

CONVEYANCING: SECTIONAL TITLES (ACT 95/1986) GUIDELINE OF FEES

CPI Reference: January 2017

Conveyancing fees are negotiable. These are only guidelines and not minimum or maximum fees.

1. GENERAL NOTES

The fees recommended in this guideline are in respect of and include *inter alia* the general conveyancing duties performed by a conveyancer for procuring the due and proper execution and registration of the relevant deed or document, or the filing thereof or cancellation thereof, as the case may be, as well as the responsibility placed on him for the accuracy of the facts mentioned in deeds or documents or which are relevant in connection with the registration or filing thereof as contemplated in sections 15A and 15B of the Sectional Titles Act, Act 95 of 1986 (“**the Act**”), as amended; for ensuring that copies of any deeds and documents are identical as at the date of lodgement, that all applicable conditions of title, including endorsements are correctly brought forward in any deed of transfer, that any person signing a document as principal or representative has been appointed and is acting in accordance within the powers granted to him and that any security required has been furnished to the Master, that parties to deeds are correctly reflected, that the necessary authority has been obtained for the signing of any document in a representative capacity, that the transaction in question is authorised by and in accordance with the constitution, regulations, or founding statement or trust instrument of a trust, as the case may be, of any church, association, close corporation, society, trust or other body of persons, or any institution (whether created by statute or otherwise) being a party to such document, where applicable, that the relevant particulars in the deed have been correctly brought forward from the power of attorney, and for this purpose shall include the taking and giving of instructions, all correspondence, including the perusal of completed deeds of sale; the preparation and attendance on signature of all powers of attorney, declarations, affidavits, resolutions, status affidavits, company certificates, exchange control certificates, certificates in terms of section 20 of the Alienation of Land Act 68/1981 and other necessary preliminary and ancillary documents as well as attendances in connection with the obtaining, preparation and signature of documents to ensure compliance with the provisions of the Financial Intelligence Center Act and the signature of ancillary documents required by a mortgagee in terms of the National Credit Act; the payment of transfer duty or VAT and of all rates levied by any lawful authority, the obtaining and making of all clearance and other certificates; including attendances or consultation with an outside agent to obtain clearance certificates; the perusal of memoranda and articles of association and trust deeds, the making of all necessary financial arrangements, including the issuing of guarantees on behalf of bondholders or the provision and checking of guarantees and attending payment in terms thereof; the drawing and preparation of any document, including all copies thereof, required for execution or registration at a deeds registry and the obtaining of registration thereof, arranging simultaneous lodgment and registration with

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another conveyancer or other conveyancers, where necessary; the giving of all references required by the deeds registry for examination purposes; and all attendances at the deeds registry, but shall not include

- 1.1 any attendance in connection with the drawing and execution of deeds of sale, deeds of donation, partition agreements, amendments to the rules for bodies corporate, special developers' conditions, deeds of suretyship, acknowledgements of debt and documents of a similar nature;
- 1.2 any separate act of registration of any documents which may be necessary before or in connection with the first mentioned act of registration;
- 1.3 any attendance in connection with the resolution of a dispute between the transferor and the transferee arising from a deed of sale or any of the other documents referred to in 1.1 above or from whatsoever cause;
- 1.4 any attendance arising from negotiations between the parties resulting in a further agreement or addendum or amendment to an existing agreement;
- 1.5 any attendance or consultation, in addition to taking instructions, relating to the opening of a sectional title register in terms of Section 11 of the Act, or extensions of a scheme;
- 1.6 any attendance in connection with the preparation and obtaining of documents relating to collateral security required by a mortgagee;
- 1.7 any attendance on the issue of additional letters of undertaking or guarantees (other than in favour of or for bondholders, the seller or transferring attorney). Suggested fee R640 per undertaking / guarantee;
- 1.8 any attendance on investments in trust in terms of Section 78 (2A) of the Attorneys Act of 1979. Recommended fee R640 per investment, alternatively a fee based on the amount and duration of the investment;
- 1.9 Any attendance or disbursement paid to a computer software supplier for purposes of receiving or drafting instructions electronically;
- 1.10 Any attendance or consultation with an outside agent to attend to municipal refunds and reconciliations on behalf of client. Suggested fee R425. The foregoing fee excludes the fee payable to the outside agent;
- 1.11 Any formal certification to any linked attorney or third party of material facts relating to the transaction but beyond what is required for registration of the transaction itself and which certification a conveyancer may, but is not obliged to furnish (such as certification of the sale price, no conditions or servitudes that adversely affect the value of the property or the security of a mortgage bond, the

