



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

N\$5.10

WINDHOEK - 7 March 2000

No. 2284

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### Government Notice

#### MINISTRY OF JUSTICE

No. 75

2000

#### MAGISTRATES' COURTS: AMENDMENT OF THE RULES OF COURT

The President has, under subsection (5) of section 25 of the Magistrates' Courts Act 1944, (Act No. 32 of 1944) confirmed the amendments made by the Rules Board under subsection (3) of that section to the Rules of Court promulgated under Government Notice R.1108 of 1968, which amendments are set out in the Schedule hereto. The amendments shall come into operation after the expiry of a period of one month from the date of publication of this notice.

#### SCHEDULE

In this Schedule "the Rules" means the Rules of Court published under Government Notice No. R.1108 of 21 June 1968, as amended by Government Notices Nos. R.3002 of 25 July 1969, R.490 of 26 March 1970, R.1752 of 16 October 1970, R.947 of 2 June 1972, R.1115 of 28 June 1974, R.1285 of 19 July 1974, R.689 of 23 April 1976, R.261 of 25 February 1977, R.2221 of 28 October 1977, R.327 of 24 February 1978, R.2222 of 10 November 1978, R.1194 of 8 June 1979, R.1449 of 29 June 1979, R.652 of 28 March 1980, R.1314 of 27 June 1980, R.1800 of 28 August 1981, R.1139 of 11 June 1982, R.1689 of 29 July 1983, R.1946 of 9 September 1983, R.1338 of 29 June 1984, GN.148 of 31 December 1985, GN.36 of 16 March 1987, AG.58 of 15 August 1989, AG.86 of 13 October 1989, AG.122 of 1 December 1989, AG.178 of 1 December 1992, GN.43 of 10 March 1997.

**Substitution of certain expressions in the Rules**

1. The Rules are amended –
  - (a) by the substitution for the words “attorney” and “attorneys” wherever they occur, (except in the expression “power of attorney”) of the expressions “legal practitioner” and “legal practitioners”, respectively;
  - (b) by the substitution for the expression “State Attorney” wherever it occurs, of the expression “Government Attorney”;
  - (c) by the substitution for the “Hire Purchase Act, 1942 (Act No. 36 of 1942)” wherever it occurs, of the “Credit Agreements Act, 1980 (Act No. 75 of 1980)”.

**Amendment of Rule 2 of the Rules**

2. Rule 2 of the Rules is amended by the insertion after the definition of “company” of the following definition:

“counsel” means a legal practitioner briefed by another legal practitioner specifically for his or her expertise in a specific field, relevant to the matter in which he or she is briefed;”.

**Amendment of Rule 5 of the Rules**

3. Rule 5 of the Rules is amended by insertion after subrule 4 of the following subrule:

“(5) Any document attached to the summons in support of the plaintiff’s claim which is not in the English language shall be accompanied by a sworn translation thereof in English.”.

**Amendment of Rule 6 of the Rules**

4. Rule 6 of the Rules is amended -
  - (a) by the substitution for paragraph (c) of subrule (2) of the following paragraph:

“(c) Subject to the provisions of paragraph (cB), the address where the plaintiff will accept service of process, notices or documents shall, in places where there are three or more legal practitioners or firms of legal practitioners practising independently of one another, be not more than 15 km distant from the court-house.”.
  - (b) by the deletion of paragraph (cA) of subrule (2); and
  - (c) by the substitution in paragraph (cB) of subrule (2) for the expression “8 km” of the expression “15 km”.

**Amendment of Rule 8 of the Rules**

5. Rule 8 of the Rules is amended by the substitution for paragraph (b) of subrule (1) of the following paragraph:

“(b) Except in the case of suretyship by an insurance company, such surety shall be given by means of at least 2 sureties other than legal practitioners or persons in the employ of legal practitioners in accordance with the following scale:

Where the civil cases recorded during the preceding calendar year numbered -

1 to 200	N\$50 000,00
201 to 500	N\$100 000,00
Above 500	N\$200 000,00"

#### **Amendment of Rule 9 of the Rules**

6. Rule 9 of the Rules is amended by the substitution for paragraph (g) of subrule (3) of the following paragraph:

- (g) In the case of the State President, a Minister or Deputy Minister, in his or her official capacity, or the State, at the office of the Government Attorney in Windhoek, or a branch of that office which serves the area of jurisdiction of the court from which the process has been served and on the person in charge of the office of the State President or the Permanent Secretary or Deputy Permanent Secretary of the Ministry concerned."

#### **Amendment of Rule 12 of the Rules**

7. Rule 12 of the Rules is amended -

(a) by the addition to subrule (1) of the following paragraph:

"(e) If the original summons cannot be found for purposes of judgment, due to it being lost or mislaid, the plaintiff may file with the clerk of the court -

- (i) a copy or duplicate original of the summons on which the following certificate has been affixed by the plaintiff:

'I hereby certify that court fees have been paid on the original summons of which this is a true copy or duplicate original (as the case may be)'

and a copy of the signed return of service received from the messenger of the court; and

- (ii) a statement stating the reasons why the original summons and return cannot be filed."; and

(b) by the addition of the following subrule:

"(10) Any document lodged with the clerk of the court in support of a request for default judgment which is not in the English language shall be accompanied by a sworn translation thereof in English."

#### **Amendment of Rule 13 of the Rules**

8. Rule 13 of the Rules is amended -

(a) by the substitution for paragraph (c) of subrule (4) of the following paragraph:

"(c) Subject to the provisions of paragraph (cB), the address where the plaintiff will accept service of process, notices or documents shall, in places where there are three or more legal practitioners or firms of legal practitioners practising independently of one another, be not more than 15 km distant from the court-house."

(b) by the deletion of paragraph (cA) of subrule (4); and

- (c) by the substitution in paragraph (cB) of subrule (4) for the expression "8 km" of the expression "15 km".

#### **Amendment of Rule 29 of the Rules**

9. Rule 29 of the Rules is amended by the addition of the following subrule:

"(16) Any document handed in at trial which is not in the English language shall be accompanied by a sworn translation thereof in English."

#### **Amendment of Rule 30 of the Rules**

10. Rule 30 of the Rules is amended -

- (a) by the substitution in paragraph (a) of subrule (7) for the amount "R1,75" of the amount "N\$7,50";
- (b) by the substitution in paragraph (a) of subrule (9) for the amount "20 cents" of the amount "N\$2,50"; and
- (c) by the substitution in paragraph (b) of subrule (9) for the amount "25 cents" of the amount "N\$2,50".

#### **Amendment of Rule 33 of the Rules**

11. Rule 33 of the Rules is amended -

- (a) by the substitution for subrule (1) of the following subrule:

"(1) The court in giving judgment or in making any order, including any adjournment or amendment, may award such costs as may be just and may, in the case of any adjournment without evidence being taken or argument heard, also award as counsel's fee payment of a refresher fee as referred to in Part IV of Table A of Annexure 2."; and

- (b) by the substitution in subrule (9) for the amount "10 rand" of the amount "N\$200".

#### **Amendment of Rule 34 of the Rules**

12. Rule 34 of the Rules is amended by the substitution in paragraph (c) of subrule (3) for the amount "R5,00" of the amount "N\$60,00".

#### **Amendment of Rule 35 of the Rules**

13. Rule 35 of the Rules is amended by the substitution in subrule (3) for the amount "R4,00" of the amount "N\$40,00".

#### **Amendment of Rule 38 of the Rules**

14. Rule 38 of the Rules is amended by the substitution for subrule (5) of the following subrule:

"(5) The provisions of this rule shall not apply where the party issuing out the process in execution or the execution creditor is the President, a Minister or a Deputy Minister, in his or her official capacity, or the State."

#### **Amendment of Rule 41 of the Rules**

15. Rule 41 of the Rules is amended by the substitution in paragraph (c) of subrule (8) for the amount "R100" of the amount "N\$500".

