



—JSM—
LEGAL CONSULTING
—★ ★ ★—

LEGAL COST DEPARTMENT



www.jsmlegalconsulting.co.za



Legal Cost Department

Services Offered

- Drafting of bills of cost (party and party, attorney and client, attorney and own client);
- Opposing bills of cost;
- Attending taxation hearings;
- Consulting on cost recovery and litigation strategy; and
- Reviewing and drafting cost and/or fee agreements.





Types of Legal Costs

Party and Party Scale (Default Position)

- Indemnify at a tariff (not full actual cost), governed by Rule 70 (and Rule 69 for advocates), taxed under Uniform Rules of Court;

Rule 67A (Effective April 2024) (Counsel fees)

- Scale A - R1 500.00 per hour and a day fee of R15 000.00 (R375.00 per 15 minutes)
- Scale B - R3 000.00 per hour and a day fee of R30 000.00 (R750.00 per 15 minutes)
- Scale C - R4 500.00 per hour and a day fee of R45 000.00 (R1125.00 per 15 minutes)
- **Notable Case Law - Mashavha v Enaex Africa**

Types of Legal Costs Cont:



Attorney and Client

- These costs are only awarded in exceptional circumstances—such as misconduct, vexatious litigation, or where indemnity is required beyond party and party tariff.
- The costs are more generous than party and party; they allow for recovery of more expenses, including items normally disallowed on party-and-party.



Awarded when:

- Opponent's conduct was vexatious, reckless, or dishonest.
- Agreement between the parties provides for this scale.
- To penalize misconduct.



Types of Legal Costs Cont:

Attorney and Own Client

- The highest scale: the client recovers costs as charged by their own attorney, even if the costs are higher than the tariff.
- The scale/tariff is usually embodied in the fee and/or cost agreement concluded between the attorney and client.
- Rare; usually based on express contractual terms (e.g., a loan agreement) or serious misconduct.



Awarded when:

- To penalise a party and ensure the successful litigant is fully indemnified.

The Taxation Process



Bill of Costs Preparation

- Drafted by the successful party's attorney.
- Itemises work done (consultations, drafting, correspondence, attendances, disbursements).
- Must comply with the tariff of fees (published in the Government Gazette and court practice directives).



Notice of Taxation

- Served on the opposing party (Uniform Rule 70(3)).
- Provides the date, time, and place of taxation before the Taxing Master.



The Taxation Process Cont:

Appearance Before the Taxing Master

- Parties may appear in person or via attorneys.
- The Taxing Master scrutinises the bill to allow, reduce, or disallow items.
- Disputes are raised by way of objections (reasons must be provided).



Allocatur (Certificate of Taxation)

- After taxation, the Taxing Master issues a certificate confirming the allowed amount.
- This certificate can be made an order of court.

The Taxation Process Cont:



Review of Taxation

- If a party is dissatisfied, it may request reasons and take the Taxing Master's ruling on review to a judge (Uniform Rule 48).



The Taxing Attorney (Legal Cost Consultant)

- The Consultancy is led by Mr. J Motseo, an experienced litigator with extensive knowledge of drafting and taxing bills of cost. He possesses the expertise to navigate complex litigation processes and provides strategic advice from the initial instruction stage through to taxation of cost, ensuring that clients are guided towards outcomes that are both efficient and favourable.



JSM Legal Consulting - Advisory & Consultancy



Email: jsmcosts@gmail.com

Cell No: +27 83 335 9149

