

22 March 2017

FOR ACTION

Legal Aid SA: Regional Operations Executives
Justice Centre Executives
High Court Unit Managers
Other Legal Aid SA staff

Other: Accredited Judicare Legal Practitioners
Agent Legal Aid Officers at Magistrates' Courts

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Johannesburg 2017
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FOR INFORMATION

See Annexure "A"

Dear Sir/Madam

CIRCULAR NUMBER 1 of 2017

AMENDMENTS TO THE 2014 LEGAL AID GUIDE

Notice is hereby given that the Board of Legal Aid South Africa has approved the following amendments to the 2014 Legal Aid Guide (13th edition). The amendments set out below will come into effect from 1 April 2017. The underlining of words indicates the insertion of new text.

1. CHAPTER 8

8.5 Tariffs payable to Judicare practitioners

PARAGRAPH 8.5.4 PAGE 131

8.5.4 Procedure on claiming fees on travel, subsistence and accommodation

1.1 Judicare practitioners are required to provide proof of address of the main office from where they practice.

- 1.2 Such information may be required upon registration or by submission of an affidavit confirming the address from which the practitioner is practising.
- 1.3 Legal Aid SA will, in turn, calculate and provide an automated distance from each office of the Judicare practitioner, to any Court under which the practitioner is registered.
- 1.4 Claims for travel, subsistence and accommodation will be paid as follows:
- a. Legal Aid SA will reimburse Judicare practitioners for the cost of travelling from their office to court, to a maximum of 150km per return trip. No reimbursement for travel will be paid for the first 30km of any travel claim. Therefore the maximum km that Legal Aid SA will pay for travel per return trip will be 120km.
 - b. Our computer system will be designed to give preference to Judicare practitioners in accordance to the following preferences:
 - o Preference 1 – Total travel between 0km and 50km;
 - o Preference 2 – Total travel between 51km and 100km;
 - o Preference 3 – Total travel between 101km and 150km;
 - o Preference 4 – Total travel greater than 150 km.
 - c. Where there is no Judicare practitioner registered in that area or where such registered practitioner is not available, a practitioner registered outside such area, but accredited to service such area, may be used provided prior approval is sought from the ROE.
 - d. Where the court day proceeds continuously beyond 1 day, and the distance that the Judicare practitioner will travel is greater than 130km single trip, then Legal Aid SA will provide an accommodation allowance in terms of its policy.
 - e. In HC matters, the practitioner will be entitled to claim an accommodation allowance on the day before the start of the trial where the travelling distance is greater than 130km single trip. In all other courts, accommodation before the date of the trial will be paid only if authorised by the JCE.

- f. Legal Aid SA will pay a subsistence allowance for each day that the practitioner is entitled to an accommodation allowance.
- g. Legal Aid SA will pay a Judicare practitioner for travel to a prison in respect of one consultation with his/her client on the same terms outlined in (a) above. Travel for any further consultations at prisons with the same client must be authorised in writing by the JCE prior to the consultation, such authorisation must accompany any claim for payment.

1.5 For purposes of clarification, Legal Aid SA will only pay for disbursements relating to travel, accommodation and subsistence once per day. Judicare practitioners may not be paid these disbursements in each and every matter that they attend to at the same court on any one day. Judicare practitioners are required to keep proper notes and ensure that they do not duplicate these claims for any one day for different matters.

2. TARIFF OF FEES AND DISBURSEMENTS

Annexure E and F to the 2014 Legal Aid Guide, as amended by Circular 2 of 2014 on 1 April 2014, Circular 2 of 2015 on 1 April 2015 and Circular 1 of 2016 on 1 June 2016, are replaced by Annexures E and F hereto with effect from 1 April 2017. The permitted fees and disbursements set out in these annexures have been increased by an average of 5% with the permitted fee/disbursement being rounded to the nearest Rand.

The various tariffs of fees and disbursements that are applicable for work done prior to 1 April 2017 are listed on the Legal Aid SA website (www.legal-aid.co.za).



Ms Vidhu Vedalankar
Chief Executive Officer
Legal Aid South Africa

ANNEXURE “A”

FOR INFORMATION

Judiciary: The Chief Justice
The President of the Supreme Court of Appeal
Judges President: South Gauteng High Court
North Gauteng High Court
North West High Court
Limpopo High Court
Free State High Court
Northern Cape High Court
Western Cape High Court
Eastern Cape High Court, Grahamstown
Eastern Cape High Court, Port Elizabeth
Eastern Cape High Court, Mthatha
Eastern Cape High Court, Bhisho
KwaZulu-Natal High Court, Pietermaritzburg
KwaZulu-Natal High Court, Durban
Land Claims Court
Labour Appeal Court
Labour Court
The Magistrates Commission

Legal Practitioners: The Law Society of the Northern Provinces
The Law Society of the Cape
The Law Society of the Free State
The Law Society of KwaZulu-Natal
The Law Society of South Africa
National Association of Democratic Lawyers
Black Lawyers Association
General Council of the Bar of South Africa
Cape Bar Council
Eastern Cape Society of Advocates (Grahamstown)
Eastern Cape Society of Advocates (Port Elizabeth)
Northern Cape Society of Advocates
Society of Advocates of the Free State
Society of Advocates of Natal (Pietermaritzburg)
Society of Advocates of Natal (Durban)
Society of Advocates of Mpumalanga
Pretoria Society of Advocates
Society of Advocates of SA (Witwatersrand Division)
North-West Bar Association