**Amendment of Rule 43 of the Rules**

16. Rule 43 of the Rules is amended by the substitution in paragraph (c) of subrule (6) for the expression "1 English and 1 Afrikaans newspaper" of the expression "2 newspapers".

**Amendment of Rule 48 of the Rules**

17. Rule 48 of the Rules is amended by the substitution in subrule (4) for the amount "R30" of the amount "N\$300".

**Insertion of Rule 48A**

18. The following rule is inserted after Rule 48 of the Rules:

**"Enforcement of Foreign Civil Judgments**

**48A.** (1) A certified copy of a judgment lodged with the clerk of the court in terms of section 3(1) of the Enforcement of Foreign Civil Judgments Act, 1994 (Act No. 28 of 1994), shall be registered by the clerk of the court by -

- (a) applying his or her signature on the judgment; and
- (b) applying the date stamp of the clerk of the civil court, which stamp shall bear the date of registration by him or her; and
- (c) entering the particulars of the parties and the date of registration of the judgment in the register kept by the clerk of the court for the issue of new actions or applications, not relating to pending cases in the civil court; and
- (d) numbering the judgment with a consecutive number for the year during which it is filed, in sequence with the existing civil cases in that specific court; and
- (e) defacing the revenue stamp referred to in Item 1 of Table E; and
- (f) by opening a court file.

(2) The judgment creditor shall, together with the certified copy of the judgment referred to in subrule (1) -

- (a) file an affidavit by himself or herself or somebody else who can confirm the under-mentioned facts -
  - (i) stating the amount of interest due, the appropriate rate of interest and how the amount of interest has been calculated; and
  - (ii) stating whether any amount has been paid by the judgment debtor since judgment, and if so, whether such amount has been deducted from the capital amount of the judgment debt or from the interest or costs, as the case may be.

(3) The notice referred to in section 3(2) of the Enforcement of Foreign Civil Judgments Act, 1994, shall be issued in quadruplicate in the form as set out in Form 60 of Annexure 1, of which the original and one copy, must be handed to the messenger of the court for service on the judgment debtor, one copy must be handed to the judgment creditor or his or her legal practitioner and one copy must be kept on the court file.

(4) The judgment referred to in subrule (1) together with the affidavit referred to in subrule (2) and all other supportive documents thereto, if any, shall, together with the notice referred to in subrule (3), be served on the judgment debtor.

- (5) (a) The messenger shall, if so requested by the judgment creditor or his or her legal practitioner of record, and at the expense of the judgment creditor, simultaneously with the service of the notice referred to in subrule (4), make an inventory of the assets of the judgment debtor and forward such inventory together with his or her return of service and account to the judgment creditor or his or her legal practitioner of record.
- (b) A request referred to in paragraph (a) shall be in writing and be lodged with the clerk of the court simultaneously with the judgment referred to in subrule (1).
- (6) The judgment creditor may collect from the judgment debtor the charges of the messenger of the court for the service of the notice and annexures referred to in subrule (4), and for the making of an inventory referred to in subrule (5).
- (7) (a) An application in terms of section 5(1) of the Enforcement of the Foreign Civil Judgments Act, 1994 for setting aside the registration of a judgment in terms of section 3(1) of that Act must -
  - (i) be made on notice, setting forth the relief claimed and the date and time of the hearing and supported by an affidavit, which shall set forth the grounds on which the application is made;
  - (ii) be accompanied by payment into court of an amount of N\$1 500,00 as security for the costs of the application;
- (b) A copy of the application as supported by affidavit must be served on the judgment creditor or his or her legal practitioner of record and the original thereof filed with the clerk of the court, at least 5 days prior to the date of hearing as stipulated in the notice of application.
- (c) If the judgment creditor wishes to oppose the application he or she shall deliver an opposing affidavit by not later than noon the day preceding the date of the hearing, setting forth the grounds on which the application is opposed.
- (d) The court may make such order with regard to the costs of the application, and the monies paid into court in terms of subrule (7)(a)(ii), as it may consider appropriate in the circumstances.

#### **Amendment of Rule 49 of the Rules**

19. Rule 49 of the Rules is amended by the substitution in subrule (3) for the amount "R20" of the amount "N\$600".

#### **Amendment of Rule 51 of the Rules**

20. Rule 51 of the Rules is amended -

- (a) by the substitution for subrule (1) of the following subrule:

"(1) Upon a request in writing by any party within 7 days after judgment and before noting an appeal and upon payment by such party of a fee of N\$200,00 which shall be affixed to such request in the form of a revenue stamp, the judicial officer shall within 21 days after a typed record of the proceedings has been handed to him or her by the clerk of the court, hand to the clerk of the court a written judgment which shall become part of the record, showing -

- (a) the facts he or she found to be proved; and

- (b) his or her reasons for judgment:

Provided that the fee referred to herein shall not be payable by a party who, together with his or her request in writing, also lodges a document in which he or she is authorized by an officer or agent of a legal aid board established by statute to make such request.

- (b) by the substitution in subrule (4) for the amount "R400" of the amount "N\$5 000".
- (c) by the substitution for paragraph (a) of subrule (8) of the following paragraph:
- (a) Upon delivery of a notice of appeal the judicial officer shall within 21 days after the typed record of the proceedings has been handed to him or her by the clerk of the court, hand to the clerk of the court a statement in writing showing (so far as may be necessary having regard to any written judgment already handed in by him or her) -
- (i) the facts found to be proved;
- (ii) the grounds upon which he or she arrived at any finding of fact specified in the notice of appeal as appealed against; and
- (iii) his or her reasons for any ruling of law or for the admission or rejection of any evidence so specified as appealed against."

#### **Amendment of Rule 59 of the Rules**

21. Rule 59 of the Rules is amended by the substitution in subrule (6) for the amount "R6,50" of the amount "N\$450."

#### **Amendment of Rule 66 of the Rules**

22. Rule 66 of the Rules is amended -
- (a) by the substitution in paragraph (a) of subrule (4) for the amount "R1,75" of the amount "N\$7,50."
- (b) by the substitution for paragraph (a) of subrule (7) for the amount "20 cents" of the amount "N\$2,50."
- (c) by the substitution in paragraph (b) of subrule (7) for the amount "25 cents" of the amount "N\$2,50."

#### **Amendment of Annexure 1 of the Rules**

23. Annexure 1 of the Rules is amended -
- (a) by adding to the Numerical list of forms the following:
- "60 Notice to judgment debtor of registration of foreign judgment."
- (b) by the insertion in the Alphabetical list of forms after "57 Notice under section 109(2) of the Act" of the following:
- "60 Notice to judgment debtor of registration of foreign judgment."
- (c) by the substitution for Form No. 2 of the following Form:

**"Form No.2 Summons commencing action (Ordinary)**

Sued out by .....

.....

.....

P O Box/Private Bag .....

.....

.....

Tel number .....

Fax number .....

Ref .....

.....

Signature of Plaintiff or Plaintiff's Legal Practitioner of Record

Date of Signature .....

In the Magistrate's Court for the District of ..... held at .....

between ..... Plaintiff

and ..... Defendant

To: .....

You are hereby summoned that you do within .....(.....) days of the service of this summons deliver or cause to be delivered to the Clerk of the aforesaid Court and also the plaintiff or his or her legal practitioner at the address specified herein, a notice in writing of your intention to defend this action and answer the claim of ..... the plaintiff herein, particulars whereof are endorsed hereunder:

(1) Particulars:

Plaintiff's claim against defendant is for payment of the sum or balance of N\$..... in respect of

(2) Prayers:

Wherefor plaintiff prays for judgment against defendant for:

Costs if the action is undefended and if costs are awarded by the court on a party and party scale will be as follows:

	Summons	Judgment
	N\$ c	N\$ c
Court fees .....		
Legal Practitioners fees .....		
G.S.T. ....		
Messenger's fees .....		
Messenger's fees: non-service .....		
Sub-Total .....		
TOTAL .....		