disposal not forming a major part of seller's assets, or compliance with specific sections of the Companies Act, Insolvency Act or any other act) and that places the conveyancer at professional risk: A fee of R1070 per certification or a fee assessed according to the perceived risk and/or complexity thereof is recommended, payable by the requesting attorney or party.

NOTE: It is recommended that additional charges and disbursements discussed above in 1.1 to 1.11 be agreed upon in advance with the client.

2. DEFINITIONS

For the purpose of these guidelines

- (a) a folio shall consist of 100 printed or written words or figures, part thereof, and four figures shall be recorded as one word.
- (b) "value of the property" means –
 - (i) where transfer duty is payable, the purchase price of the property or the amount on which transfer duty is payable, whichever amount is the higher;
 - (ii) where no transfer duty is payable in terms of section 9(2) of the Transfer Duty Act, 1949 (Act No 40 of 1949), the purchase price of the property or the declared value of the property as contemplated in the Transfer Duty Act, 1949, whichever amount is the higher;
 - (iii) where no transfer duty is payable in terms of Section 9(15) of the Transfer Duty Act 40 of 1949, the purchase price plus VAT
 - (iv) where no transfer duty is payable in terms of any provision of section 9 of the Transfer Duty Act, 1949, other than section 9(2), but an official valuation by a municipality, other local authority or by the Master of the High Court is available, such valuation or the compensation paid in respect of the acquisition of the property, whichever amount is the higher, provided that where no official valuation is available, it shall be deemed to be the fair value of the property as defined in the Transfer Duty Act, 1949;
 - (v) where no compensation is payable in respect of the acquisition of the property and no official valuation by a municipality, other local authority is available, an amount which shall be deemed to be no less than R150 000,00;
 - (vi) the Municipal or other local authority valuation if available, alternatively the valuation of the unit for insurance purposes where the property has either been sold in execution,

or by public auction at the instance of a liquidator or trustee and the purchase price was less than such valuation.

- (c) "the Act" means the Sectional Title Schemes Act 95/1986, or where the context requires, the Deeds Registries Act 47/1937, as the case may be.

SECTION I

1. APPLICATION FOR THE OPENING OF A SECTIONAL TITLE REGISTER

For the preparing and drawing of an application for the opening of a sectional title register, perusing of sectional plan, drawing of certificates of registered sectional title, correspondence and attendances on all matters referred to in section 11 of the Act, but excluding the drawing of any consent of a bondholder, or searches in any deeds registry or other public office, or attendance upon fulfilling the requirements of section 4 of the Act, or additional consultations required by the developer:

- (a) A basic recommended fee of: R6400 and
- (b) in respect of each section, a recommended fee of: R640; and
- (c) in respect of each certificate of real right in respect of a right of exclusive use as contemplated by Section 27(1), a recommended fee of R640 plus a fee of R220 per additional right of exclusive use contained in the same certificate.

2. APPLICATION FOR THE EXTENSION OF SCHEMES BY ADDITION OF LAND TO COMMON PROPERTY

For the preparing of the required documents as well as the necessary attendances referred to in Sections 7 and 26 of the Act, but excluding the drawing of any consent of a bondholder, or searches in any deeds registry or other public office, or attendance upon fulfilling the requirements of section 4 of the Act, or additional consultations required by the developer:

- (a) A basic recommended fee of R6400; and
- (b) In respect of each section, a recommended fee of: R640.