Bisho Society of Advocates (Bisho City)
Bisho Society of Advocates (East London)
The Society of Advocates of Transkei
Thohoyandou Bar Council
National Forum of Advocates
Church Square Association of Advocates
Consilium Group of Advocates
National Bar Council of South Africa
Gauteng Society of Advocates
North Gauteng Society of Advocates

Prosecution: The National Director of Public Prosecutions

Director of Public Prosecutions: South Gauteng
North Gauteng
North West
Limpopo
Free State
Northern Cape
Western Cape
Eastern Cape, Grahamstown
Eastern Cape, Port Elizabeth
Eastern Cape, Mthatha
Eastern Cape, Bisho
KwaZulu-Natal,
Pietermaritzburg
KwaZulu-Natal, Durban

Dept of Justice & Constitutional Development: Director-General

Registrar: Constitutional Court
Supreme Court of Appeal
South Gauteng High Court
North Gauteng High Court
North West High Court
Limpopo High Court
Free State High Court
Northern Cape High Court
Western Cape High Court
Eastern Cape HC,
Grahamstown
Eastern Cape HC, Port
Elizabeth
Eastern Cape HC, Mthatha
Eastern Cape HC, Bisho

Your voice. For justice.

KwaZulu-Natal HC, P'mburg
KwaZulu-Natal HC, Durban
Land Claims Court
Labour Appeal Court
Labour Court

Media: De Rebus
Advocate

Other: Human Rights Commission
Judicial Inspectorate of Prisons
Public Protector
Commission on Gender Equality

Your voice. For justice.

Annexure E

TARIFF OF FEES AND DISBURSEMENTS IN CRIMINAL MATTERS - 2017

The fees and disbursements contained in this Annexure come into effect from 1 April 2017 for work done on or after 1 April 2017. The various tariffs of fees and disbursements that are applicable for work done prior to 1 April 2017 are available on the Legal Aid SA website (www.legal-aid.co.za).

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
1.	Criminal trials – Appearance ¹				
1.1(a)	For appearing before any court when a postponement is granted at the request of the State.	R223.00 Per postponement	R223.00 Per postponement	R223.00 Per postponement	Not applicable (NA)
1.1(b)	A telephone attendance to postpone a matter but this is not allowed for a practitioner's first appearance for client. This is only permitted where client is not in custody and the matter has not been set down for trial.	R80.00	R80.00	R80.00	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
1.1(c)	<p>For appearing before the High Court (HC) where a matter has been set down for trial on a running roll and the matter is postponed at the request of the State to a date beyond the dates covered by the running roll on which the matter was initially set down (will only be paid once per matter and will not be paid in addition to a trial day fee).</p> <p>Where the matter is postponed to a date within the running roll period, then the postponement fee as per clause 1.1(a) will be payable, but only if the trial day fee or any portion of the trial day fee is not claimed.</p>	NA	NA	R2 688.00	NA
1.2	<p>For appearing before court and any other incidental professional services (excluding permitted preparation on any trial day). This includes appearing before a judicial officer in pre-trial conferences, identity parades and inspections conducted by the Court.</p>	R1 441.00 Per trial day	R1 715.00 Per trial day	R2 688.00 Per trial day	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
1.3(a)	If the duration of a trial day does not total in aggregate to 4 hours, the trial day fee set out above shall be reduced pro rata. The minimum fee permitted in respect of any trial day shall be:	R223.00 Per day	R223.00 Per day	R223.00 Per day	NA
1.3(b)	If a matter is finalised by means of a formal withdrawal (which must be in writing as opposed to matters which are merely struck off the roll), guilty plea, diversion or plea bargain, a finalisation fee, inclusive of all necessary consultations and preparations will be paid, irrespective of when such consultations or preparation took place. No additional preparation fees will be paid in respect of the trial. This will not preclude claims for postponements and court appearances before or after the date in respect of which the finalisation fee is claimed (e.g. for sentencing).	R1 441.00	R1 715.00	R2 688.00	NA
2	Preparation fees ²				
2.1	Practitioners may claim preparation and consultation	R201.00 Per hour	R282.00 Per hour	R356.00 Per hour	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	<p>fees from the date of instruction by Legal Aid South Africa.</p> <p>Preparation before the start of the trial is required (e.g. in the High Court up to 8 hours preparation should routinely be done prior to the date of the commencement of the trial).</p> <p>Necessary travelling and accommodation disbursements (as per Paragraph 7 below) outside of the magisterial district in which the practitioner practises will be paid if required to execute such preparation.</p> <p>In all matters actual preparation and necessary consultations prior to and during the trial shall be allowed and remunerated as follows:</p> <p>DC – Not more than 2 hours for the first accused and additional preparation and consultation time of not more than 1 hour per co-accused represented subject to a maximum of 8 hours per District Court matter.</p>				