N\$



## (3) And take notice that -

- (a) in default of your paying the amount of the claim and the costs within the said period or of your delivering a notice of intention to defend the action you will be held to have admitted the said claim and the plaintiff may proceed therein and judgment may be given against you in your absence;
- (b) if you pay the said claim and costs within the said period judgment will not be given against you herein and you will save judgment charges. You will also save judgment charges if, within the said period, you lodge with the Clerk of the aforesaid Court a consent to judgment;
- (c) if you admit the claim and wish to consent to judgment or wish to undertake to pay the claim in instalments or otherwise, you may approach the plaintiff or his or his legal practitioner. Your attention is directed to the provisions of section 57 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), should you wish to pay the said claim in instalments, and to section 58 of that Act, should you wish to consent to judgment.
- (d) **Any person against whom a court has, in a civil case given any judgment or made any order, who has not satisfied in full such judgment or order and paid all costs for which he or she is liable in connection therewith, shall, if he or she has changed his or her place of residence, business or employment, within 14 days from the date of every such change notify the clerk of the court which gave such judgment or made such order and the judgment creditor or the judgment creditor's legal practitioner, fully and in writing of the particulars of his or her new place of residence, business or employment (section 109). Upon failure to do so he or she may be convicted and sentenced to a period of imprisonment not exceeding 3 months or fined for an amount not exceeding N\$1000;**
- (e) Any person against whom a court has in a civil case, given any judgment or made an order and who has not, within 10 days, satisfied in full such judgment or order may for such failure be called upon by notice to appear before the court in chambers to enable the court to inquire into his or her financial position and to make such order as the court deems just and equitable (section 65A & D of the Act);
- (f) Any person who fails to appear upon a notice in terms of section 65A(1) of the Act shall be guilty of an offence and may be sentenced to a fine not exceeding N\$1 000 or to imprisonment for a period not exceeding 3 months or to both such fine and imprisonment or to periodical imprisonment of not less than 100 hours and not more than 2000 hours.

## (4) Consent to judgment:

I the undersigned, being the defendant in this matter, admit that I am liable to the plaintiff as claimed in the summons (or in the amount of N\$.....) and costs to date and I consent to judgment accordingly.

Dated at ..... this ..... day of .....

.....  
Defendant

## (5) Notice of intention to defend the Action:

To the Clerk of the Court: .....  
Kindly take notice that the defendant hereby notifies his or her intention to defend this action. Service of all process, notices and documents will be accepted at ..... (physical address). The postal address of defendant is .....  
Dated at ..... this ..... day of .....

.....  
Defendant/Defendant's Legal Practitioner

To Plaintiff or Plaintiff's Legal Practitioner:

Acknowledge receipt of a copy of this document on this ..... day of .....

.....  
Signature

And to the Clerk of the Court

NOTE: A copy of this document must be delivered to the plaintiff or plaintiff's legal practitioner and the original must be filed of record with the clerk of the court subsequent to the delivery of the copy to the plaintiff or his or her legal practitioner."

(d) by the substitution for Form No. 3 of the following Form:

**"Form No. 3 Summons Commencing Action (in which is included an automatic rent interdict)"**

Sued out by .....

.....  
P O Box/Private Bag .....

Tel number .....

Fax number .....

Ref .....

.....  
Signature of Plaintiff or Plaintiff's Legal Practitioner of Record

Date of Signature: .....

In the Magistrate's Court for the District of ..... held at .....

between ..... Plaintiff

and ..... Defendant

To: .....

You are hereby summoned that you do within ..... (.....) days of the service of this summons deliver or cause to be delivered to the Clerk of the aforesaid Court and also the plaintiff or his legal practitioner at the address specified herein, a notice in writing of your intention to defend this action and answer the claim of .....  
the plaintiff herein, particulars whereof are endorsed hereunder:

(1) Particulars:

Plaintiff's claim against defendant is for:

(i) arrear rent in terms of an agreement concluded by and between the parties on or about ..... which is due and payable in respect of defendant's tenancy of ..... of which arrear rent the particulars are as follows:

Date due and payable	For the period	In the amount of
_____	_____	_____
_____	_____	_____

and which despite due demand defendant neglects or fails to pay;

- (ii) and for confirmation of the interdict appearing in this summons;
- (iii) and for cancellation of the said agreement or confirmation of the cancellation of the agreement which cancellation was done in ..... with effective date being .....
- (iv) and for ejectment from the said premises being .....
- (v) damages in the amount of N\$..... per month calculated from date of ..... to date of eviction;
- (vi) interest at the rate of ..... % .....
- (vii) Costs of suit: .....

Costs, if the action is undefended, and if costs are awarded by the court on a party and party scale will be as follows:

	Summons	Judgment
	N\$ c	N\$ c
Court fees .....		
Legal Practitioner's fees .....		
G.S.T. ....		
Messenger's fees .....		
Messenger's fees: non-service .....		
Sub-Total .....		
TOTAL .....	N\$	

(2) And take notice that -

**THE DEFENDANT AND ALL OTHER PERSONS ARE HEREBY INTERDICTED FROM REMOVING OR CAUSING OR SUFFERING TO BE REMOVED ANY OF THE FURNITURE OR EFFECTS IN OR ON THE PREMISES DESCRIBED IN THE PARTICULARS OF CLAIM ENDORSED HEREIN BEFORE WHICH ARE SUBJECT TO THE PLAINTIFF'S HYPOTHEC FOR RENT UNTIL AN ORDER RELATIVE THERETO SHALL HAVE BEEN MADE BY THE COURT.**

(3) And take further notice that -

- (a) In default of your paying the amount of the claim and the costs within the said period or of your delivering a notice of intention to defend the action you will be held to have admitted the said claim and the plaintiff may proceed therein and judgment may be given against you in your absence;
- (b) If you pay the said claim and costs within the said period judgment will not be given against you herein and you will save judgment charges. You will also save judgment charges if, within the said period, you lodge with the Clerk of the aforesaid Court a consent to judgment;
- (c) If you admit the claim and wish to consent to judgment or wish to undertake to pay the claim in instalments or otherwise, you may approach the plaintiff or his legal practitioner. Your attention is directed to the provisions of section 57 of the Magistrates' Court Act, 1944 (Act No. 32 of 1944), should you wish to pay the said claim in instalments, and to section 58 of that Act, should you wish to consent to judgment.
- (d) Any person against whom a court has, in a civil case given any judgment or made any order, who has not satisfied in full such judgment or order and paid all costs for which he or she is liable in connection therewith, shall, if he or she has changed his or her place of residence, business or employment, within 14 days from the date of every such change notify the clerk of the court which gave such judgment or made such order and the judgment creditor or the judgment creditor's legal practitioner, fully and in writing of the particulars of his or her new place of residence, business or employment (section 109). Upon failure to do so he or she may be convicted and sentenced to a period of imprisonment not exceeding 3 months or fined for an amount not exceeding N\$1000.

- (e) Any person against whom a court has in a civil case, given any judgment or made an order and who has not, within 10 days, satisfied in full such judgment or order may for such failure be called upon by notice to appear before the court in chambers to enable the court to inquire into his or her financial position and to make such order as the court deems just and equitable (section 65A & D of the Act).
- (f) Any person who fails to appear upon a notice in terms of section 65A(1) of the Act shall be guilty of an offence and may be sentenced to a fine not exceeding N\$1000 or to imprisonment for a period not exceeding 3 months or to both such fine and imprisonment or to periodical imprisonment of not less than 100 hours and not more than 2000 hours.

