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Notaries, Translators and Conveyancers Tariffs Act, 1871

Act 2 of 1871

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Notaries, Translators and Conveyancers Tariffs Act, 1871

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eSwatini

Notaries, Translators and Conveyancers Tariffs Act, 1871

Act 2 of 1871

Commenced on 2 December 1871

[This is the version of this document at 1 December 1998.]

An Act to provide for fees and charges to which notaries public and sworn translators shall be entitled, and to prescribe a tariff of the fees and charges of conveyancers and notaries in connection with the preparation, passing and registration of deeds, bonds or other documents whatever registrable in the Deeds Office for Swaziland, and to provide for the taxation of any such fees or charges.

1. Short title

This Act shall be cited for all purposes as the Notaries, Translators and Conveyancers Tariffs Act, 1871.

2. Fees of notaries public and sworn translators

The fees and charges set out in the First Schedule shall be the fees and charges which notaries public and sworn translators may charge in respect of the services referred to therein.

3. Fees of conveyancers and notaries

The fees and charges of conveyancers and notaries in connection with the preparation, passing and registration of deeds, bonds or other documents whatever registrable in the Deeds Office, and the fees and charges of any other legal practitioners in connection with the preliminary work for the purpose of any such deed, bond or other document and the taxation of any such fees or charges shall be according to the tariff set out in the Second Schedule.

4. Taxation

The Registrar of Deeds shall exercise in case of dispute all the functions of a taxing officer of the High Court in relation to fees charged by conveyancers and notaries for carrying out the acts, matters or things which are required or permitted under the Deeds Act, and any amendments thereof, or any Regulation framed under that Act in connection with deeds, bonds or other documents registered or executed in the Deeds Office, or in relation to fees charged by any other legal practitioner in connection with the preliminary work required for the purpose of any such deed, bond or other document.

First Schedule (2nd December, 1871)**Notaries public**

	E.	c.
Drawing up and making fair copy of bond without security	1	05
Ditto with security	1	50
Drawing up and passing a will for one person	0	70
Ditto for an ordinary mutual will	1	05
Ditto for an extraordinary mutual will (one-third more if done at night)	2	10
Copy of sealed will	0	50
Deed of gift <i>mortis causa</i>	1	50
General power of attorney	2	10
Special power of attorney from 25c to	1	05
General power of attorney for persons abroad from E2.10 to	4	20
Special power of attorney from E1.05 to	2	10
Bills of exchange	0	75
Deed of surrogation and substitution from E1.05 to	4	20
Deed of sealing	0	53

Inventory of estates, first page	1	00
Every following 30 lines of 30 letters to the line	0	15
Contracts of purchase, lease or otherwise, from E2.10 to	4	20
Accounts of estates, protests, assignation, revocations, deed of grant, written declarations and certificates from E2.10 to	10	50
Signature or authorisation of any document, with or without witness, from 10c to	0	50
All other deeds not above mentioned according to the length thereof from E1.05 to (This includes the necessary copies, but does not include the stamps or the costs of attendance or travelling expenses when the deeds are not passed at the office of the notary.)	6	30
For a journey within the town or village	0	50
Ditto outside the town or village per hour, there and back	0	50
Ditto ditto at night double.		
Horse hire, per day of 6 hours	1	50
The accounts of the notaries shall, if so desired, be taxed by the magistrate of the district where they reside.		

Sworn translators

	E.	c.
Translating ordinary acknowledgement of debts	0	25
Translating a letter or other document, of one page of 100 words or less	0	45
Every following page	0	10
Acting as interpreter in any matter, per hour	0	45
Not to exceed per day	1	05
No translation shall be delivered by a sworn translator without a stamp of	0	08

Second Schedule

[Amended P.49/1961]

[For the purpose of this tariff—

- (a) a “folio” shall contain 150 words;
- (b) the word “letter” shall include a telegram but not a letter confirming a telegram.]