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	<p>RC – Not more than 4 hours for the first accused and additional preparation and consultation time of not more than 2 hours per co-accused represented subject to a maximum of 16 hours per Regional Court matter.</p> <p>HC – A minimum of 8 hours for the first accused for the first week of trial or part thereof, and then an additional 8 hours per week or part thereof for the remaining period of the trial. Where the practitioner represents additional co-accused, then additional actual preparation and consultation time of not more than 4 hours per co-accused represented subject to a maximum of 32 hours per week will be allowed.</p>				
2.2	In respect of trials where a practitioner for valid reasons requires additional preparation and consultation time beyond what is allowed in 2.1 above, a written motivation for increased preparation and consultation time must be submitted to the	R201.00 Per hour	R282.00 Per hour	R356.00 Per hour	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	ROE/NOE.				
3.	Increased trial day fees ³				
3.1	Only in very exceptional circumstances will any increased fees be permitted. If increased trial day fees are authorised by the ROE/NOE, these shall not exceed:	NA	R3 728.00 Per trial day	R4 695.00 Per trial day	NA
3.2	In very exceptional circumstances, the NOE may authorise the instruction of a second legal practitioner to assist the legal practitioner who appears at the trial at not more than 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.	NA	R 2 234.00 Per trial day (Maximum)	R2 815.00 Per trial day (Maximum)	NA
4.	Bail applications and interlocutory applications ⁴				
4.1	A legal practitioner shall be remunerated for bail and other	R1 441.00 Per trial day	R1 715.00 Per trial day	R2 688.00 Per trial day	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	interlocutory applications not otherwise provided for at the rates set out herein as if such bail or interlocutory application formed part of the trial of the accused.				
5.	Criminal trials – General ⁵				
5.1	Application for a transcript of the evidence.	R164.00 Per application	R 164.00 Per application	R 164.00 Per application	NA
5.2(a)	Necessary perusal of a docket.	R4.00 Per page	R4.00 Per page	R4.00 Per page	NA
(b)	Necessary perusal of a record.	R4.00 Per page	R4.00 Per page	R4.00 Per page	
5.3	Preparation of heads of argument at the request of the court. Proof of the court's request must accompany the account. A folio consists of 100 words.	NA	R19.95 Per folio	R28.35 Per folio	NA
6.	Criminal appeals ⁶				
6.1	Written report on the merits of a matter when required by Justice Centre.	R444.00 Per report	R444.00 Per report	R444.00 Per report	R 444.00 Per report

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
6.1(a)	For appearing before any trial court when a postponement is granted at the request of the State or at the instance of the presiding Judicial Officer before hearing an application for leave to appeal:	R223.00 Per postponement	R223.00 Per postponement	R223.00 Per postponement	NA
6.2	Application to the court a quo for leave to appeal (where done by a practitioner who appeared at trial).	R487.00 Per application	R649.00 Per application	R 780.00 Per application	NA
6.3	Drafting petition for leave to appeal to the HC or application to the SCA including all typing and attendances relevant thereto.	NA	NA	R1 128.00 Per petition	R1 694.00 Per application
6.4	Drafting of documents not otherwise provided for, including all typing and relevant attendances.	NA	NA	R36.00 Per page Up to a max of R704.00	R54.00 Per page Up to a max of R936.00
6.5	Application for a copy of a record under Rule 66(9) of the Magistrate's Court, Rule 49A of the Uniform Rules, Rule 52 of Uniform Rules including all	R223.00 Per application	R223.00 Per application	R223.00 Per application	R223.00 Per application

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	typing and attendances relevant thereto.				
6.6	Necessary perusal of any record for purposes of application for leave to appeal, provided the legal practitioner attending to the application for leave to appeal is not the legal practitioner who represented the accused on trial <i>or</i> where the client indicated that she/he did not require leave to appeal but subsequently requested an application for leave to appeal and a period of longer than three months has expired since sentence.	R4.00 Per page	R4.00 Per page	R4.00 Per page	NA
6.7	Heads of argument including perusal of record to prepare heads of argument, all typing and relevant attendances.	NA	NA	R2 339.00 Per set of Heads	R2 339.00 Per set of Heads
6.8	On appearing before the trial court to argue application for leave to appeal including the final report to Legal Aid SA and the report back to the legal aid	R1 054.00	R1 379.00	R1 559.00	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	applicant (where done by practitioner other than the practitioner who appeared at the trial). This fee includes any consultations, perusal, drafting or attendance on that day and any other application made on that day.				
6.9	On appearing before a superior court to argue appeal and including the noting of judgement, the final report to Legal Aid SA and the report back to the legal aid applicant. This fee includes any consultations or perusal on that day and any application made on that day.	NA	NA	R2 339.00	R5 459.00
6.10	Any necessary consultation with an accused or a witness whose evidence is yet to be led. Not more than one consultation per accused or per witness.	R323.00 Per consultation	R323.00 Per consultation	R323.00 Per consultation	R323.00 Per consultation
7.	Agency Agreement Global Fees				
7.1	All-inclusive global fee per finalised matter shall be paid as follows:	R1 629.00	R3 846.00		

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
8.	Disbursements ⁸				
	These disbursements shall be allowed over and above the fees set out above.				
8.1	The fees of any expert authorised by Legal Aid SA.	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised
8.2	Necessary revenue stamps.	As required by the prosecution	As required by the prosecution	As required by the prosecution	As required by the prosecution
8.2(a)	Necessary copies of documents such as charge sheets, petitions and heads of argument.	R2.30 Per page	R2.30 Per page	R2.30 Per page	R2.30 Per page
8.3	Necessary travel.	R3.90 Per km	R3.90 Per km	R3.90 Per km	R3.90 Per km
8.4	Necessary air travel.	NA	NA	Economy class	Economy class

