

LEGAL AID BOARD

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1 April 2004

FOR ACTION

Regional Operations Executives, Justice Centre Executives, other Legal Aid Board Staff and Legal Practitioners.

FOR INFORMATION

The Chief Justice, the President of the Supreme Court of Appeal, 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, North West, 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 Church Street Bar Association, The Judicial Services Commission, The Magistrates' Commission, Department of Justice, Department of Land Affairs, the Editor of De Rebus and the Editor of Advocate.

Dear Sir/Madam

CIRCULAR NO. 3 OF 2004

Annexures E.1 to E.4 and F.1 to F.5 of the 2002 Legal Aid Guide are hereby amended with effect from 1 April 2004 by the substitution thereof of the annexures hereto.

Yours faithfully

A handwritten signature in black ink, appearing to read 'V N Vedalankar'.

V N VEDALANKAR
CHIEF EXECUTIVE OFFICER



ANNEXURE E.1

TARIFFS OF FEES PAYABLE TO LEGAL PRACTITIONERS IN RESPECT OF CRIMINAL MATTERS

- A. With effect from 1 January 1995 Legal Practitioners shall be remunerated in accordance with the provisions and tariffs as set out in the eighth edition of the Guide of January 1995 as amplified by any new tariffs authorised by the Minister of Justice or circulated by the CEO with the consent of the Board from time to time.
- B. With effect from 1 January 1996 Legal Practitioners shall be remunerated in accordance with the provisions and tariffs as set out in the ninth edition of the Guide of January 1996 as amplified by any new tariffs authorised by the Minister of Justice or circulated by the CEO with the consent of the Board from time to time.
- C. With effect from 1 November 1999 Legal Practitioners shall be remunerated in accordance with the tariffs set out in circulars 4 and 5 of 1999.
- D. With effect from 1 April 2001 Legal Practitioners shall be remunerated in accordance with E.1 to F.5 of the tenth edition of the Guide of 1 May 2002.
- E. With effect from 1 July 2002 Legal Practitioners shall be remunerated in accordance with Circular 2 of 2002 as amended by Circular 4 of 2002 with effect from 1 September 2002 and Circular 2 of 2003 with effect from 1 April 2003.
- F. With effect from 1 July 2003 Legal Practitioners shall be remunerated in accordance with Circular 3 of 2003.
- G. All sums referred to are amounts exclusive of VAT.
- H. Under no circumstances will any collapse/reservation/ cancellation/waiting time fees be paid by the Board to any legal practitioner in respect of any criminal matters, criminal appeals, civil matters, matters in terms of the Criminal Law Amendment Act, 1997 or any other matters whatsoever. The Board will pay legal practitioners in accordance with its tariffs strictly according to services rendered and in so far as the applicable tariff makes provision for the service rendered.

ANNEXURE E.2

**FEEES AND DISBURSEMENTS PAYABLE TO LEGAL PRACTITIONERS IN
RESPECT OF CRIMINAL APPEALS**

Matters	Appeals to the High Court from the Magistrates' Court	Appeals to the Supreme Court of Appeal or full bench of the High Court
1.1 Report to the Chief Executive Officer of the Legal Aid Board on the merits of a matter.	R145,00	R200,00
1.2.1 Application for leave to appeal brought on the same day judgment was handed down.	N/A	R145,00
1.2.2 Notice of appeal	R100,00	N/A
1.3 Application for leave to appeal brought on a date other than the date on which judgment is handed down and provided the Chief Executive Officer is satisfied that there was good reason for the legal practitioner concerned not bringing such on the date on which judgment was handed down.	N/A	R200,00
1.4 Application for leave to appeal on a date other than the date on which judgment is handed down but where the legal practitioner has failed to satisfy the CEO that there was good reason for such application for leave to appeal being brought on another day.	N/A	Nil to R120,00
1.5 Application to the SCA for leave to appeal including all typing, copies and attendances relevant thereto.	N/A	R400,00
1.6 Application for condonation including all typing, copies and attendances relevant thereto.	R100,00	R145,00
1.7 Application to lead further evidence including all typing, copies and attendances relevant thereto.	R100,00	R145,00 C3/2003 E.2-1