(4) Consent to judgment:

I the undersigned, being the defendant in this matter, admit that I am liable to the plaintiff as claimed in the summons (or in the amount of N\$.....) and costs to date and I consent to judgment accordingly.

Dated at ..... this ..... day of .....

.....  
Defendant

(5) Notice of intention to defend the Action:  
To the Clerk of the Court:

Kindly take notice that the defendant hereby notifies his intention to defend this action. Service of all process, notices and documents will be accepted at ..... (physical address). The postal address of defendant is .....

Dated at ..... this ..... day of .....

.....  
Defendant or Defendant's Legal Practitioner

To Plaintiff or Plaintiff's Legal Practitioner:

Acknowledge receipt of this document on this ..... day of .....

.....  
Signature

And to the Clerk of the Court

NOTE: A copy of this document must be delivered to the plaintiff or plaintiff's legal practitioner and the original must be filed of record with the clerk of the court, subsequently to the delivery of the copy to the plaintiff or his legal practitioner."

(e) by the insertion after Form No. 59 of the following Form:

**"FORM No. 60 Notice of Registration of Foreign Judgment under Rule 48A of the Magistrates' Court Act, 1944 (Act No. 32 of 1944)**

In the Magistrates' Court for the District of ..... held  
at .....

In the matter between:

.....

Plaintiff (Judgment Creditor)

and

.....

Defendant (Judgment Debtor)

NOTICE IN TERMS OF SECTION 3(2) OF  
THE ENFORCEMENT OF FOREIGN CIVIL JUDGMENTS ACT, 1994  
(ACT No. 28 OF 1994)

To the Messenger of the Court .....

A. Please inform ..... of

The Defendant (Judgment Debtor) in this matter that:

1. .... The Plaintiff

(Judgment Creditor) in this matter has obtained judgment against him/her on .....

in the ..... Court of ....., Case

number ..... for the following:

1.1 Payment in the amount of .....

1.2 Interest at the rate of .....% on the amount of .....  
calculated from ..... to date of final payment, and

1.3 Cost of suite.

2. The above-mentioned judgment has been registered at this court by the Clerk of  
the Court on .....3. In terms of section 3(1) and (5) of the Enforcement of Foreign Civil Judgments  
Act, 1994 (Act No. 28 of 1994) the Defendant is liable for the following amounts:

Balance of Claim ..... Plus

Taxed Costs .....

Total .....

PLUS

Interest at .....% on the amount of .....calculated from ..... to  
..... which amounts to .....

PLUS

Costs of registration, including certified copy, amounting to ..... plus  
messenger's fee for service of this document to be added. This amount is calculated  
as follows:Item :Fee

Certified copy of foreign judgment .....

Registration of judgment in Namibia .....

Request i.t.o. Rule 48A (9)(b) .....

.....

.....

Total .....

## PLUS

Interest at the rate of .....% on the amount of ..... plus .....  
 Plus messenger's fee for service of this document calculated from .....  
 being the date of registration in terms of Rule 48A (l), until the date of final payment  
 of such amounts, -

4. Registration of a judgment in terms of section 3(1) of the Enforcement of Foreign Civil Judgments Act, 1994 has in terms of section 4(1) of that Act the same effect as a civil judgment of the court at which that judgment has been so registered. But, in terms of section 4(2) of that Act a judgment registered in terms of section 3(1) thereof shall not be executed before the expiration of 21 days after service of this Notice by the messenger of the court, or until an application in terms of section 5 of that Act has been finally disposed of.
5. **In terms of section 8 of the Enforcement of Foreign Civil Judgments Act, 1994 this notice shall operate as an interdict against the defendant (judgment debtor) and against any person having knowledge of the notice, not to remove or dispose of any assets of the defendant (judgment debtor) if such removal or disposal would prejudice the execution of the judgment.**
- B. Make an inventory of all assets belonging to the defendant (judgment debtor) which inventory will serve as proof of the statutory interdict against the defendant (judgment debtor) in terms of section 8 of the Enforcement of Foreign Civil Judgments Act 1994, (Act No. 28 of 1994).

(Delete if not applicable)

Signed at ..... on this ..... day of .....

.....  
**CLERK of the CIVIL COURT  
 MAGISTRATES' COURT**

Physical Address: .....

Postal Address: .....

TO .....

From Judgment Debtor

.....

Served by the Messenger of the Court

AND TO .....

Judgment Creditor or  
 Legal Practitioner for Judgment Creditor

From .....

Handed by the Clerk of the Court

**Substitution of Annexure 2**

24. The following Annexure is substituted for Annexure 2 of the Rules:

**"ANNEXURE 2  
 "SCALE OF COSTS AND FEES**

**Table A - Costs**

Part I	-	General provisions.
Part II	-	Un defended 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 (Messengers of the Court).

Table D. - Fees to assessors.

Table E. - Court fees.

### TABLE A COSTS

#### PART 1 GENERAL PROVISIONS

1. Undefended actions shall be taxed on the scale in Part II, defended actions shall be taxed on the scale in Part III and in other matters and interpleader proceedings on the scale in Part IV.
2. Costs taxable in terms of rule 33(20) shall be deemed to have been awarded under a judgment for the amount paid into court or a judgment in terms of the settlement, as the case may be.
3. Fees to counsel shall be allowed on taxation only in cases where the amount in dispute is N\$2 500 or more or where the court has made an order in terms of rule 33(8) and may not be so allowed unless payment of them is vouched by the signature of counsel.
4. Where the amount allowed for an item is specified, the amount is inclusive of all necessary copies, attendances and services (other than services through the messenger) in connection therewith.
5. Where the amount allowed for an item is left blank -
  - (a) the drawing of documents shall be allowed at N\$15,00 for each folio;
  - (b) copies for filing and service (where the court requires more than one set) shall also be allowed and in addition to such copies allowed one set of copies to be kept by the legal practitioner of record, drafting the original of such documents will also be allowed;
  - (c) service shall be allowed at N\$10,00 for each necessary service.
6.
  - (a) Where any document appears to the court to be unnecessary prolix, the court may disallow all or any part of the charge thereof.
  - (b) Where printed forms of documents are available, and in fact used, the charges for copying shall be limited to the necessary matters inserted in such printed documents.

7. A folio is 100 written or printed words or figures. Four figures shall be reckoned as one word.
8. (a) Unless otherwise provided, a charge for perusing shall be allowed at N\$6,00 per folio in respect of any document or pleading necessarily perused, subject to a minimum charge of N\$12,00.  
(b) Where a charge is allowed for copying, it shall be N\$2,50 per page, notwithstanding the number of words on the page.
9. Where there is more than one defendant, N\$15,00 shall be added in respect of each additional defendant for each of items 2 and 3 of Part II, item 2 of Part III and item 10 of Part IV of this Table.
10. A fee of 10 per cent on each instalment collected in redemption of the capital and costs of the action shall be allowed, subject to a maximum amount of N\$500,00 on each instalment.
11. The clerk of the court shall on taxation disallow any charge unnecessarily incurred.
12. Where the fee under any item is calculated on an hourly basis, the total number of hours on any one day shall be added together and the fee calculated on such total.
13. The amount allowable for the issue (inclusive of appearance in court) of a notice to show cause in terms of section 109(2) shall be N\$187,50.
14. General Sales Tax payable in terms of the Income Tax Act, 1981 (Act No. 24 of 1981) on fees and disbursements shall on taxation be allowed by the clerk of the court.