3. APPLICATION FOR THE EXTENSION OF SCHEMES IN TERMS OF SECTION 25 OF THE ACT

For the preparing and drawing of an application for the opening of an extension of a sectional title register, perusing of sectional plan of extension, drawing of certificates of registered sectional title,

correspondence and attendances on all matters referred to in section 25 of the Act, but excluding the drawing of any consent of a bondholder, or searches in any deeds registry or other public office, or attendance upon fulfilling the requirements of section 4 of the Act, or additional consultations required by the developer, or the fees for issuing the related certificates of real rights as defined in Section XI:

- (a) A basic recommended fee of: R6400; and
- (b) in respect of each section, a recommended fee of: R640; and
- (c) where such application is made in terms of Section 25(6), an additional fee per consent obtained from each owner of: R640.

SECTION II

TRANSFER OF OWNERSHIP

1. For the registration of ownership of a unit or land held under sectional title deed, the recommended fee be the amount set out in column B of the Schedule to the Conventional Guideline (“**the Schedule**”), in respect of the value of the property concerned as indicated in column A of the Schedule. This includes the case of conveyance in terms of the second proviso to Section 16 and in terms of Section 31 and Sections 45 and 45 bis (bonds excluded) of the Deeds Registries Act 47/1937. Provided that in the case of Sections 33, 45 and 45 bis of the Deeds Registries Act 47/1937 the fee will be calculated on 75% of the full value of the whole property.
2. Where more than one unit or section is included in the same instrument of conveyance, the recommended fee as set out in the Schedule shall be increased by 15% for each additional unit or section.

SECTION III

PARTITION, RECTIFICATION AND EXCHANGE TRANSFERS

For the drawing and registration of each deed of partition, rectification or exchange transfer, inclusive of all preliminary and other work in connection therewith, but excluding attendances in connection with the framing of any provisional agreement:

1. Where the value can be determined, the recommended fee be as set out in column B of the Schedule;
2. Where the value cannot be determined, a fee assessed according to the length and complexity thereof is recommended.

SECTION IV

ENDORSEMENTS

1. For endorsement of title deeds or bonds in terms of Sections 24bis(2) and 25(3) of the Deeds Registries Act 47 of 1937 and in terms of Sections 39 and 40 of the Administration of Estates Act 66 of 1965 including the drawing of all necessary documents, the obtaining of all necessary ancillary documents, consents and certificates from the Master and Registrar, and all necessary attendances and correspondence in connection therewith, including the obtaining of registration, a recommended fee of: R2650.
2. If more than one section or bond is included in the same application, an additional fee of R540 is recommended for each section or bond.

SECTION V

SUBDIVISION, CONSOLIDATION AND EXTENSION OF SECTIONS

For drawing and submitting an application for subdivision, consolidation or extension and preparing certificates of registered sectional title, together with supporting documents, for perusing a plan of subdivision, consolidation or of extension, for obtaining registration, for correspondence and attendance on all matters referred to in Sections 22, 23 and 24 of the Act, but excluding the obtaining of the consent of any bondholder:

- a) A basic recommended fee of R3850; and
- b) In respect of each subdivision, consolidation or extension, a recommended fee of: R400.

SECTION VI

APPLICATION FOR SECTIONAL TITLE DEED IN RESPECT OF UNDIVIDED SHARE IN UNIT

For preparing a certificate of registered title in respect of an undivided share (including the application), for correspondence and for attendances on all matters referred to in Section 15B(5) of the Act, a recommended fee of R1700.

SECTION VII

1. REVERSION FROM SECTIONAL TITLE REGISTER TO LAND REGISTER

For attending to all matters referred to in subsections (4), (5) and (6) of Section 17 of the Act:

- (a) A basic recommended fee of: R3850;
- (b) in respect of each section, a recommended fee of: R400.

2. DISPOSAL ON DESTRUCTION OF BUILDINGS

For attending to all matters referred to in Section 49 of the Act:

- (a) A basic recommended fee of: R3850;
- (b) in respect of each section, a recommended fee of: R400.

SECTION VIII

SECTIONAL MORTGAGE BONDS

- 1. For obtaining registration of any sectional mortgage bond or surety bond other than a bond referred to in paragraph 2 of this Section, including the drawing of all necessary documents and the obtaining of necessary ancillary documents, the recommended fee be the amount as set out in column B of the Schedule in respect of the value of the bond concerned as indicated in column A of the Schedule.