Part I – Preliminary work

	(a)	In connection with transfers (other than partition transfers)—		
			E.	c.
1.	(i)	Drawing and attending at execution of deed of sale or other document of disposal (including all necessary copies), per folio or part thereof	2	10
	(ii)	Attendances, interviews, drafting and conditions, taking instructions, in connection with any deed of sale, for each half hour or part thereof	4	20
2.	Drawing power of attorney to pass transfer or cession of land held under concession title (other than partition transfer or cessions), including declarations for transfer duty purposes, and paying transfer duty, when the land is of value:			
	E200.00 and under		3	50
	Over E200.00 and up to E400.00		5	25
	Over E400.00 and up to E1,000.00		7	35
	Over E1,000.00 and up to E4,000.00		9	45
	Over E4,000.00 and up to E10,000.00		10	50
	Thereafter		18	90
	of which two-thirds shall be for the drawing of the power of attorney and one-third for the drawing of the declarations and paying transfer duty.			
	Where more than two properties are being transferred an additional fee for every additional two properties or part thereof		1	05

3.	(a)	Framing new conditions or servitudes or adjusting existing conditions or servitudes, and inserting in power to take transfer or to take out certificate of title, per folio or part thereof			2	10
	(b)	In connection with partition transfers and notarial cessions giving effect to portion of land held under concession title: Framing agreement embodying power or agreement and separate power and declarations for transfer duty purposes, and paying transfer duty when necessary. The fee charged to be according to length and complexity, regard being had especially to the number of persons and properties involved, the nature of complexity of conditions or servitudes inserted, and the number of transfers or notarial cessions to be issued or passed with a minimum of—				
		In the case of erven or lots			10	50
		In the case of other land			14	70
	(c)	In connection with bonds:				
		1.	Attendance on instructions and drawing power, including attendance at execution:			
			(i)	In the case of auxiliary, surety or notarial bonds	7	35
			(ii)	In the case of other bonds, when the amount is —		
				E200.00 or under	4	20
				Over E200.00 and up to E400.00	5	25

				Over E400.00 and up to E1,000.00	7	35
				Over E1,000.00 and up to E4,000.00	9	45
				Over E4,000.00 and up to E10,000.00	10	50
				Thereafter	18	90
				Where more than two properties are to be mortgaged, an additional fee for every additional two properties or part thereof	10	05
		2.	Framing power to insert suretyship or waiver in bond		2	10
		3.	Framing tacit declaration		2	10
	(d)	Other Powers:				
		1.	Framing a full general power		4	20
		2.	Framing a special power, including powers authorising cancellation, cession or release of a bond, per folio or part thereof		2	10

			But not to exceed	6	30
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Part II – Transfers and certificates of registered title

1.	Drawing each transfer, including the necessary copy or copies and attendance on lodgement and execution, when the land is of value:			
			E.	c.
	E400.00 and under		7	35
	Over E400.00 and up to E1,000.00		10	50
	Over E1,000.00 and up to E2,000.00		14	70
	Over E2,000.00 and up to E20,000.00 an additional fee, for every E2,000.00 or part, of		4	20
	Over E20,000.00 and up to E100,000.00, an additional fee, for every E4,000.00 or part, of		4	20
	Over E100,000.00 and up to E200,000.00 and additional fee, for every E10,000.00 or part, of		4	20
	Thereafter an additional fee, for every E20,000.00 or part of		4	20
2.	(a)	Drawing each of the following deeds, including the necessary copies and attendances on lodgment and execution—		
		(i)	Certificate of Registered or Consolidated Title	14 70
		(ii)	partition transfer	16 80
	(b)	If more than one piece of land is included in the same transfer or certificate, an additional fee for each additional property of		2 10

	(c)	Repeating existing conditions or inserting new conditions in a transfer or certificate, per folio or part thereof	1	05
	(d)	Attendance on behalf of transferor or transferee, superintending conveyance from or to him when deed prepared and lodged by another conveyancer when land is of value of—		
		E1,000.00 or under	6	30
		Over E1,000.00 and up to E10,000.00	10	50
		Over E10,000.00	14	70

Part III – Mortgage bonds

(The amount of preference for costs shall not be taken into account in calculating fees.)

