



# LEGAL AID BOARD

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JUSTICE FOR ALL

Our Ref: (P.J. Brits)  
Your Ref.:

19 July 2002

## FOR ACTION

Principals at Justice Centres and Legal Aid officers at magistrates' courts.

## FOR INFORMATION

The Chief Justice, Judges President, The National Director of Public Prosecutions, Registrars, Directors of Public Prosecution and Bars of the Cape of Good Hope Provincial Division, Eastern Cape Division, South Eastern Cape Local Division, Northern Cape Division, Free State Provincial Division, Kwa-Zulu Natal Provincial Division, Durban and Coast Local Division, Transvaal Provincial Division, Witwatersrand Local Division; Bophuthatswana Division, Ciskei Division, Transkei Division and Venda Division, General Council of the Bar of South Africa, the Law Society of South Africa, the Law Societies of the Cape of Good Hope, Kwa-Zulu Natal, Free State and Northern Provinces, National Association of Democratic Lawyers, Black Lawyers' Association, Association of Independent Advocates of South Africa, Criminal Law Bar of South Africa, The Magistrates' Commission, Department of Justice, Department of Land Affairs, Department of Arts and Culture, the Editor of De Rebus and the Editor of Advocate.

Dear Sir/Madam

## CIRCULAR NO. 4 OF 2002

Annexure E.3 of the 2002 Legal Aid Guide are hereby amended with effect from 1 September 2002 by the substitution therefore of the annexure hereto.

Yours faithfully

A B ALLY  
CHIEF EXECUTIVE OFFICER

## ANNEXURE E.3

### TARIFFS IN RESPECT OF CRIMINAL TRIALS

1. For appearing before any court when a postponement is granted at the request of the State, a fee of R100,00 excluding VAT shall be allowed.
2. For appearing before court and any other professional services incidental thereto on any trial day a legal practitioner shall be entitled to the following fees:

District Magistrates' Court	R650,00 excluding VAT.
Regional Magistrates' Court	R770,00 excluding VAT.
High Court	R870,00 excluding VAT.
3. In the event of the duration of a trial day not amounting in aggregate to 4 hours the trial day fee set out above shall be reduced pro rata provided that in respect of any trial day a minimum of R100,00 excluding VAT shall be allowed.
4. No additional fees will be permitted in respect of any trial day lasting in excess of four hours or in respect of any preparation, consultation, waiting time, perusal or any other attendance whatsoever. The fees set out in paragraph 2 above are all inclusive fees and save as set out below, no additional fees will be permitted. No additional fees will be permitted in respect of a legal practitioner who represents more than one accused.
5. Only in very exceptional circumstances will any increased fees be permitted. In the event of increased fees being authorised, such shall not exceed R2160,00 per trial day excluding VAT. In considering whether or not to grant increased fees, the CEO of the Board shall take no account *per se* of the number of charges faced by the accused or the number of accused in the matter. In highly rare and very exceptional circumstances, the CEO of the Board may authorise the instruction of a second legal practitioner to assist the legal practitioner who appears at the trial at 60% of the fees allowed to the first legal practitioner. In no circumstances will a third legal practitioner be permitted in respect of any accused or group of co-accused who are represented by a single legal team.
6. In matters that were part heard as at 1 November 1999 and in which increased fees had been allowed prior to 1 November 1999 the CEO shall enjoy a discretion, to be exercised after consideration of written representations, to permit the matter to continue at the increased fees authorised prior to 1 November 1999 where it would be in the interest of the administration of justice and of the Board to do so.

7. A legal practitioner submitting an account to the Legal Aid Board may be required to attach to such account a certificate by the presiding judicial officer or his/her registrar (if any) verifying the appearances and times set out in the legal practitioner's account. The said certificate is currently required in respect of all criminal trials in the High Court but is not currently required in respect of criminal trials in the magistrates' courts.
8. It shall be the responsibility of the legal practitioner upon submitting his/her account to ensure that the Board is placed in possession of all documentation that will enable it to pay the legal practitioner's account. Provided this requirement is fully and properly complied with, the Legal Aid Board will attempt in respect of High Court Criminal trials to dispatch a cheque in payment of the said account within 30 days of receipt thereof or, in the event of electronic bank transfers being implemented by the Board, to instruct its bankers to effect payment.
9. A legal practitioner shall be remunerated for bail and other interlocutory applications at the rates set out in paragraphs 1,2 and 3 above as if such bail or interlocutory application formed part of the trial of the accused, subject to the following provisions:
  - 9.1 Not more than one bail application shall be conducted on a legal aid basis under any one case number without the prior written consent of the CEO, which should only be granted in response to a detailed motivation in writing in respect of any second or subsequent bail application;
  - 9.2 Upon accounting to the Board the legal practitioner shall indicate that a bail application was launched and shall report on the result of such bail application.
  - 9.3 If an accused on legal aid is granted bail in excess of R 2000,00 and if such bail is paid, whether by the accused or any other person, the legal practitioner acting on behalf of the accused shall forthwith report such fact in writing to the CEO. The CEO shall give directions as to whether the matter is to be:
    - 9.3.1 Continued on legal aid; or
    - 9.3.2 Referred back to the legal aid officer for reconsideration of whether the accused qualifies for legal aid; or
    - 9.3.3 No longer conducted on a legal aid basis.
  - 9.4 Bail appeals, like other appeals, will be dealt with by way of separate legal aid instructions and subject to the tariffs set out in Annexure E.2 to this Guide.

10. After the case has been finalised the legal practitioner must report to the Chief Executive Officer in writing setting out the following information:
  - 10.1 The case number.
  - 10.2 The court where the matter was heard.
  - 10.3 The outcome of the matter.
  - 10.4 The duration of the hearing.
  - 10.5 Any other material information.
  
11. After the case has been finalised and whenever a legal practitioner accounts to the Board in respect of a criminal trial the account shall be submitted in the format set out and with all the requested information and certification provided for in Annexure K.
  
12. A legal practitioner who is appointed on a legal aid basis to represent an accused at a criminal trial after the accused has pleaded and after evidence has been led and if such legal practitioner was not present when such evidence was led; shall be entitled to apply to the trial court for the provision to such legal practitioner at the expense of the Department of Justice of a copy of a transcript of the evidence led in his/her absence and, if such application is granted, to peruse such transcript. The following fees exclusive of VAT will be allowable in the above mentioned circumstances:
 

12.1 Application for a transcript of the evidence	R40,00
12.2 Perusal of the record	50c per page