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2. The recommended fee for any collateral bond passed as additional security for another bond between the same parties irrespective of where the collateral bond is being registered, be 75% of the recommended fee set out in the Schedule.
3. For any waiver in terms of Regulation 41(7) when included in a bond, an additional fee of R1600 is recommended.
4. If more than one unit is included in a bond referred to in paragraph 1 or 2 of this Section the recommended fee as set out in the Schedule shall be increased by 15% for each additional property.

SECTION IX

CESSION, CANCELLATION OR MODIFICATION OF BONDS

1. (a) For drawing consent to cancellation of bond, consent to cancellation of cession of bond, release of property or a person from a bond, consent to reduction of cover, consent to part payment of capital, framing waiver of preference in regard to the ranking of a bond, waiver of preference in respect of real rights in and, consent of a mortgagee, usufructuary, lessee or holder of any other limited interest required in terms of any provision of the Act or these Regulations and not otherwise provided for in this Guideline (but not being notarial), and attending registration thereof, including instructions and Deeds Office Searches, correspondence, the signing of consents on behalf of the bondholder and all relevant attendances except attendances on the Office of the Master of the High Court, a recommended fee of R2250.
- (b) For attending to all matters referred to in subparagraph (a) of this paragraph in respect of any second or subsequent bond when any relevant document has been drawn by the same conveyancer who drew the corresponding document or documents in connection with the first bond between the same parties over the same property, and such documents are or can be lodged simultaneously as a set, R320 per bond,
- (c) if more than two units are included in any release contemplated in subparagraph (a) or (b) of this paragraph, a further fee of R430 is recommended for each additional unit over and above the first two units.

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2. For drawing cession of bond or an application for endorsement, including instructions and drawing consent of mortgagor where necessary, attendances on mortgagor and mortgagee, correspondence and all relevant attendances including registration, but excluding attendances on the Office of the Master of the High Court, a recommended fee of R2280.
3. For drawing agreement varying the terms of a bond, including instructions, attendance on mortgagor and mortgagee, correspondence and all relevant attendances including registration, a fee of R2280 or assessed according to the length and complexity of the agreement is recommended.
4.
 - (a) For drawing consents to substitution under Section 24bis(3) or 45bis (2) of the Deeds Registries Act, including instructions, all attendances on mortgagee and new debtor, correspondence, and miscellaneous attendances, including registration but excluding attendances on the Office of the Master of High Court: 75% (seventy five percent) of the recommended fees for bonds, specified in the Schedule.
 - (b) For drawing consents to substitution under Section 57 of the Deeds Registries Act, in respect of all bonds relating to the same mortgagee, including instructions, all attendances on mortgagee and new debtor, correspondence and miscellaneous attendances, including registration but excluding attendances on the Office of the Master of the High Court: 75% (seventy five percent) of the recommended fees for bonds, specified in the Schedule.
 - (c) For application and consent under Section 40(5)(a) of the Deeds Registries Act, including instructions and all attendances on both mortgagor and mortgagee, correspondence and miscellaneous attendances including registration: R3200.
5. Where any of the documents referred to in this Section are required to be signed by more than one mortgagee, mortgagor, usufructuary, lessee or holder of other limited interest, an additional fee of R220 is recommended for each such additional person after the first.
6. Where it is necessary to attend on the Office of the Master of the High Court in connection with any matter referred to in paragraph 1(a), 2 or 4 of this Section, the following additional recommended fees be allowed:
 - (a) For obtaining any Master's Certificate per estate for any number of certificates which are or can be applied for simultaneously, a recommended fee of R1280.
 - (b) For obtaining copies of all necessary documents which are or can be included in one application, per estate: R425.

SECTION X

NOTARIAL DEEDS

1. For drawing and registering a notarial waiver of preference by mortgagee, usufructuary or other holder of a limited interest, or other notarial consent required in terms of any provision of the Act or the Regulations: R3200.
2. For the drawing and registering of any notarial sectional lease, servitude, donation or other notarial sectional deed or cancellation thereof (other than those elsewhere specially provided for in this guideline), a fee of R5350 or a fee assessed according to the length or complexity thereof, is recommended. If more than one section is included in the same notarial instrument, the recommended fee as set out in column B of the Schedule shall be increased by 15% for each additional property.