1.8 Application for a copy of a record in terms of Rule 66(9) of the Magistrate's Court, Rule 49A of the Uniform Rules, Rule 52 of the Uniform Rules including all typing, copies and attendances relevant thereto.	R45,00	R45,00
1.9 Necessary perusal of any record after the granting of leave to appeal and pursuant to the issue of a fresh legal aid instruction or where otherwise permitted by the CEO.	R1,00 per page	R1,00 per page
1.10 Heads of argument including all typing, copies and attendances relevant thereto.	R400.00	R400.00
1.11 On appearing before court to argue appeal and including the noting of judgment, the final report to the Chief Executive Officer and the report back to the legal aid applicant.	R980,00 This fee includes any consultations or perusal on that day and any application made on that day.	R1375,00 This fee includes any consultations or perusal on that day and any application made on that day.
1.12 The fees in the preceding paragraph shall be increased by 25% for each additional accused being represented to a maximum of an additional 150% for all co-accused.	25% extra on 1.11 above for each additional accused up to 7 represented by the practitioner on a legal aid basis.	25% extra on 1.11 above for each additional accused up to 7 represented by the practitioner on a legal aid basis.
1.13 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.	R145,00	R145,00 C3/2003 E.2-2

Matters	Appeals to the High Court from the Magistrates' Court	Appeals to the Supreme Court of Appeal or full bench of the High Court
1.14 Application for bail pending appeal provided the custody prior to conviction.	R 45,00	R 45,00
1.15 Necessary travelling costs.	R2,50 per kilometer excluding VAT where applicable for a total distance travelled in excess of 200 kilometers or economy class airfare whichever is the lesser.	R2,50 per kilometer excluding VAT where applicable for a total distance traveled in excess of 200 kilometers or economy class airfare whichever is the lesser.
1.16 Necessary accommodation expenses. Accommodation is not permitted where the practitioner practices less than 200 kilometers from the court, which is to hear the matter.	Not more than R500,00 per night excluding VAT	Not more than R500,00 per night excluding VAT.
1.17 Necessary subsistence expenses. Subsistence expenses are not permitted where the practitioner practises less than 200 kilometers from the court which is to hear the matter	Not more than R150,00 per day or part thereof excluding VAT	Not more than R150,00 per day or part thereof excluding VAT
1.18 Other disbursements.	As authorised by the Chief Executive Officer in writing in advance.	As authorised by the Chief Executive Officer in writing in advance.
1.19 VAT on fees and disbursements in respect of those legal practitioners registered for VAT.	14%	14%

2. The Chief Executive Officer has a general discretion to agree to special fees in circumstances, which justify deviation from the above tariff.
3. With effect from 1 July 2003 it will not be necessary to submit vouchers in support of a claim for accommodation and/or subsistence.

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 R110,00 excluding VAT shall be allowed.
- 2.1 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	R715,00 excluding VAT
Regional Magistrates' Court	R850,00 excluding VAT
High Court	R960,00 excluding VAT
- 2.2 With effect from 1 July 2003 preparation fees in respect of criminal trials will/may be allowed as follows:
 - (a) In respect of trials of not more than five trial days duration the full trial day fee shall be paid in respect of the last day spent in execution of the legal aid instruction.
 - (b) In respect of trials of an anticipated duration of more than five but less than 60 trial days duration an increased fee of not more than R100,00 per hour excluding VAT subject to a maximum of not more than 120 hours and not more than 2 hours preparation per anticipated trial day may be authorised by the CEO or a Regional Operations Executive delegated thereto by the CEO.
 - (c) In respect of trials of an anticipated duration of more than 60 trial days duration an increased fee of not more than R180,00 per hour excluding VAT subject to a maximum of not more than 2 hours preparation per anticipated trial day may be authorised by the CEO personally.
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 R110,00 excluding VAT shall be allowed.
4. Save as provided in paragraphs 2.1 and 2.2 above 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.

