

INTERPROVINCIAL APPORTIONMENT GUIDELINES : SECTIONAL TITLES

Following the guideline changes, the LSSA Council has recommended that the guidelines set out below should, unless otherwise agreed, apply in respect of all conveyancing work performed in one province on instructions received from a practitioner in another province and for which such instructions were received by the instructing practitioner on or after 15 September 2014. This apportionment serves as a guideline only and conveyancers are free to negotiate the apportionment as they see fit.

DEFINITIONS for purposes of this guideline:

"PRELIMINARY WORK" where referred to in this guideline shall mean and include the taking and giving of instructions; preparation and attending signature of all powers of attorney, declarations, affidavits, resolutions and other necessary preliminary and ancillary documents such as extracts from companies' memorandum and articles of association and proof in regard to all matters required to be certified in terms of Section 15B(3) of the Act; payment of transfer duty and of all levies imposed by the body corporate, and of all rates levied by any lawful authority, obtaining or making all clearances or other certificates; the obtaining of endorsements or copies of documents from the office of the Master or other public office (except where otherwise provided); the making of all other financial arrangements including the provision and perusal of guarantees and attending to payment in terms thereof; all relevant correspondence; or such of the above work as may be necessary. "Preliminary work" shall, however, not include any attendances in connection with the drawing and execution of general powers of attorney, deeds of sale, deeds of exchange, preliminary agreements with regard to any lease, servitude or donation and documents of a similar nature as well as documents for which a special fee is provided in this guideline.

"FINAL WORK" shall mean and include, the drawing and preparation of any document for execution or registration at a deeds registry; obtaining of registration thereof; arranging simultaneous lodgement with another conveyancer or conveyancers where necessary; giving all references required by the deeds office for examination purposes and all attendances at the deeds office and correspondence in connection with registration, but shall not include any separate act of registration of any other document which may be necessary before or in connection with the first-mentioned act of registration or for which special provision is made in the guideline.

"LODGEMENT" - wherever in this guideline a specific or proportionate fee is provided for lodgement, it shall mean the fee payable by the instructing practitioner to the instructed practitioner for all attendances in connection with the lodgement and where necessary, registration of any document, including arranging simultaneous lodgements, giving necessary references and all other attendances and correspondence connected with such lodgement and registration and shall be payable out of the total fee.

NOTES:

1. All references hereunder to sections and/or items shall relate to the guidelines as recommended by the Law Society.
2. Where a deed of transfer, a partition transfer or a mortgage bond is drawn, complete in every detail, and prepared by one conveyancer and is merely lodged and executed by another conveyancer, the instructing conveyancer shall be entitled to 85% and the instructed conveyancer to 15% of the total fee, provided that –
 - 2.1 if such deeds are rejected by the deeds office by reason of a note or notes raised against such deeds which is/are incapable of being remedied on preparation/rectification and such deeds will have to be relodged, or where the instructing conveyancer expressly requested the instructed conveyancer to check such deeds and documents, and the deeds and/or supporting documents are patently incorrect or incomplete and would have been rejected, the instructed conveyancer shall immediately communicate with the instructing conveyancer and by arrangement, either
 - 2.1.1 return the deeds to the instructing conveyancer to be redrawn and reprepared, in which event the instructed conveyancer shall be entitled to 20% of the fee; or
 - 2.1.2 the instructed conveyancer shall redraw and reprepare the deed, in which event the instructed conveyancer shall be entitled to 25% of the total fee if the rejection was a result of a simple error and 33,3% of the total fee if the rejection was as a result of errors other than a simple error.
 - 2.2 If the instructing conveyancer expressly requested the instructed conveyancer to check such deeds and supporting documents, the instructed conveyancer shall be entitled in any event to 20% of the total fee and if such deeds and documents

would have been rejected, the instructed conveyancer shall immediately communicate with the instructing conveyancer and by arrangement proceed as in 2.1.1 or 2.1.2.

2.3 If the instructed conveyancer attends to any matter on preparation/rectification as the case may be, which is covered under the item "fees for apportionment for preliminary work", he shall charge such fee.

3. Where the instructing practitioner merely takes instructions from his client and thereafter sends his whole "file" to the instructed conveyancer who then does all the work, the former shall, as a general rule be entitled to 20% and the latter to 80% of the prescribed fee where the fees are divided on a percentage basis as set out hereunder.

4. Fees and percentages specified herein shall be net and shall not be subject to any allowances.

5. APPORTIONMENT OF FEES FOR "PRELIMINARY WORK"

Where a practitioner who attends to the preliminary work in connection with any conveyancing matter, requests another practitioner to do part of such preliminary work, the former shall, from his share of fees, pay the latter the amounts set out hereunder, and which amounts shall be net.