SECTION XI

CERTIFICATES OF REAL RIGHTS

1. Section 12(1)(e): In favour of developer to develop further in terms of section 25(1).
See regulation 14(1), and Form F: R2280.
2. Section 25(6): In favour of body corporate to extend scheme.
See regulation 14(2) and Form F: R2280.
3. Section 12(1)(f): In favour of developer, right of exclusive use in terms of section 27(1).
See regulation 14(3) and Form G: R2280.

Plus R220 for each additional defined area in the same deed.

SECTION XII

CESSIONS (NOTARIAL)

1. Section 27(1)(b) of the Act: Unilateral cession of an exclusive use area by a developer to owner(s) to whom such rights are allocated: R2280 where the cession is registered simultaneously with the transfer of the corresponding unit. Where no simultaneous transfer of a unit takes place: the notary is entitled to charge the usual transfer fee as set out in Column B of the Schedule based on the purchase price or value of the unit. Plus R220 for each additional area in the same deed.
2. Section 27(3) and Section 60(3) of the Act: Bilateral cession by body corporate as representative of owners of all sections: R1600 where the cession is registered simultaneously with the transfer of the corresponding unit. Where no simultaneous transfer of a unit takes place: R2280 plus R220 for each additional defined area in the same deed.
3. Section 27(4) of the Act: Bilateral cession of an exclusive use area: Ad valorem as per the Schedule unless no consideration has been allocated to the exclusive use area, in which case: R2280 plus R220 for each additional defined area in the same deed.
4. Section 27(5) of the Act: Cancellation of right to exclusive use: bilateral notarial deed between owner and body corporate: R2280 plus R220 for each additional defined area in the same deed.
5. For the execution and registration of each cession of a Right to Extend, inclusive of all preliminary and other work in connection therewith, but excluding attendances in connection with the framing of any provisional agreements between the parties and ancillary attendances not directly required to achieve full and proper cession:
 - a. Where the value can be determined, the recommended fee be as set out in column B of the Schedule;
 - b. Where the value cannot be determined, a fee assessed according to the length, complexity and risk thereof is recommended.

SECTION XIII

MISCELLANEOUS

1. For attendance on behalf of transferor or transferee, mortgagor or mortgagee or any other person, for supervising the registration of the transfer or bond or supervising the bond with documents prepared and lodged by another conveyancer, including instructions, correspondence and attendances relevant to the supervision: R1280.

2. (a) For the necessary attendances and searching and inspecting of a Conveyancer's protocol or file or at deeds registry for information, including instructions, correspondence and all relevant attendances, per quarter hour or part thereof, a recommended fee of R220. Reporting, except in the case of research as provided for in subparagraph (b) of this paragraph, a recommended fee of R160 per folio;

(b) For attendance and searching at Deed Registry or the office of the Surveyor General for research and searching for the necessary information in connection with the opening of the register and registration of the sectional plans, including correspondence and all relevant attendances, a recommended fee of R1700 per hour or pro rata per part thereof;

Reporting per folio, a recommended fee of R160.

3. For drawing of any certificate by a conveyancer with regard to any servitude, other real right or condition, where not otherwise provided for in this guideline: an hourly rate or as assessed according to the length, complexity and risk thereof is recommended.

4. For preparing and drawing certificate of establishment of a body corporate under Regulation 16(1) of the Act, lodging the same, including all correspondence and attendances in connection therewith, a recommended fee of R220.

5. For drawing a consent by any owner of a section or holder of any sectional mortgage bond in terms of Sections 24(6) and 25(10) of the Act, including all correspondence and attendances in connection therewith, including lodging, a recommended fee of R1700.

6. For substituting, amending, amplifying or repealing either the management or conduct rules in terms of Section 35 of the Act: a fee of R2280 or as assessed according to the extent and complexity thereof is recommended.

In any case where a fee is not recommended in this guideline in respect of any matter, but a fee has been recommended in respect of the corresponding matter in the recommended guideline of fees prescribed for

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Conventional Deeds (Deeds Registries Act 47/1937), such fee may *mutatis mutandis* apply in respect of the matter in question.