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
8.5	Necessary accommodation allowance.	R905.00 Per night (allowed as per Treasury Instruction note 1 of 2014)	R905.00 Per night (allowed as per Treasury Instruction note 1 of 2014)	R905.00 Per night (allowed as per Treasury Instruction note 1 of 2014)	R905.00 Per night (allowed as per Treasury Instruction note 1 of 2014)
8.6	Necessary subsistence allowance.	R219.30 Maximum (to be claimed as allowed per Treasury Instruction note 1 of 2014) inclusive of VAT	R219.30 Maximum (to be claimed as allowed per Treasury Instruction note 1 of 2014) inclusive of VAT	R219.30 Maximum (to be claimed as allowed per Treasury Instruction note 1 of 2014) inclusive of VAT	R219.30 Maximum (to be claimed as allowed per Treasury Instruction note 1 of 2014) inclusive of VAT
8.7	Toll roads to the extent that these were reasonably necessary.	Actual out of pocket expenses	Actual out of pocket expenses	Actual out of pocket expenses	Actual out of pocket expenses

2017 CRIMINAL TARIFFS: NOTES

1. Criminal Trials – Appearance fees

- 1.1. No additional fees will be permitted in respect of any trial day lasting in excess of 4 hours or for any waiting time or any other attendance whatsoever.
- 1.2. A trial day means a day on which evidence is led and/or the court hears argument pursuant to the hearing or submission of evidence and/or hands down judgment after the hearing of evidence for an aggregate time of not less than 4 hours. Where a trial is less than 4 hours duration, the trial day fee is reduced pro rata.

2. Preparation fees

- 2.1. In all trials where the legal practitioner requires consultation/preparation fees beyond what is stipulated in clause 2.1 of the tariffs, the legal practitioner must submit a detailed written motivation to the ROE/NOE responsible detailing the preparation required, including preparation per co-accused, perusal of documents, necessary consultations and the anticipated duration of these.
- 2.2. ROEs must consult their delegations to determine what preparation fees they may authorise and which must be referred to the NOE.

3. Increased trial day fees

- 3.1. In no circumstances will a third legal practitioner be permitted for any accused or group of co-accused who are represented by a single legal team.
- 3.2. ROEs must consult their delegations to determine what increased trial day fees they may authorise and which must be referred to the NOE.
- 3.3. The NOE shall ensure that at each ordinary meeting of the Board particulars of any increased fees authorised and particulars of any increased fees paid since its last such report are tabled for the information of members of the Board.

4. Bail applications

- 4.1. 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 applicable JCE, which should only be granted in response to a detailed motivation in writing for any second or subsequent bail application.
- 4.2. Upon accounting to Legal Aid SA, the legal practitioner shall indicate whether a bail application was launched and shall report on the result of this bail application.
- 4.3. If an accused on legal aid is granted bail in excess of R6 743.10 and the bail is paid by the accused (irrespective of whose name appears on the bail receipt), the legal practitioner acting on behalf of the accused shall immediately report this fact in writing to the applicable JCE. The applicable JCE shall give directions as to whether the matter is to be:

- 4.3.1. Continued on legal aid; or
- 4.3.2. Referred back for reconsideration of whether the accused qualifies for legal aid; or
- 4.3.3. No longer conducted on a legal aid basis.
- 4.4. Bail appeals, like other appeals, will be dealt with by separate legal aid instructions and subject to the tariffs set out for Criminal Appeals.
- 4.5. Bail appeals will be remunerated at the tariff applicable to criminal appeals generally.

5. Criminal trials - General

- 5.1. The fees set out above are all inclusive fees and no additional fees will be permitted.
- 5.2. A legal practitioner submitting an account to Legal Aid SA may be required to attach to the account a certificate by the presiding judicial officer or her/his registrar (if any) verifying the appearances and times set out in the legal practitioner's account. This certificate is currently required for all criminal trials in the High Court but is not currently required for criminal trials in the magistrate's courts. For criminal trials in the magistrate's courts in which a fee is claimed for any appearance on or after 1 September 2003 the legal practitioner claiming these fees must submit a copy of the charge sheet and its annexures to Legal Aid SA with her/his account.
- 5.3. 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 the legal practitioner was not present when such evidence was led, is entitled to apply to the trial court for the provision to the legal practitioner at the expense of the Department of Justice a copy of the transcript of the evidence led in her/his absence, and if this application is granted, to peruse the transcript. Except in the above circumstances, the perusal of a record, other than as part of the Preparation Fees allowed under Item 2 of the above tariff, shall only be allowed with the prior written consent of the ROE/NOE.
- 5.4. Where in excess of 2 hours preparation is permitted for any criminal trial, this preparation time shall include all necessary perusal of documents and no separate fee per page shall be paid for the perusal of any document.

6. Criminal appeals

- 6.1. The fees set out in Items 6.7, 6.8 and 6.9 shall be increased by 25% for each additional accused being represented to a maximum of an additional 150% for all accused.
- 6.2. Applications for bail pending appeal will be remunerated in accordance with the tariff applicable to bail applications for awaiting trial accused. Applications for bail pending appeal are not permitted on a legal aid basis if the accused was in custody before conviction.
- 6.3. The ROEs have a general discretion to agree special and/or increased fees in circumstances which justify deviation from the above tariff. Any request for increased fees must be fully motivated and must be submitted to the JCE in writing.