- (i) (a) Obtaining all necessary endorsements from the Master for any number of endorsements which are applied for simultaneously
per estate R825
- (b) Furnishing a certificate in terms of Section 42(1) of the Administration of Estates Act 1965, including investigations and attendances on Master's Office
per estate R825 for any number of certificates
- (c) Obtaining copies of all necessary documents which are or can be included in one application
per estate R400

- (ii) Obtaining copies of all documents for lodgment in a deeds registry which are or can be included in one application (inclusive of searches)
per application R240
- (iii) Obtaining a clearance or other similar certificate from a public or local authority or body corporate
per certificate R400
- (iv) Attending on payment of transfer duty or VAT and uplifting receipt or obtaining an exemption certificate
R400
- (v) Any other attendance per quarter hour or part thereof
R180
Reporting per folio R120
- (vi) Furnishing a conveyancer's certificate or drawing any document not provided elsewhere in this guideline
R165
- (vii) Perusing and certifying a guarantee for payment
R275

The above fees shall be net.

6. APPORTIONMENT OF FEES FOR "FINAL WORK" AND "LODGEMENT"

For attendances in order to have any conveyancing matter expedited, restored or put forward for execution or delivery, including completion of application forms and searches in connection therewith.

R400

The above fees shall be net.

SECTION I

Application for the opening of a Sectional Title Register

DEFINITIONS

For the purpose of this section:

"**Preliminary work**" shall mean and include, drawing the application in terms of Section 11 of the Act, perusing the sectional plan, obtaining the certificate required (where necessary) in terms of Section 11(3)(e) and all correspondence and attendances in connection with all such matters.

"**Final Work**" shall mean and include the drawing and preparation of certificates of registered sectional title in terms of Section 11(3), obtaining registration of such sectional plan, arranging simultaneous lodgement with another conveyancer or conveyancers, where necessary giving all references required by the deeds office for examination purposes all attendances at the deeds office for examination purposes and all attendance at the deeds office and correspondence in connection with registration of the sectional plan.

Preliminary work	R3 300 plus R275 per section
Final work	R2 200 plus R275 per section
Lodgement	R1 200 plus R275 per section

SECTION II

Transfer of Ownership

Preliminary work	66.6%
Final work	33.3%
Lodgement	15%

SECTION III

Partition Transfers

Preliminary work	40%
Final work	60%
Lodgement	15%

SECTION IV

Endorsement in terms of the Administration of Estate Act

If the instructed conveyancer attends only to lodgment he will be entitled to R275 out of the overall fee.

SECTION V

Subdivision and re-subdivision and extensions of a section

Preliminary work	R2 200 plus R275 per section
Final work	R1 100 plus R275 per section
Lodgement	R275 plus R275 for each additional section after the first two

SECTION VI

Application for Sectional Title Deed in respect of an undivided share in a Unit

Preliminary work	40%
Final work	60%
Lodgement	R275

SECTION VII

Reversion from Sectional Title register to Land register

Preliminary work	40%
Final work	60%
Lodgement	R275

SECTION VIII

Sectional Mortgage Bond

Preliminary work	66.6%
Final work	33.3%
Lodgement	15%

Collateral Bond

Preliminary work	66.6%
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Final work	33.3%
Lodgement	R275

SECTION IX

Cession, cancellation or modification of bonds

Lodgement	R275
Further bond	R165

SECTION X

Notarial Deeds

Preliminary work	60%
Final work	40%
Lodgement	R275

SECTION X

Certificates of Real Rights

Preliminary work	60%
Final work	40%
Lodgement	R275

SECTION XII

Cessions (Notarial)

Preliminary work	60%
Final work	40%
Lodgement	R275

SECTION XIII

Miscellaneous

Item 1

Instructing conveyancer	33.3%
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Instructed conveyancer	66.6%
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Item 2

(a)	Instructed Conveyancer	100%
(b)	Instructing conveyancer	33.3%
	Instructed conveyancer	66.6%

Item 3

Instructing conveyancer	15%
Instructed conveyancer	85%

Item 4

Instructing conveyancer	15%
Instructed conveyancer	85%

Item 5

Instructing conveyancer	15%
Instructed conveyancer	85%
Lodgement	R275

Item 6

Preliminary work	60%
Final work	40%
Lodgement	R275

The apportionment applicable under the conventional deeds guidelines shall apply in respect of any matter for which provision is not made in this apportionment.