## PART II UNDEFENDED ACTIONS

	N\$
<i>Item 1.</i> Registered letter of demand in terms of section 56 of the Act ...	22,50
<i>Item 2.</i> Summons, inclusive of a letter of demand other than the letter of demand referred to in item 1:	
(a) Where the claim does not exceed N\$1 000,00.....	100,00
(b) Where the claim exceeds N\$1 000,00 but is not more than N\$5 000,00 .....	200,00
(c) Where the claim exceeds N\$5 000,00.....	300,00
<i>Item 3.</i> Judgment	
(a) Where the claim does not exceed N\$1 000-00.....	75,00
(b) Where the claim exceeds N\$ 1 000-00 but is not more than N\$5 000-00.....	150,00
(c) Where the claim exceeds N\$5 000-00.....	250,00
<i>Item 4.</i> Notice in terms of rule 12(2) .....	30,00
<i>Item 5.</i> Notice in terms of rule 54(1) .....	30,00
<i>Item 6.</i> Affidavit or Certificate .....	—
<i>Item 7.</i> Attending court at the request of the magistrate when claim referred to court for judgment .....	As allowed item 15 of Part III



<i>Item 8.</i>	For each registered letter which is forwarded to the debtor in terms of section 57(1), 57(3) or section 58(2) of the Act by the creditor or his or her legal practitioner .....	22,50
<i>Item 9.</i>	Admission of liability and undertaking to pay debt in instalments or otherwise (section 57 of the Act) .....	60,00
<i>Item 10.</i>	Consent to judgment or to judgment and an order for the payment of judgment debt in instalments (section 58 of the Act) .....	60,00
Notes:	<p>(a) The amount of the fees allowed under items 4, 5, 6, 7, 8, 9 and 10 shall without taxation be included in the amount of the costs for which judgment is entered.</p> <p>(b) For the purposes of computing costs, the expression "claim" referred to in items 2 and 3, shall mean where costs are awarded to the plaintiff on a default judgment, the amount or value of the judgment and where more than one claim is involved in the action, the total of the amounts on which judgment was granted and on claims for ejectment the amount of the claim for purposes of computing costs, shall be computed at two month's rent of the premises.</p>	

### PART III DEFENDED ACTIONS

Item		N\$
1.	Instructions to sue or defend or to counterclaim or defend a counterclaim, perusal of all documentation and consideration of merits and all necessary consultations to issue summons .....	350,00
2.	Summons	
	(a) Particulars of claim less than 100 words .....	250,00
	(b) Particulars of claim more than 100 words and contained in an annexure in terms of rule 6(3)(d), in addition to the fee allowed in paragraph (a), a fee for the annexure per folio, subject thereto that no additional fee shall be chargeable for another item, but for drawing of document .....	-----
3.	Appearance to defend .....	30,00
4.	Notice under rule 12 (1) (b) and (2) .....	30,00
5.	Plea .....	250,00
6.	(a) Claim in reconvention	250,00
	(b) Plea in reconvention	250,00
7.	Reply if necessary .....	250,00
8.	Drawing up of documents not specifically mentioned, including request for further particulars, further particulars, schedule of documents, affidavits, subpoenas, any other notice not otherwise provided for and drawing up of statements by witnesses, per folio .....	-----

9.	Production of documents for inspection or inspection of documents per quarter of an hour or any part thereof .....	87,50
10.	Each copy for service, per page .....	2,50
11.	The recording of statements by witnesses, per quarter of an hour or any part thereof .....	87,50
12.	Notice of trial or re-instatement .....	30,00
13.	Preparing for trial (if counsel not employed) .....	700,00
14.	Attendance at settlement negotiations, for each quarter of an hour or part thereof actually spent in such negotiations ...	87,50
15.	Attending court during trial, or at on-the-spot inspection, for each quarter of an hour or part thereof spent in court while case is actually being heard .....	
	(a) If counsel is not employed .....	87,50
	(b) If counsel is employed .....	45,00
16.	Attending pre-trial conference for each quarter of an hour of part thereof actually spent on such conference .....	87,50
17.	Attending court to hear reserved judgment, per quarter of an hour or any part thereof .....	87,50
18.	Correspondence:	
	(a) Each necessary formal letter or telegram or telefax written, including copy to retain .....	15,00
	(b) Each necessary, non-formal letter or telegram or telefax written, including copy to retain, per folio .....	15,00
	(c) Each necessary formal letter or telegram or telefax received provided that a fee for perusal shall not be allowed in addition to the fee herein provided for .....	12,00
	(d) Each necessary non-formal letter or telegram or telefax received, per folio, provided that an additional fee for perusal shall not be allowed in addition to the fee herein provided for .....	6,00
19.	For each necessary attendance not otherwise provided for, per attendance .....	10,00
20.	Necessary formal telephone calls, per call .....	15,00
21.	Each necessary non-formal telephone consultations: For every 5 minutes or part thereof, subject to a maximum of N\$150.00 per consultation .....	15,00
22.	Each necessary consultation, per quarter of an hour .....	87,50
23.	The court may, on request made at the hearing, allow in addition to the fee prescribed in item 13 above, a refresher fee in postponed or partly heard trials .....	400,00
24.	Time spent waiting at court (owing to no court being available) per quarter of an hour, or any part thereof .....	87,50
25.	Travelling time [subject to the provisions of rule 33(9)], per quarter of an hour or any part thereof .....	87,50
26.	Travelling expenses as laid down in rule 33(9) .....	3,00/km

# **PART IV** **OTHER MATTERS**

(Exceptions, applications to strike out, applications for summary judgments, interlocutory applications, arrest, interdict, *ex parte* applications under rule 27(9), applications to review judgment, including application for setting aside registration of foreign judgment order or taxation)

Item		N\$
1.	Instructions to make application or to oppose or to show cause, including perusal of all documentation and consideration of merits and all necessary consultations to make application or to oppose application .....	350,00
2.	Drawing up of all documents, affidavits, applications and notices, orders, etc, per folio.....	----
3.	Attending court on hearing	
	(a) If unopposed, for each quarter of an hour or any part thereof.....	87,50
	(b) If opposed, where counsel is employed, for each quarter of an hour or any part thereof.....	45,00
	(c) If opposed, where counsel is not employed, for each quarter of an hour or any part thereof.....	87,50
4.	Fee for preparing for trial, when opposed, if allowed by the court on request.....	350,00
5.	(a) Consultations and settlement negotiations per quarter of an hour or any part thereof.....	87,50
	(b) Correspondence:	
	(i) Each necessary formal letter or telegram or telefax written, including copy to retain.....	15,00
	(ii) Each necessary non-formal letter or telegram or telefax written, including copy to retain, per folio.....	15,00
	(iii) Each necessary formal letter or telegram or telefax received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for.....	12,00
	(iv) Each necessary non-formal letter or telegram or telefax, received, per folio, provided that an additional fee for perusal shall not be allowed in.....	6,00
	(c) Telephone Calls received and made	
	(i) Necessary formal telephone calls, per call.....	15,00
	(ii) Each necessary non-formal telephone consultations: For every 5 minutes or part thereof, subject to a maximum of N\$150,00 per consultation .....	15,00

	Note: The court may on request made at the hearing allow, as an alternative to the fee prescribed in item 4, a fee for preparing argument under items 13 and 23 of the scale for defended actions.	
	<b>INTERPLEADER PROCEEDINGS</b>	
6.	Instruction:	
	(a) Where interpleader proceedings are initiated by messenger .....	175,00
	(b) Otherwise.....	350,00
7.	Summons if not sued out by messenger.....	175,00
8.	Affidavit.....	----
9.	(a) Attending court on return of summons, if not being heard or for interpleader hearing, if the matter is being heard, per quarter of an hour or any part thereof.....	87,50
	(b) Correspondence:	
	(i) Each necessary formal letter or telegram or telefax written, including copy to retain ....	15,00
	(ii) Each necessary non-formal letter or telegram or telefax written, including copy to retain, per folio .....	15,00
	(iii) Each necessary formal letter or telegram or telefax received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for.....	12,00
	(iv) Each necessary non-formal letter or telegram or telefax, received, per folio, provided that an additional fee for perusal shall not be allowed in addition to the fee herein provided for.....	6,00
	(c) Telephone Calls received and made	
	(i) Necessary formal telephone calls, per call.....	15,00
	(ii) Each necessary non-formal telephone consultations: For every 5 minutes or part thereof, subject to a maximum of N\$150,00 per consultation.....	15,00
	<b>TAXATION OF COSTS</b>	
10.	Drawing up bill of costs: 5% of fees allowed	
11.	Attending taxation: 5% of the total bill allowed	
12.	Attending on review of taxation, for each quarter of an hour or part thereof in court, while review is actually being heard .....	87,50