7. Disbursements

- 7.1 Except as set out above no legal practitioner shall be entitled to recover any allowance or disbursement in respect of travel, accommodation, subsistence or any other incidental expenses from Legal Aid SA.
- 7.2 Except in the case of economy class air fares and toll roads (where vouchers must be produced and where the legal practitioner is reimbursed according to actual out of pocket expenditure) the allowances set out above are payable irrespective of the actual expenditure (either greater or lesser) incurred by the legal practitioner.
- 7.3 Legal Aid SA may, but is not obliged to, itself book and pay for air travel and/or accommodation and/or meals. In the event of Legal Aid SA booking and paying for meals and/or accommodation the allowances for accommodation and/or subsistence, as the case may be, will not be paid.
- 7.4 Except as set out above, no other disbursements, including, but not by way of limitation, counsel's fees and correspondent's fees, shall be paid to any legal practitioner without the prior written consent of the JCE or any admitted legal practitioner in the employ of Legal Aid SA delegated by the JCE to make this decision on her/his behalf.

8. General

- 8.1 After the case has been finalised, the legal practitioner must report to the applicable JCE in writing setting out:
 - 8.1.1.1 The case number
 - 8.1.1.2 The court where the matter was heard
 - 8.1.1.3 The outcome of the matter
 - 8.1.1.4 The duration of the hearing
 - 8.1.1.5 Any other material information
- 8.2 All sums referred to are amounts exclusive of VAT.
- 8.3 Under no circumstances will any collapse/reservation/cancellation/waiting/travelling fees be paid by Legal Aid SA to any legal practitioner for any criminal matters, criminal appeals or any other matters whatsoever. Legal Aid SA will pay legal practitioners in accordance with its tariffs strictly according to services rendered and to the extent that the applicable tariff makes provision for the service rendered.
- 8.4 It shall be the responsibility of the legal practitioner upon submitting her/his account to ensure that Legal Aid SA 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, Legal Aid SA will dispatch a cheque in payment of this account within 30 days of receipt thereof or will instruct its bankers to effect payment by electronic transfer or, in the event of Legal Aid SA being unable or unwilling to effect payment, advise the legal practitioner in writing of the reason for non-payment.
- 8.5 The ROE/NOE has a general discretion to approve a fee that is not otherwise provided for in this tariff where it is deemed necessary to protect the interest of a client, but not beyond the rates for similar type work prescribed in this tariff.

Annexure F

TARIFF OF FEES AND DISBURSEMENTS IN CIVIL MATTERS¹ - 2017

The fees and disbursements contained in this Annexure come into effect from 1 April 2017 for work done on or after 1 April 2017. The various tariffs of fees and disbursements that are applicable for work done prior to 1 April 2017 are available on the Legal Aid SA website (www.legal-aid.co.za).

Number	Matter	Magistrate's Court	Regional Court	High Court	Supreme Court of Appeal	Constitutional Court
1.	Judicare remuneration for services according to levels ² + ³					
1.1(a)	Hourly rates Level 1 Level 2 Level 3 Level 4 Level 5	R345.00 R406.00 R486.00 R608.00 NA	NA NA R516.00 R635.00 NA	NA NA R545.00 R664.00 R780.00	NA NA NA NA NA	NA NA NA NA NA
1.2	Rates per completed 4 hour trial day Level 1 Level 2 Level 3 Level 4 Level 5	R1 458.00 R1 733.00 R2 024.00 R2 433.00 NA	NA NA R2 371.00 R2 970.00 NA	NA NA R2 729.00 R3 506.00 R4 677.00	NA NA NA NA NA	NA NA NA NA NA
1.3(a)	Instruction to sue/or defend or to counter-claim or defend counter-claim, including perusal of all documentation and all necessary					

JUDICARE CIVIL TARIFFS FROM 1 April 2017

Number	Matter	Magistrate's Court	Regional Court	High Court	Supreme Court of Appeal	Constitutional Court
	consultations to issue summons Level 1 Level 2 Level 3 Level 4 Level 5	R291.00 R389.00 R467.00 R583.00 NA	NA NA R507.00 R614.00 NA	NA NA R545.00 R663.00 R780.00	NA NA NA NA NA	NA NA NA NA NA
1.3(b)	Fees for necessary correspondence written per folio and received per letter Level 1 Level 2 Level 3 Level 4 Level 5	R16.80 R17.85 R18.90 R19.95 NA	NA NA R24.15 R29.40 NA	NA NA R29.40 R39.90 R53.55	NA NA NA NA NA	NA NA NA NA NA
1.4	Where a matter is postponed without evidence being led or argument being heard on the substantive matter or judgment being handed down after the hearing or submission of evidence, a fee shall be allowed for appearing before court when the postponement is granted of:	R222.00 Per postponement	R222.00 Per postponement	R222.00 Per postponement	NA	NA
1.5	Merit reports In any matter where a practitioner is required to prepare a merit report, the practitioner shall be remunerated at the rate as stipulated in Item 1.1 above					

Number	Matter	Magistrate's Court	Regional Court	High Court	Supreme Court of Appeal	Constitutional Court
	that corresponds to the level of the matter, subject to a maximum of 3 hours.					
	See also Note 4 on the General Provisos applicable to all civil matters not classified as Impact Services.					
2.	Impact Services ⁵					
	Legal practitioners who perform impact services on the instruction of Legal Aid SA will be entitled to be remunerated as follows:					
2.1	To be negotiated and agreed in each instance but never more than:					
2.1.1	Attorneys	NA	NA	Not more than double the amount that would be allowed by a taxing master as between attorney and client on the applicable statutory tariff if the work had been performed	Not more than double the amount that would be allowed by a taxing master as between attorney and client on the applicable statutory tariff if the work had been	Not more than double the amount that would be allowed by a taxing master as between attorney and client on the applicable statutory tariff if the work had been

