) Per hour of consultation	As in High Court	180 - 800
(b) Per day	As in High Court	750 - 8 000
13. Urgent Bail	As in High Court	1 200 - 8 000