13.	Notice of application for review of taxation .....	----
14.	Affidavit where necessary .....	----
EXECUTION		
15.	(a) Issue of warrant of execution, ejectment, arrest and committal in terms of section 109, delivery of possession .....	87,50
	(b) For re-issue thereof .....	45,00
16.	Inclusive fee for work done in connection with releasing of immovable property attached .....	100,00
17.	Inclusive fee for work done in connection with sale in execution of immovable property only (excluding work for which fees are already provided for elsewhere and the drawing up of the conditions of sale) .....	187,50
18.	(a) Drawing up of notice of sale in terms of rule 41(8) or rule 43(6) or conditions of sale in terms of rule 43(7) per folio .....	----
	(b) For all other work done and papers and documents supplied to the messenger in connection with the sale in execution of movable property, an inclusive fee of .....	137,50
19.	(a) Security for restitution, where necessary .....	250,00
	(b) Any amount necessary 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 N\$300,00. The total amount to be allowed for each tracing shall not exceed N\$150,00.	
WHERE COUNSEL IN EMPLOYED		
20.	Instructions to brief counsel for interpleader, exception or application, where allowed .....	87,50
21.	Instructions to brief counsel on trial .....	175,00
22.	Drawing brief on exception or application .....	----
23.	Drawing brief on interpleader on hearing .....	----
24.	Drawing brief on trial .....	----
25.	Attending each necessary consultation with counsel, per quarter of an hour or any part thereof .....	87,50
	Note: Counsel is for all purposes of these tables defined to be another legal practitioner specifically employed for his or her expertise in a specific field, relevant to the matter in which he or she is briefed.	
FEES TO COUNSEL		
26.	With brief to argue exception or application .....	700,00

	Note: a fee to counsel on application or on interpleader hearing shall be allowed only where the court certifies that the briefing of counsel was warranted.	
27.	With brief to argue at interpleader hearing .....	700,00
28.	With trial brief for the first day, not exceeding .....	2100,00
29.	In any court held more than 30 kilometers from the town or city, where counsel's ordinary place of business is, there may be allowed by special order of the court a travelling allowance (in addition to the fee on brief) of .....	3,00/km
30.	Each necessary consultation, per quarter of an hour or any part thereof .....	87,50
31.	For every trial day exceeding one on which evidence is taken or arguments heard, a refresher fee not exceeding ..	1750,00
32.	Drawing up pleadings, per folio .....	----
	Notes:	
	(a) In regard to items 26, 27 and 28 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:	
	(i) not more than 2 days prior to the date of hearing the fee otherwise allowable on taxation for the first day's hearing;	
	(ii) not less than 3 days and not more than 7 days prior to the date of hearing: two-thirds of the fee under subparagraph (i); and	
	(iii) not less than 8 days and not more than 21 days prior to the date of hearing: half of the fee under subparagraph (i).	
	(b) The court may on request allow a higher fee for counsel in regard to items 26, 27, 28, 30 and 31.	
	(c) A fee for travelling time by counsel shall be allowed by the court on request, at the same rate as for legal practitioners under Part III Item 25.	
	MISCELLANEOUS	
33.	Obtaining certified copy of judgment .....	50,00
34.	Obtaining payment in terms of rule 18(4) .....	40,00
35.	Request for security in terms of rule 62(1) .....	----
36.	Furnishing security in terms of rule 62(1) .....	----
37.	Preparation, lodging and effecting registration of a foreign judgment in terms of Act 28 of 1994 .....	175,00
38.	Request in terms of Rule 48A(5)(a) and to make an inventory .....	25,00

**TABLE B**  
**COSTS**

**PART I**  
**GENERAL PROVISIONS IN RESPECT OF PROCEEDINGS IN**  
**TERMS OF SECTION 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(l), 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(l) 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 N\$500,00 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 10 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 N\$300,00. The total amount to be allowed for each tracing shall not exceed N\$150,00.
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(l) of the Act.
5. General Sales Tax payable in terms of the Income Tax Act, 1981 (Act No. 24 of 1981) shall be allowed on all fees and disbursements.

**TARIFF**

	N\$
(a) Instructions to proceed with section 65 collection procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim does not exceed the amount of N\$5 000,00 .....	125,00

(b)	Instructions to proceed with section 65 collection procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim exceeds the amount of N\$5 000,00 but is not more than N\$10 000,00 .....	187,50
(c)	Instructions to proceed with section 65 collection procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim exceeds the amount of N\$10 000,00 .....	225,00
(d)	Warrant of Arrest and Detention when prepared by the judgment creditor (Form 42) .....	60,00
(e)	(i) Emoluments Attachment Order (Form 38) .....	87,50
	(ii) Re-issue (Certificate included) .....	45,00
(f)	Warrant of Liberation (Form 43) or Certificate of Liberation (Form 59) .....	30,00
(g)	Application for costs on notice (including appearance in court) .....	175,00
(h)	Obtaining a certified copy of judgment .....	50,00
(i)	Affidavit or certificate by the judgment creditor or his legal practitioner .....	60,00
(j)	For each registered letter forwarded to the debtor in terms of sections 65E(6) or 65J(2) of the Act by the creditor or his legal practitioner .....	22,50
(k)	Affidavit or affirmation by debtor [Rule 45(7)] .....	30,00
(l)	Request for an order under section 65 of the Act .....	45,00
(m)	Attending postponed proceedings in terms of section 65E(3) or attending application for the suspension of a warrant issued in terms of section 65F(1) of the Act .....	175,00
(n)	Subpoena:	
	(i) Drawing up of subpoena, per folio .....	15,00
	(ii) Every necessary attendance, per attendance .....	10,00
(o)	(i) Correspondence: For every necessary letter or telegram written, including copy to retain, per folio ...	15,00
	(ii) Correspondence: For every necessary letter or telegram received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for, per folio .....	6,00
	(iii) Attendances: For each necessary attendance not otherwise provided for, per attendance .....	10,00
	(iv) Necessary formal telephone calls, per call .....	40,00



**PART 11**  
**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.
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.
5. General Sales Tax in terms of the Income Tax Act, 1981 (Act No. 24 of 1981) shall be allowed on all fees and disbursements, where payable.

**TARIFF**

	N\$
(a) Instructions to proceed with section 72 procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim does not exceed N\$5 000,00.....	87,50
(b) Instructions to proceed with section 72 procedure, including all relevant consultations, perusals and drafts not otherwise provided for, where the claim exceeds N\$5 000,00.....	175,00
(c) Obtaining certified copy of a judgment.....	50,00
(d) Application for an order of execution against the garnishee, including drafting the application with all relevant annexures and appearing at court to obtain order.....	350,00
(e) Garnishee Order (Form 39).....	87,50

**PART 111**  
**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.
  - (c) General Sales Tax in terms of the Income Tax Act, 1981 (Act No. 24 of 1981) payable on all fees and disbursements.
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.