Number	Matter	Magistrate's Court	Regional Court	High Court	Supreme Court of Appeal	Constitutional Court
				by an attorney	performed by an attorney	performed by an attorney
2.1.2	Junior Counsel	NA	NA	Not more than two thirds of the rates paid to Senior Counsel	Not more than two thirds of the rates paid to Senior Counsel	Not more than two thirds of the rates paid to Senior Counsel
2.1.3	Hourly rate for Senior Counsel and specialist attorneys	NA	NA	R1 450.00 to R2 174.00 Per hour	R1 450.00 to R2 174.00 Per hour	R1 450.00 to R2 174.00 Per hour
2.1.4	Senior Counsel and specialist attorneys per 10 hour day	NA	NA	R14 500.00 to R21 740.00 Per day	R14 500.00 to R21 740.00 Per day	R14 500.00 to R21 740.00 Per day
3.	Disbursements ⁶					
3.1	These disbursements shall be allowed over and above the fees set out above.					
3.2	The fees of any expert authorised by Legal Aid SA.	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised
3.3	Necessary revenue stamps.	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs
3.4	Necessary sheriff's fees or like process (edictal citation). Necessary advertisement costs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs

Number	Matter	Magistrate's Court	Regional Court	High Court	Supreme Court of Appeal	Constitutional Court
	pursuant to the grant of a substituted service order.					
3.5	Necessary travel.	R3.90 Per km	R3.90 Per km	R3.90 Per km	R3.90 Per km	R3.90 Per km
3.6	Necessary air travel.	NA	NA	NA	Economy class	Economy class
3.7	Necessary allowance for accommodation.		R905.00 Maximum to be claimed as allowed as per Treasury Instruction note 1 of 2014 inclusive of VAT			
3.8	Necessary subsistence allowance.		R219.30 Maximum to be claimed as allowed as per Treasury Instruction note 1 of 2014 inclusive of VAT			
3.9	Toll road fees to the extent that these were reasonably necessary.		Actual out of pocket expenses			
See also Note 7						

2017 CIVIL TARIFFS: NOTES

1. Applicable Tariff

1.1. With effect from 1 April 2017, legal practitioners shall be remunerated in accordance with this annexure.

2. Experience levels of Legal Practitioners

2.1. At the commencement of each calendar year or as soon thereafter as practical each Legal Practitioner shall be classified as being of a level from 1 to 5 in accordance with these criteria:

2.2. Required experience per level

Level	Minimum Required Experience
1	Entry level (for reserved work must be legally permitted to undertake the work)
2	Minimum 1 year full-time general practice as a Legal Practitioner
3	Minimum 3 years full-time general practice as a Legal Practitioner
4	Minimum 5 years full-time general practice as a Legal Practitioner and must be permitted to appear before the High Court if High Court work is to be undertaken
5	Minimum ten years full-time general practice as a Legal Practitioner and must be permitted to appear before the High Court if High Court work is to be undertaken

2.3. The calculation of time spent by a Legal Practitioner in full-time practice shall take into account:

2.3.1. A period not exceeding 2 years as a candidate attorney provided the Legal Practitioner was subsequently admitted as an attorney; and

2.3.2. A period not exceeding 1 year as a pupil provided the Legal Practitioner subsequently became a member of the bar of which her/his master was a member; and

2.3.3. Any period during which the Legal Practitioner was engaged full-time in legal practice in the Republic of South Africa as an attorney or as an advocate:

2.3.3.1. For her/his own account; and/or

2.3.3.2. In partnership with other practising Legal Practitioners; and/or

2.3.3.3. As a director of a company in which all directors and shareholders were practising Legal Practitioners; and/or

2.3.3.4. As an attorney employed by a person, partnership or company described in 2.3.3.1, 2.3.3.2 or 2.3.3.3.

2.3.3.5. In the employ of Legal Aid SA; and/or

2.3.3.6. In the employ of the State Attorney; and/or

2.3.3.7. As a legal advisor doing non-litigious work and after admission as a Legal Practitioner.

- 2.4. Before any legal aid instruction is allocated to any Legal Practitioner a Principal Legal Practitioner or High Court Unit Manager in the employ of Legal Aid SA shall classify the legal services required from level 1 to level 5 in accordance with paragraph 3 below.
- 2.5. No Legal Practitioner shall be permitted to provide any legal services requiring a higher level of experience than that Legal Practitioner had as at first of January in the year in which the legal aid instruction was allocated to her/him.
- 2.6. A Legal Practitioner may render legal services at a level below the maximum for which she/he is classified, subject thereto that such legal services shall be remunerated at the level at which the legal aid instruction is classified.
- 2.7. Where a Legal Practitioner in the employ of Legal Aid SA is required to make a decision as to whether the level of complexity of any matter is such as to justify its classification at Level 5, she/he:
 - 2.7.1. Shall be entitled but not obliged to require the Legal Practitioner to demonstrate that she/he has the requisite level of expertise in addition to the minimum required experience set out in respect of Level 5.
 - 2.7.2. Shall be entitled but not obliged to refuse to permit the Legal Practitioner concerned to perform any legal services classified as “complex” in the event of failure to comply with 2.7.1 above.
- 2.8. Any reference to the High Court includes the Admiralty Court, the Land Claims Court, the Water Court, the Income Tax Court, the Labour Court and the Labour Appeal Court.