1.	Drawing each bond, including the necessary copies and attendances on lodgment and execution—		
	When the amount of the bond is—		
		E.	c.
	E400.00 and under	7	35
	Over E400.00 and up to E1,000.00	10	50
	Over E1,000.00 and up to E2,000.00	14	70
	Over E2,000.00 and up to E20,000.00, an additional for every E2,000.00 or part, of	4	20
	Over E20,000.00 and up to E100,000.00, an additional fee, for every E4,000.00 or part, of	4	20
	Over E100,000.00 and up to E200,000.00, an additional fee, for every E10,000.00 or part, of	4	20
	Thereafter an additional fee, for every E20,000.00 or part, of	4	20
	Where more than two properties are mortgaged, an additional fee for every additional two properties or part thereof	1	05
2.	Any act of suretyship where immovable property is hypothecated, or waiver when included in a bond, an additional fee for such suretyship or waiver, of	4	20
3.	Attendance on behalf of mortgagor or mortgagee superintending bond where same is prepared and lodged by another conveyancer: Where the amount of the bond—		

(a)	does not exceed E1,000.00	4	20
(b)	exceeds E1,000.00 but does not exceed E6,000.00	7	35
(c)	exceeds E6,000.00	10	50

Part IV – Notarial bonds

(The amount of preference for costs shall not be taken into account in calculating the fees.)

1.	Drawing bond, including minute, signed original for record and another signed original, grosse or notarially certified copy and attendance on execution and attestation when the amount of the bond is—		
		E.	c.
	E1,000.00 and under	17	85
	Over E1,000.00 and up to E2,000.00	21	00
	Over E2,000.00 and up to E20,000.00, an additional fee, for every E2,000.00 or part, of	4	20
	Over E20,000.00 and up to E100,000.00, an additional fee, for every E4,000.00 or part, of	4	20
	Over E100,000.00 and up to E200,000.00, an additional fee, for every E10,000.00 or part, of	4	20
	Over E200,000.00, an additional fee, for every E20,000.00 or part, of	4	20
2.	Any act of suretyship included in a notarial bond, an additional fee for such suretyship of	4	20
3.	Attendance registering such bond at Deeds Office	4	20
	If bond received from another centre is	2	10

	rejected for amendment or other valid reason necessitating searches, investigations, attendances or correspondence, or if such services are necessarily rendered prior to lodgment, additional fees as prescribed under “Miscellaneous” and “Work not specified”, with a minimum of	
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Part V – Auxiliary or surety bonds

(The amount of preference for costs shall not be taken into account in calculating the fees.)

		E.	c.
1.	Taking instructions in cases where a power of attorney to pass bond is not drawn	6	30
2.	Drawing bond, including minute, signed original for record and another signed original, grosse or notarially certified copy and attendances on execution and attestation when the amount of the bond is—		
	E1,000,00 or under	16	80
	Over E1,000.00 and up to E4,000.00	21	00
	Over E4,000.00 and up to E10,000.00	25	20
	Over E10,000.00 and up to E20,000.00	29	40
	Over E20,000.00, for every E10,000.00 or part thereof, an additional fee of	4	20
3.	Any act of suretyship included in notarial bond, an additional fee of	4	20
4.	Attendance registering such bonds at Deeds Office	4	20

5.	Framing and registration of collateral mortgage bond	10	50
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Part VI – Marriage contracts

		E.	c.
1.	Drawing contract, including minute, signed original for record and another signed original, grosse or notarially certified copy, attendances on execution and attestation when no settlement is made or trust or testamentary disposition is embodied	5	25
2.	If contract contains a settlement trust of testamentary dispositions, an additional fee for minute and all copies, per folio or part thereof of	2	10
3.	Framing and issuing notarially certified copy of a contract executed outside Swaziland for registration in the Deeds Office, or of any contract for filing in the Deeds Office, per folio or part thereof	1	05
4.	Attendances registering contracts under paragraphs 1, 2 and 3 above	4	20

Part VII – Other notarial deeds

		E.	c.
1.	Framing any notarial waiver of preference by mortgagee, usufructuary, or other holder of limited interest, or other notarial consent, including minute, signed original for record and another signed original or grosse or a notarially certified copy	10	50
2.	Framing any notarial servitude, prospecting contract, lease or cession of rights to minerals, donation or other notarial deed (other than those provided for above and in 3 below), including minute, signed original (when necessary), grosse or a notarially certified copy for record, and another signed original, grosse or notarially certified copy, according to the length and complexity thereof, with a minimum of	14	70
3.	Framing notarial cession of concession title, including minute, signed original or grosse for record and another signed original or grosse or a notarially certified copy and attendance on execution and attestation when the land held under the concession title is of value—		