ITEM	1 – 10 Creditors	11 – 20 Creditors	21 or More credi- tors
1. Instructions to apply for administration order, including demands, etc. and ascertaining the amount of assets and liabilities, including all attendances and correspondence necessary in connection with [sic] .....	100,00	150,00	200,00
2. Instructions on application under section 74(1) or to oppose such application or the granting of administration order .....	87,50	87,50	87,50
3. Drawing up application for administration order or review thereof and affidavit, including all annexures thereto and all attendances, excluding attendance in court. ....	125,00	150,00	175,00
4. Making copies of application, affidavit and annexures for creditors, per page .....	2,50	2,50	2,50
5. Perusal of application and other documents served, if any, per folio .	6,00	6,00	6,00
Note: The fees under this item are only claimed by the legal practitioner of an opposing party			
6. Attending court:			
(a) On postponement or setting aside, if not occasioned by the legal practitioner or his client .....	87,50	87,50	87,50
(b) On any other hearing .....	175,00	175,00	175,00
7. For furnishing to a creditor by the administrator of the information referred to in section 74M(a) of the Act, per application .....	15,00	15,00	15,00
8. For furnishing of a copy of the debtor's statement of affairs referred to in section 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 651(2) of the Act, per page	2,50	2,50	2,50
9. Correspondence .....	15,00	15,00	15,00
10. Attendances .....	10,00	10,00	10,00

**TABLE C**  
**GENERAL PROVISIONS AND TARIFF OF FEES**  
**(MESSENGERS OF THE COURT)**

**MESSENGERS WHO ARE NOT OFFICERS OF THE PUBLIC SERVICE**

- 1A. For registration of any document for service or execution upon receipt thereof: N\$3,25.
- 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 kilometers from the court-house of the district for which the messenger is appointed: N\$22,50;
  - (ii) within a distance of 12 kilometers but further than 6 kilometers from the court-house of the district for which the messenger is appointed: N\$27,00;
  - (iii) within a distance of 20 kilometers but further than 12 kilometers from the court-house of the district for which the messenger is appointed: N\$33,50;
  - (iv) where a mandator instructs the messenger in writing to serve a document referred to in item 1 B(a) urgently on the day of receipt of such document or after normal office hours, the costs shall be calculated at double the tariff in item 1B(a)(i), (ii) and (iii) respectively, which additional costs shall be paid by the mandator, save where the court orders otherwise.
- (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 kilometers from the court-house of the district for which the messenger is appointed: N\$18,00;
  - (ii) within a distance of 12 kilometers but further than 6 kilometers from the court-house of the district for which the messenger is appointed: N\$22,50;
  - (iii) within a distance of 20 kilometers but further than 12 kilometers from the court-house of the district for which the messenger is appointed: N\$27,00;
  - (iv) where a mandator instructs the messenger in writing to serve a document referred to in item 1B(a) urgently on the day of receipt of such document or after normal office hours and the messenger is unsuccessful in his or her attempt to effect service, the costs shall be calculated at double the tariff in item 1B(b)(i), (ii) and (iii) respectively, which additional costs shall be paid by the mandator, save where the court orders otherwise.
- (c) (i) Where a document must be served together with a process of the court and is mentioned in such process or an annexure thereto, no additional fees shall be charged for service of the document, otherwise N\$5,00 may be charged for every separate document served.

- (ii) No fees shall be charged for a separate document when process in criminal matters are 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.
2. (a) For the execution of a warrant, interdict or garnishee order, the journey to and from the place of execution of the above-mentioned documents;
- (i) within a distance of 6 kilometers from the court-house of the district for which the messenger is appointed: N\$29,25;
  - (ii) within a distance of 12 kilometers but further than 6 kilometers from the court-house of the district for which the messenger is appointed: N\$36,00;
  - (iii) within a distance of 20 kilometers but further than 12 kilometers from the court-house of the district for which the messenger is appointed: N\$39,00;
  - (iv) where a mandator instructs the messenger in writing to execute a document referred to in item 2(a) urgently on the day of receipt of such document or after normal office hours, the costs shall be calculated at double the tariff in item 2(a)(i), (ii) and (iii) respectively, which additional costs shall be paid by the mandator, save where the court orders otherwise.
- (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 kilometers from the court-house of the district for which the messenger is appointed: N\$24,50;
  - (ii) within a distance of 12 kilometers but further than 6 kilometers from the court-house of the district for which the messenger is appointed: N\$29,25;
  - (iii) within a distance of 20 kilometers but further than 12 kilometers from the court-house of the district for which the messenger is appointed: N\$36,00
  - (iv) where a mandator instructs the messenger in writing to execute a document referred to in item 2(a) urgently on the day of receipt of such document or after normal office hours and the messenger is unsuccessful in his or her attempt to effect execution, the costs shall be calculated at double the tariff in item 2(b)(i), (ii) and (iii) respectively, which costs shall be paid by the mandator save where the court orders otherwise.
- (c) (i) For the ejectment of a defendant from the premises referred to in the warrant of ejectment:
- N\$30,00 per half an hour or part thereof (except extraordinary expenses necessarily incurred).
- (ii) A further fee of N\$20-00 shall be paid after execution for every person over and above the person named or referred to in the process of ejectment, 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 IB(a) may be charged in respect of each such service.

- (d) For the arrest of a defendant in terms of an order *tanquam suspectus de fuga*, or an order to found or confirm jurisdiction in terms of section 30bis or an order in terms of section 65 of the Act or any other arrest in terms of the Act, not otherwise provided for, the messenger shall be entitled to, in addition to the tariff in item 2(a), an amount of N\$30,00 per half an hour or part thereof, for waiting time during negotiations between the several parties or waiting time at the court, due to the unavailability of a court.
3. Compilation of any return in terms of rule 8, in duplicate: N\$10,00.
4. If it is necessary for the messenger to travel further than 20 kilometers from the court-house of the district for which he or she is appointed, a travelling allowance of N\$3,00 per kilometer for each kilometer or part thereof travelled further than the aforesaid distance to and from the place of service or execution shall be allowed in addition to the fees mentioned in item 1B(a)(iii), 1B(b)(iii), 2(a)(iii) or 2(b)(iii), as the case may be.
5. (a) In respect of the discharge of any official duty other than those mentioned in items I and 2, a travelling allowance of N\$3,00 per kilometer for every kilometer or part thereof, shall be payable to the messenger for going and returning, and it shall be calculated from the court-house of the district for which the messenger is appointed.
- (b) (i) A travelling allowance shall include all the expenses incurred in travelling, including train fares.
- (ii) In respect of the discharge of any official duty, should it be necessary for a messenger, due to the lack of possible roads, to travel on foot or by means of animal transportation, such messenger is in addition to the fee allowed in paragraph 4 entitled to a subsistence allowance of N\$200,00 per 24 hours in excess of the first 24 hours or part thereof so travelled provided that not less than 20km per day is travelled in such manner.
- (c) 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 beyond a radius of 20 kilometers from the court-house, the distance from the radius of 20 kilometers 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 on more than one person by a messenger within the area served by him or her, only one charge for travelling shall be allowed.
- (d) When it is necessary for the messenger to convey any person under arrest for any distance of more than 20 kilometers, an allowance of N\$3,00 per kilometer in respect of that portion of his or her journey on which he or she was necessarily accompanied by such person shall be allowed.
- (e) The drawing up and handing over of a warrant of liberation or certificate of liberation to the officer-in-charge of a prison: N\$22,50. A travelling allowance at the tariff mentioned in item 5(a) shall be payable for the execution of this duty.