3. Matter Classification

Level	Permitted Professional Services
1	<ol style="list-style-type: none"> a. Matters which if conducted without legal aid would fall within Scale A Magistrates’ Court b. CCMA – where permitted by Commissioner and permitted by the Legal Aid Manual c. Maintenance matters – where permitted by the Legal Aid Manual d. Mediation and conciliation matters e. Paralegal work f. Domestic violence matters – where permitted by the Legal Aid Manual g. Appearances before a Refugee Status Determination Officer at a hearing in terms of section 24 of the Refugees Act No. 130 of 1998 h. Any civil or non-litigious matter not otherwise provided for
Level 2	<ol style="list-style-type: none"> a. Matters which if conducted without legal aid would fall within Scale B Magistrates’ Courts b. Labour arbitrations whether before CCMA or otherwise, where permitted by Commissioner and the Legal Aid Manual

	c. Appearances before a Standing Committee in respect of a Review in terms of section 25 of the Refugees Act
Level 3	<ul style="list-style-type: none"> a. Matters which if conducted without legal aid would fall within Scale C Magistrates' Court b. Children's court matters c. Children's Act matters d. Divorce, custody, guardianship and Regional Court matters not otherwise provided for e. General arbitrations and ADR not otherwise provided for f. Appearances before an Appeals Board in respect of an Appeal in terms of section 26 of the Refugees Act
Level 4	<ul style="list-style-type: none"> a. Civil matters falling within the exclusive jurisdiction of the High Court b. Civil matters in the Magistrates' Courts in which jurisdiction would not have vested in any magistrate but for the consent of the parties to the jurisdiction of the Magistrates' Court c. Non-litigious services customarily performed by an admitted attorney and as permitted by the Legal Aid Manual d. Labour Court matters e. Civil matters sounding in money in the Regional Court
Level 5	<ul style="list-style-type: none"> a. Civil appeals and reviews before any Provincial or Local Division of the High Court b. Complex High Court civil matters classified as such (pursuant to detailed written representations) by an authorised legal practitioner in the employ of Legal Aid SA who herself/himself has the required experience in respect of this level c. Complex non-litigious services classified as such (pursuant to detailed written representations) by a legal practitioner in the employ of Legal Aid SA at executive level, customarily performed by a specialist attorney and as permitted by the Legal Aid Manual

4. General Provisos

- 4.1. A trial day means a day on which evidence is led and/or the court hears argument after the hearing or submission of evidence and/or hands down judgment after the hearing of evidence for an aggregate time of not less than 4 hours. Where a trial day is of less than 4 hours duration the trial day fee is reduced pro rata.
- 4.2. Except with the consent of the ROE/CLE a practitioner shall not be entitled to claim:
 - 4.2.1. More than 10 hours remunerated consultation, preparation and other pre-trial chamber work after litis contestatio for each anticipated trial day in a civil trial or civil matter, which is referred to evidence.
 - 4.2.2. However, in respect of default judgments, settled or undefended matters and interlocutory applications the remunerated consultation, preparation and other pre-trial chamber work shall ordinarily be limited to not more than 2 hours.
- 4.3. In addition to the above, the JCE or Legal Practitioner who approves a legal aid instruction to which the tariff set out above applies may approve the maximum amount payable by Legal Aid SA in terms of the Judicare instruction.

4.4. Drafting documents

- 4.4.1. Where the drafting of any pleadings, affidavits (of a non-formal nature and excluding annexures) or heads of argument are required in any matter, it is expected of the Legal Practitioner concerned draft at a rate of 100 words per 15 minutes.
- 4.4.2. Where the drafting of any other document is required, it is expected of the Legal Practitioner concerned draft at a rate of 150 words per 15 minutes.
- 4.4.3. The rates set out in paragraphs 4.4.1 and 4.4.2 may be varied by the ROE/CLE only.
- 4.4.4. A Legal Practitioner who alleges that a specified period of time was spent in the drafting of any documents shall be presumed to have thereby vouched to Legal Aid SA that the rates set out in paragraphs 4.4.1 and 4.4.2 above were achieved unless she/he clearly, simultaneously and in writing advises Legal Aid SA to the contrary.

4.5. Perusal of documents

- 4.5.1. Where the perusal of any pleadings, affidavits (of a non-formal nature and excluding annexures) or heads of argument are required in any matter it is expected of the Legal Practitioner to peruse at a rate of 7 pages per 15 minutes.
- 4.5.2. Where the perusal of any other document, including but not by way of limitation, a record is required, it is expected of the Legal Practitioner to peruse at a rate of 10 pages per 15 minutes.
- 4.5.3. The rates set out in paragraphs 4.5.1 and 4.5.2 may be varied by the ROE/NOE only.
- 4.5.4. A Legal Practitioner who alleges that a specified period of time was spent in the perusal of any documents shall be presumed to have thereby vouched to Legal Aid SA that the rates set out in paragraphs 4.5.1 and 4.5.2 above were achieved unless she/he clearly, simultaneously and in writing advises Legal Aid SA to the contrary.

4.6. Where it is necessary to appoint a correspondent, a Legal Practitioner acting on a legal aid instruction shall, if there is an office of Legal Aid SA in the magisterial district concerned, offer the work, in the first instance, to the office of Legal Aid SA. In the case of any other correspondent the Judicare Legal Practitioner is required, in advance and in writing, to make it clear to the correspondent concerned:

- 4.6.1. That the Legal Practitioner, and consequently the correspondent, act on a legal aid instruction and are entitled to be remunerated by Legal Aid SA alone and on Legal Aid SA tariffs;
- 4.6.2. That the correspondent will be contracting with the attorney and not with Legal Aid SA and will have no claim against Legal Aid SA directly.