	E400,000 or under	10	50
	Over E400.00 and up to E1,000.00	14	70
	Over E1,000.00 and up to E2,000.00	18	90
	Over E2,000.00 and up to E4,000.00	21	00
	Over E4,000.00 and up to E20,000.00, an additional fee, for every E2,000.00 or part, of	4	20
	Over E20,000.00 and up to E100,000.00, an additional fee, for every E4,000.00 or part, of	4	20
	Over E100,000.00 and up to E200,000.00, an additional fee, for every E10,000.00 or part, of	4	20
	Over E200,000.00, an additional fee, for every E20,000.00 or part, of	4	20
4.	Framing notarial deed of cession to give effect to the partition of land held under concession title, including minute, signed original or grosse for record and another signed original, grosse or notarially certified copy and attendances on execution and attestation	18	90
5.	Framing notarial cession of any notarial deed mentioned in 2, including minute and two signed originals,	1	05

	grosses or notarially certified copies, per folio		
	With minimum of	7	35
6.	Preparing and issuing each further signed original, grosse or notarially certified copy of any document referred to in paragraph 1, 2, 3, 4 or 5 or of any other notarial deed or other document in original type, per folio	1	05
	Each additional carbon copy duly attested	2	10
	Note.— Original type allowed for first and every fourth copy.		
7.	Attendance registering any deed under paragraph 1, 2, 3, 4 or 5 above	4	20
	If deed received from another centre is rejected for amendment or other valid reason necessitating searches, investigations, attendances or correspondence, or if such services are necessarily rendered prior to lodgment, additional fees as prescribed under “Miscellaneous” and “work not Specified”, with a minimum of	2	10

Part VIII – Cession, reduction of capital, release, cancellation, etc. of bonds

		E.	c.
1.	Drawing cession, consent to cancellation of cession, or consent to cancellation of bond, reduction of capital or releases of property under bonds and attendance on Registrar of Deeds to acknowledge signature	3	15
2.	Attendance at Deeds Office registering each of the above mentioned	4	20
	If documents received from another centre are rejected for amendment or other valid reason necessitating searches, investigations, attendances or correspondence, or if such services are necessarily rendered prior to lodgment, additional fees as prescribed under “Miscellaneous” and “Work not specified”, with a minimum of	2	10

Part IX – Underhand waivers, consents of mortgagees, usufructuaries, lessees, etc.

		E.	c.
1.	Framing waiver of preference in regard to the ranking of a bond	3	15
2.	Framing consent of mortgagee under section 22 of the Deeds Office Act, 1902, or any other consent of a like nature of mortgagee, usufructuary, lessee or holder of a limited interest (not notarial)	4	20
3.	Attendance registering each of the documents mentioned in 1 or 2 above	4	20
	If documents received from another centre are rejected for amendment or other valid reason necessitating searches, investigations, attendances or correspondence, or if such services are necessarily rendered prior to lodgment, additional fees as prescribed under “Miscellaneous” and “Work not specified” with a minimum of	1	05

Part X – Miscellaneous

		E.	c.
1.	Forwarding documents for registration to conveyancer practising at registration centre and instructing fully	2	10
2.	Attendances on other conveyancers arranging simultaneous lodging and registration per conveyancer	2	10
	The above-mentioned fee includes arranging re-lodging.		
3.	Applying for clearance certificate(s), obtaining account, apportioning of rates, paying of account and attending receipt of certificate:		
	In respect of 1 property	4	20
	In respect of 2 to 10 properties	6	30
	Thereafter	10	50
4.	Attendances at Deeds Office lodging any deed or document not otherwise provided for in this tariff for endorsement or registration, per deed or document registered or endorsed	4	20
5.	Attendances, exclusive of searches, obtaining copies of documents not otherwise provided for, for filing in the Deeds Office, per document	2	10
6.	(a) Searches in any public office to obtain necessary information, per ¼ hour or part	2	10

		Reporting where necessary, per folio or part	0	50
	(b)	All attendances, searches and certificates to comply with Regulation 8A(3) of the Regulations made under the Deeds Office Act, 1902, or any other reference required by the Registrar of Deeds, per party	2	10
7.	Attendances at any public office other than the Deeds Office obtaining any necessary endorsement, consent or certificate not otherwise provided for, per endorsement, consent or certificate		2	10
8.	Attendance at Deeds Office for obtaining any certificate not otherwise provided for		2	10
9.	Drawing resolution, application, affidavit, declaration, certificate, separate act of suretyship or other document not otherwise provided for, per folio or part		2	10
10.	Framing notices to apply for issue of a certified copy of deed and all attendances on publication thereof		6	30
11.	Attendances obtaining certified copy of any deed from Deeds Office and filing of necessary documents, per deed		4	20
12.	Furnishing necessary proof to the Master of any act of registration, per folio or part thereof		2	10
13.	Making copies of deeds or documents, per folio or part thereof in original type		1	05
	Each carbon copy duly attested		2	10

