

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**NO. R. 2135****3 June 2022****RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)****AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE
PROCEEDINGS OF THE SUPREME COURT OF APPEAL OF SOUTH AFRICA**

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and with the approval of the Minister for Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

- [] Words or expressions in bold type in square brackets indicate omissions from the existing rules.
- _____ Words or expressions underlined with a solid line indicate insertions into the existing rules.
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Definition

1. In this Schedule "the Rules" means the Rules Regulating the Conduct of the Proceedings of the Supreme Court of Appeal of South Africa published under Government Notice No. R. 1523 of 27 November 1998, as amended by Government Notice Nos. R. 979 of 19 November 2010, R. 191 of 11 March 2011, R. 113 of 15 February 2013, R. 1055 of 29 September 2017, R. 1318 of 30 November 2018, R. 842 of 31 May 2019, R. 858 of 7 August 2020, R. 1158 of 30 October 2020 and R. 1602 of 17 December 2021.

Amendment of rule 15 of Rules

2. Rule 15 of the Rules is hereby amended—
- (a) by the substitution of the heading for the following heading:
- "Legal assistance to indigent persons";**
- (b) by the substitution for subrule (1) of the following subrule:
- "(1) (a) Any party who is a natural person, **[and]** who is of the opinion that he or she is indigent, and who does not qualify for legal aid, or who requires to continue as an indigent litigant in an appeal already commenced may request the registrar for leave to prosecute or defend an appeal **[in forma pauperis]** as an indigent litigant, and if it appears to the

registrar that such person is as contemplated by subrule (2), the registrar shall refer such person to an attorney and an advocate.

(b) Where a person applies to continue as an indigent litigant in an appeal already commenced, such person may do so by proceeding in terms of the provisions of this rule but in addition, he or she shall—

(i) set out the alteration in his or her circumstances which renders it necessary to continue to prosecute or defend an appeal as an indigent litigant; and

(ii) give notice of the application to the opposite party.

(c) In the event of the opposite party raising an objection to the granting of such an application, the applicant must apply formally to the court for such leave, after giving proper notice to the other side."

(c) by the substitution for subrule (2) of the following subrule:

"(2) A party shall be deemed to be indigent if **[he or she]** that party can satisfy the registrar that, except for household goods, wearing apparel and tools of trade **[he or she]** such party is not possessed of property to the amount of **[R10 000]** R640 000 and will not be able within a reasonable time to provide such sum from **[his or her]** own earnings or obtain legal aid.";

(d) by the substitution for subrule (3) of the following subrule:

"(3) No such request shall be lodged with the registrar unless the opposite party has been asked and has failed or refused to consent to the applicant proceeding **[in forma pauperis]** as an indigent litigant within one month thereafter."; and

(e) by the substitution for subrule (5) of the following subrule:

"(5) Whenever a party obtains leave to prosecute or defend an appeal **[in forma pauperis]** as an indigent litigant that party shall not be

required to lodge security in terms of these rules for the costs of the opposite party **[or to pay any court fees]** notwithstanding the existence of any order referred to in rule 9(1).".

Amendment of rule 18 of the rules

3. The rules are hereby amended by the substitution for rule 18 of the following rule:

"Attorneys' fees

18. The following fees shall be allowed to attorneys conducting appeals or other matters before the Court:

A – TAKING INSTRUCTIONS

R.c

1. (a) To note an appeal or cross-appeal when leave to appeal is not required per quarter of an hour—
 - (i) by an attorney**[328,00]**357,00
 - (ii) by a candidate attorney**[102,00]**111,00
- (b) To prosecute or defend an appeal, including continuation of a cross-appeal per quarter of an hour—
 - (i) by an attorney**[328,00]**357,00
 - (ii) by a candidate attorney**[102,00]**111,00
- (c) To make or oppose an application per quarter of an hour—
 - (i) by an attorney**[328,00]**357,00
 - (ii) by a candidate attorney**[102,00]**111,00
2. To draft any application or affidavit per page**[131,50]**143,00

B – PREPARATION OF RECORDS

R.c

1. Making, for the purpose of preparing copies of the record on appeal (except where a charge is made under paragraph 5 hereof), a copy of such particulars of the record as were not in the possession of the appellant or his or her attorney at the time when the order appealed from was made, per page.....**[4,50]**5,00
2. Arranging record for printing or typing, excluding unnecessary documents therefrom, and preparing an index and list of documents not included in the record on appeal, per quarter of an hour or part thereof—
 - (i) by an attorney**[328,00]**357,00
 - (ii) by a candidate attorney**[102,00]**111,00
3. Correcting typed copy, per quarter of an hour or part thereof—
 - (i) by an attorney**[328,00]**357,00
 - (ii) by a candidate attorney**[102,00]**111,00

4. Attending at the office of the registrar or officer of the court appealed from to peruse or authenticate the record, per quarter of an hour or part thereof —
 - (i) by an attorney[328,00]357,00
 - (ii) by a candidate attorney.....[102,00]111,00
5. Making typed copies of record on appeal and heads of arguments, per page.....[4,50]5,00

C – PERUSAL

R.c

1. (a) Perusing judgment of court *a quo* when taking instructions for the continuation of an appeal or cross-appeal, where leave to appeal is not required, per page.....[66,50]72,00
 - (b) Perusing record of appeal, for each page.....[6,50]7,50
 - (c) Perusing judgment of court *a quo* by which leave to appeal was denied, when taking instructions to apply for leave to appeal to the Court, per page.....[6,50]7,50
2. Perusing any plan, diagram, photograph or other annexure to the record to which the remuneration hereinbefore set out cannot be applied per page.....[66,50]72,00
3. (a) Attendance on and perusal of any application or affidavit or any other document not elsewhere provided for, per page.....[66,50]72,00
 - (b) Attendance on and perusal of any annexure to an application and answering affidavit, per page.....[6,50]7,50
 - (c) Attendance on and perusal of an application or affidavit composed or corrected by counsel, per page.....[16,00]18,00
4. Attendance on and perusal of heads of argument, excluding annexures for example unreported judgments of court or copies of publications attached as confirmation of heads of arguments, per page[66,50]72,00

D – ATTENDANCE

R.c

1. Any formal attendance on an acknowledgement, receipt, etc..... [66,50]72,00
2. (a) Attendance on any letter or document..... [66,50]72,00
 - (b) Necessary telephone calls made, the actual costs thereof, plus for every five minutes or part thereof —
 - (i) by an attorney.....[109,00] 119,00
 - (ii) by a candidate attorney.....[34,00] 37,00
 - (c) Attendance on telephone calls, the actual costs thereof, plus for every five minutes or part thereof —
 - (i) by an attorney.....[109,00] 119,00
 - (ii) by a candidate attorney.....[34,00] 37,00
3. (a) Attendance at office of registrar to deliver a letter or document, or to uplift an order, etc, per quarter of an hour or part thereof—
 - (i) by an attorney.....[328,00]357,00
 - (ii) by a candidate attorney[102,00]111,00