4.7. A Legal Practitioner who accepts a legal aid instruction is ordinarily expected to render the necessary legal services herself/himself. An attorney may, with the consent of the ROE, elect to instruct an advocate in a matter in the High Court,

subject to the condition that if Legal Aid SA has a High Court Unit in the magisterial district in which the seat of the court is located, the work shall, in the first instance, be offered to the said High Court Unit. In the event of the work being declined by the High Court Unit and thereafter being offered to any advocate in private practice, the attorney is required to make it clear to the advocate concerned:

- 4.7.1. That the attorney and consequently the advocate act on a legal aid instruction and are entitled to be remunerated by Legal Aid SA alone and on Legal Aid SA tariffs;
 - 4.7.2. That the advocate will be contracting with the attorney and not with Legal Aid SA and will have no claim against Legal Aid SA directly;
 - 4.7.3. That Legal Aid SA will not pay either Legal Practitioner for any work that would have been unnecessary had the attorney elected to do all the work herself/himself and will not pay for any duplication of work;
 - 4.7.4. That except with the express written consent of the ROE, the attorney client costs payable by Legal Aid SA pursuant to the employment of an advocate shall not exceed the attorney client costs that would have been payable by Legal Aid SA if all the professional services had been rendered by the attorney instructed by Legal Aid SA.
- 4.8. No Senior or Junior Counsel may be instructed without the express written consent of the ROE or a Legal Practitioner employed by Legal Aid SA and delegated thereto by the ROE.
- 4.9. After the case has been finalised the Legal Practitioner must report to the JCE in writing, setting out:
- 4.9.1. The case number
 - 4.9.2. The court where the matter was heard
 - 4.9.3. The outcome of the matter
 - 4.9.4. The duration of the hearing
 - 4.9.5. Any other material information
- 4.10. In any civil matter a Legal Practitioner shall account to Legal Aid SA by way of detailed itemised account setting out the date, the work performed, the time taken (with reference to a 24 hour clock), the number of pages drafted or perused and the fees claimed.
- 4.11. No additional fees or disbursements are payable at Levels 1 to 5 to any Legal Practitioner for any matter not provided for by this tariff and not agreed to in writing by the ROE/NOE. Thus, for example, the Legal Practitioner who draws a plea is entitled to be remunerated for her/his time spent drawing up the document. This is an all-inclusive fee and Legal Aid SA may not separately be invoiced for typing, copying, delivery, filing and similar non-professional services customarily rendered by the subordinate staff of the Legal Practitioner.

- 4.12. A Legal Practitioner shall retain her/his complete case file in respect of legal services rendered in any civil or non-litigious matter for at least 7 years after the finalisation of the mandate of the Legal Practitioner.
- 4.13. Where a rate is permitted per hour and the performance of a task requires a portion of an hour, the amount to be paid shall be calculated pro rata.
- 4.14. In any civil matter, prior to litis contestatio or in any non-litigious matter, a Legal Practitioner at Levels 1 to 5 shall not, without the consent of the ROE/NOE, be entitled to be remunerated for excess of 10 hours work over and above any necessary drawing and perusals. In any undefended civil matter or civil matter, which is or could reasonably have been settled prior to litis contestation, this shall be reduced to 4 hours.
- 4.15. In the application of this tariff, a page shall consist of 300 words.

5. Impact Services

- 5.1. Impact Services shall include Constitutional Court matters, civil appeals before the Supreme Court of Appeal, matters classified as impact litigation by Legal Aid SA and non-litigious impact services classified as such by Legal Aid SA.
- 5.2. All representations in relation to the classification of any matter as an Impact Services Matter and all other correspondence ancillary thereto must be addressed to the Impact Litigation Unit at the National Office of Legal Aid SA.

6. Disbursements

- 6.1 Except as set out above no Legal Practitioner shall be entitled to recover any allowance or disbursement in respect of travel, accommodation, subsistence or any other incidental expenses from Legal Aid SA.
- 6.2 Except in the case of economy class air fares and toll roads (where vouchers must be produced and where the Legal Practitioner is reimbursed according to actual out of pocket expenditure) the allowances set out above are payable irrespective of the actual expenditure (either greater or lesser) incurred by the Legal Practitioner.
- 6.3 Legal Aid SA may, but is not obliged to, itself book and pay for air travel and/or accommodation and/or meals. In the event of Legal Aid SA booking and paying for meals and/or accommodation the allowances in respect of accommodation and/or subsistence, as the case may be, will not be paid.

6.4 Except as set out above, no other disbursements, including, but not by way of limitation, counsel's fees and correspondent's fees shall be paid to any Legal Practitioner without the prior written consent of the ROE/NOE.

7. General

7.1 All sums referred to are amounts exclusive of VAT.

7.2 Under no circumstances will Legal Aid SA pay any collapse/reservation/cancellation/waiting/travelling fees to any Legal Practitioner for any matters whatsoever. Legal Aid SA will pay Legal Practitioners in accordance with its tariffs strictly according to services rendered and to the extent that the applicable tariff makes provision for the service rendered.

7.3 It shall be the responsibility of the Legal Practitioner upon submitting her/his account to ensure that Legal Aid SA 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, Legal Aid SA will dispatch a cheque in payment of this account within 30 days of receipt thereof, or by electronic transfer, or will instruct its bankers to effect payment, or in the event of Legal Aid SA being unwilling to effect payment, advise the Legal Practitioner in writing of the reason for non-payment.