14.	(a)	Arranging issue of each guarantee or letter of undertaking involving no entries in the books of account of the conveyancer	3	15
	(b)	Arranging issue of each guarantee or letter of undertaking involving entries in the books of account of the conveyancer	6	30
	(c)	Attending receipt of guarantee perusing same and obtaining payment in terms of such guarantee, per guarantee	4	20
	(d)	Attending to arrange for issue of all necessary guarantees relating to a transaction chargeable by a conveyancer not entitled to any fees under (a), (b) and (c) above	4	20
	(e)	Certifying for payment a guarantee issued from another centre	2	10
15.	Obtaining prior bondholder's consent to registration of a further bond, obtaining title deed and including incorporation in further bond of conditions imposed by prior bondholder		6	30
16.	Drawing cession of any policy of insurance in connection with preparation		2	10

	of registration of a deed and attendances on registration thereof at proper office			
17.	Perusing a will, liquidation account, death notice, letters or certificate of appointment or a deed of sale or other document of disposal of property not prepared by the attorney, notary public or conveyancer preparing a power of attorney to pass transfer, per folio or part thereof		1	05
18.	(a)	Drawing declarations for transfer duty in respect of a cancellation of a disposal of property	4	20
	(b)	Attendances on assessment and payment of transfer duty and uplifting transfer duty receipt in cases of the cancellation of a disposal of property	4	20
19.	Attending taxation: 5 per cent on fees allowed provided that not more than 40 per cent of the bill submitted for taxation is taxed off.			

Part XI – Diagrams and general plans

		E.	c.
1.	Attendance on instructions re subdivision and to submit paper to surveyor for framing of subdivisional or other diagrams for any purpose required under the Deeds Office Act, 1902, or Regulations, and instructing surveyor accordingly, per half hour	2	10
2.	Attendance submitting diagrams to Surveyor-General for approval	2	10
	When two or more diagrams so submitted are to be deducted from the same original and are submitted simultaneously, the fee for each diagram after the first is	1	05
3.	Attendance on Government or local authority to obtain approval, in terms of any law, of subdivisional diagrams	4	20
4.	Attendance in obtaining certified copy of any diagram, including application	4	20

Part XII – Work not specified

All fees or charges specified in the above tariff shall, save as is otherwise provided, cover the specific services set opposite each item only, but shall include the ordinary and usual correspondence and attendances of whatever nature in connection therewith. Special and extraordinary attendances, correspondence or services may be allowed at the discretion of the Registrar, and if so allowed the following scale shall apply—

	E.	c.
Any attendance, per half hour	2	10
Any letter, per folio or part thereof	1	05
Drawing of any document, per folio or part thereof	2	10
Copies of documents, per folio or part thereof	1	05

Part XIII

Where in this tariff provision is made for one fee for drawing, lodging and executing or registering any deed of transfer, certificate of registered or other title to land, minerals or other real rights or mortgage bond, and such deed is drawn by one conveyancer and is lodged and executed or registered by another conveyancer, one-fourth of the fee prescribed therefor shall be the separate fee of the latter: Provided that if such deed is rejected—

1.	On the ground that it requires amendment, the latter conveyancer shall be entitled to charge an additional fee, for attendances, searches or correspondence thereby occasioned, of—		
		E.	c.
	from	2	10
	to	4	20
2.	On other grounds necessitating investigations, drawing or copying of documents, attendances, or correspondence, the latter conveyancer shall be entitled to charge such additional fees as prescribed under “Miscellaneous” or “Work not specified” or other relative section of this tariff, in respect of any such services rendered by him in complying with the Registrar’s requirements or at the request of the first-mentioned conveyancer. The said apportionment of any fees prescribed for the Swaziland execution of notarial deeds or bonds shall also apply if any such deed or bond is drawn by one notary and is executed before another and such apportionment shall be separate fees of the respective notaries.		

Part XIV – Triplicate copies

	E.	c.
For every triplicate copy of a deed filed in the Deeds Office in terms of Regulation 2 of the Deeds Office Regulations	2	10