6. (a) Making an inventory, including the making of all necessary copies and time spent on stock-taking: NS30,00 per half hour or part thereof.
- (b) For assistance, if necessary, with the making of an inventory, N\$15,00 per half an hour or part thereof, for each assistant, provided that not more than two assistants are to be used.
7. The perusing, drawing up and completing of a bail bond, deed of suretyship or indemnity bond: N\$15,00.
8. Charge or custody of property (money excluded), hereinafter referred to as "possession":
  - (a) (i) For each officer necessarily left in possession, a reasonable inclusive amount not exceeding N\$75,00 per day.
  - (ii) In addition to the fee in (a)(i), a reasonable allowance for board and substance shall be allowed, provided that the person referred to in 9(a), actually stays on the premises, not being the premises from where the messenger usually conducts business and that such allowance does not exceed N\$50,00 per day.
  - (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. For purposes of Item 8 of this Part -

"possession" means actual physical possession by a person employed and paid by the messenger, 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;

"cost of removal" means the amount actually and necessarily disbursed for removal 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 messenger himself 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;

"cost of storage" means the amount actually and necessarily paid for storage if the goods were stored with a third person or, if the messenger provided the storage, such amount as would fairly be allowable in the ordinary course of business if the goods were stored with the third person.
10. (a) (i) Where a warrant of execution or garnishee order is paid in full, or in part, to the messenger or moneys attached in execution against movables, 7,5 per cent of the amount so paid or attached, with a minimum of N\$50,00 and a maximum of N\$300,00.
- (ii) Notice of attachment to defendant and to each person to be notified: N\$5,00.
- (b) (i) Where an execution debtor at the attempted execution of a warrant of arrest and detention, pays the amount due in full or in part to the messenger, 7,5 per cent of the amount so paid, with a minimum of N\$50,00 and a maximum of N\$300,00.

- (ii) The rules that apply to the collection of money on warrants of execution or garnishee orders shall apply *mutatis mutandis* to money received in terms of this paragraph.
11. Where property is released from attachment in terms of rule 41 (7)(e), 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 per cent of the value of the goods attached, subject to a maximum of N\$150,00: 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, 7,5 per cent for the first N\$15 000,00 or part thereof and thereafter 5 per cent.
  13. For the insurance of attached property if deemed necessary and on written instructions of the judgment creditor to the messenger, in addition to the premium to be paid, an all inclusive amount of N\$30,00.
  14. When immovable property has been attached in execution and is not sold, either by reason of the warrant having been withdrawn or stayed or of the sequestration of the estate of the execution debtor, the expenses in connection with the attempted sale and the sum of N\$150,00 shall be payable to the messenger or to the person in fact authorised to act as auctioneer, as the case may be.
  15.
    - (a) The drawing up of a report of the improvements on the property for the purpose of sale, N\$30,00 per half an hour or part thereof.
    - (b) Written notice to the purchaser who has failed to comply with the conditions of sale: N\$25,00.
    - (c) Consideration of conditions of sale: N\$45,00.
  16. When immovable property has been attached in execution and the attachment lapses as referred to in section 66(4) of the Act: N\$22,75.
  17. When an execution against immovable property is completed by sale, the following auctioneer's fees shall be allowed to the messenger on the proceeds of the sale:
    - (a) On the sale of immovable property by the messenger as auctioneer 5 per cent on the first N\$30 000,00 of the proceeds of the sale and 3 per cent on the balance thereof, subject to a minimum of N\$260,00 (inclusive in all instances of the messenger'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.
    - (b) If an auctioneer is employed as provided in rule 43(9), 2,5 per cent on the first N\$30 000,00 of the proceeds of the sale and 1,5 per cent on the balance thereof, subject to a minimum of N\$260,00 (inclusive in all instances of the messenger'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.
  18. In addition to the fees allowed by items 11 to 17, both inclusive, there shall be allowed -
    - (a) the sum actually and reasonably paid by the messenger or the auctioneer for printing, advertising and giving publicity to any sale or intended sale in execution;
    - (b) the sum of N\$15,00 to the messenger for giving transfer to the purchaser.
  19. Where the messenger is in possession under more than one warrant of execution, he or she may charge 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.

20. 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.
21. The fees and expenses of the messenger 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.
22. If it is necessary for the messenger 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 N\$5,00 shall be payable.
23. For the conveyance of any person arrested by the messenger or committed to his or her custody from the place of custody to the court on a day subsequent to the day of arrest: N\$15,00 per journey and N\$30,00 per thirty minutes or part thereof for attending at court.
24. For the examination of indicated newspapers and the *Gazette* in which the notice of sale has been published as referred to in rule 43(6)(c) and rule 41(8)(c): N\$5,00.
25. For forwarding a copy of the notice of sale to every execution creditor who has lodged a warrant of execution and to every mortgagee in respect of the immovable property concerned whose address is reasonably ascertainable, for each copy: N\$5,00.
26.
  - (a) For affixing a copy of the notice of sale on the notice board or door of the court-house or other public building referred to in rule 43(6)(e) and rule 41(8)(b): N\$6,00.
  - (b) For affixing a copy of the notice of sale on the property due to be sold, the amount in paragraph (a) above and travelling costs referred to in item 5(a).
27. For the drawing up and issuing of an interpleader summons: N\$40,00.
28. In addition to the fees prescribed in this Table, the messenger shall be entitled to the amount actually disbursed for postage and telephone calls.
29. For the writing of each necessary letter, excluding formal letters accompanying process or returns: N\$6,00.
30. Each necessary attendance by telephone (in addition to prescribed trunk charges and cellular charges): N\$6,00.
31. Sending and receiving of each necessary facsimile per A4 size page (in addition to telephone charges): N\$6,00.
32. For the perusal of the records of the Registrar of Deeds in terms of rule 43(3) to determine the order of precedence of creditors:
  - (a) if investigated by the messenger personally: N\$25,00 per case;
  - (b) if the messenger utilizes the services of a third party for the investigation, the actual cost as required by the third party, provided that it is reasonable.



33. For the making of all necessary copies of documents: N\$2,50 per A4 size page.
34. For the drawing up of the bill for taxation and attendance of the taxation by the messenger: N\$35,00.
35. Bank charges: Actual costs incurred relating to bank charges and cheque forms.
36. The general sales tax payable on messengers fees shall be allowed on taxation by the clerk of the court.

#### TABLE D

#### FEES TO ASSESSORS

1. For every attendance when the case is wholly or partly heard: N\$75,00 for each hour or part of an hour of such attendance, but not to be less than N\$75,00 or more than N\$525,00 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 N\$75,00.
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 a travelling allowance of N\$3,00 per kilometer actually and necessarily taken between the court-house and his or her residence or place of business.
6. The party who desires an assessor in terms of rule 59(6) shall pay to the clerk of the court an amount of N\$525,00 for each assessor applied for."

#### TABLE E

#### COURT FEES

	ITEM	N\$
1.	On every initial summons, or the initial documents in an application which are not related to civil proceedings already on record in the court, or an application for an order under section 74 of the Act or an application for a spoliation order .....	25,00
	On every request to inspect any record -	
2.	(a) if the correct number is furnished .....	2,00
	(b) if an incorrect or no number is furnished, for every 100 records searched .....	5,00
3.	For a copy of a record made by the clerk of the court -	
	(a) for every 100 typed words or part thereof .....	3,00
	(b) for every photocopy of an A4-size page or part thereof .....	3,00
4.	For examining and certifying a copy of a record - each 100 words or part thereof .....	2,00
5.	For completion of the statement referred to in section 74A(4) .....	30,00

**NOTES:**

1. For the purposes of item 1 the expression 'action' does not include a counter-claim.
  2.
    - (a) Where any dispute arises between the clerk of the court and any person desiring to lodge any document as to whether the document is or is not sufficiently stamped, the question shall be referred to a judicial officer, who shall decide the same in a summary manner.
    - (b) Such judicial officer's decision shall be final for the purpose of the action or matter in respect to which such document is lodged, but such decision shall be without prejudice to any other rights of any person interested.
  3. No charge shall be made for the inspection of the record of any case -
    - (a) on the business day next succeeding the day on which judgment was delivered in such case if the number of civil cases recorded in that court exceeded 5 000 during the preceding year; or
    - (b) within seven days after judgment if the number of civil cases recorded in that court during the preceding year did not exceed 5 000; or
    - (c) to any party to any case at any time before judgment or within seven days after judgment."
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