5. Only in very exceptional circumstances will any increased fees be permitted. In the event of increased trial day fees being authorised, such shall not exceed R2375,00 per trial day excluding VAT. In considering whether or not to grant increased fees, the CEO of the Board (or a Regional Operations Executive acting in terms of paragraph 2.2(b) above pursuant to a delegation duly granted) 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. 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. In respect of 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 such fee shall be obliged to submit a copy of the charge sheet and annexures thereto to the L.A.B. with his/her account.
7. 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 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 or, in the event of the L.A.B. being unable or unwilling to effect payment to advise the legal practitioner in writing of the reason for non payment.
8. 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:

- 8.1 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;
 - 8.2 Upon accounting to the L.A.B. the legal practitioner shall indicate that a bail application was launched and shall report on the result of such bail application.
 - 8.3 If an accused on legal aid is granted bail in excess of R2200,00 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:
 - 8.3.1 Continued on legal aid; or
 - 8.3.2 Referred back to the legal aid officer for reconsideration of whether the accused qualifies for legal aid; or
 - 8.3.3 No longer conducted on a legal aid basis.
 - 8.4 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.
9. After the case has been finalised the legal practitioner must report to the Chief Executive Officer in writing setting out the following information:
- 9.1 The case number.
 - 9.2 The court where the matter was heard.
 - 9.3 The outcome of the matter.
 - 9.4 The duration of the hearing.
 - 9.5 Any other material information.
10. 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.

11. 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:

- | | | |
|------|--|--------------|
| 11.1 | Application for a transcript of the evidence | R45,00 |
| 11.2 | Perusal of the record | 55c per page |

ANNEXURE E.4

**TARIFF OF FEES IN TERMS OF THE
CRIMINAL LAW AMENDMENT ACT, 1997
(ACT 105 OF 1997)**

1. The fees allowable to legal practitioners in respect of legal services that are rendered pursuant to the provisions of the Criminal Law Amendment Act, 1997 shall be as follows:

1.1 Consultation with legal aid applicant, subject to a maximum of four hours.	R120, 00 per hour
1.2 Any document necessarily perused.	55c. per page
1.3 Drafting of written arguments, subject to a maximum of 100 folios, including all typing, copies and service.	R12,00 per folio
1.4 Appearing before court to submit oral argument, where requested by the court and authorised by the designated legal administration officer.	R590,00

2. The above fees are exclusive of VAT. Necessary travel and accommodation will be allowed at normal legal aid rates. The CEO has a discretion to allow increased fees in matters of exceptional complexity. Any request for increased fees must be fully motivated and must be submitted to the CEO in writing.

ANNEXURE F.1

TARIFFS OF FEES AND DISBURSEMENTS PAYABLE TO LEGAL PRACTITIONERS IN CIVIL AND NON-LITIGIOUS MATTERS

- A. With effect from 1 January 1995 Legal Practitioners shall be remunerated in accordance with the provisions and tariffs as set out in the eighth edition of the Guide of January 1995 as amplified by any new tariffs authorised by the Minister of Justice or circulated by the CEO with the consent of the Board from time to time.
- B. With effect from 1 January 1996 Legal Practitioners shall be remunerated in accordance with the provisions and tariffs as set out in the ninth edition of the Guide of January 1996 as amplified by any new tariffs authorised by the Minister of Justice or circulated by the CEO with the consent of the Board from time to time.
- C. With effect from 1 November 1999 Legal Practitioners shall be remunerated in accordance with the tariffs set out in circulars 4 and 5 of 1999.
- D. With effect from 1 April 2001 Legal Practitioners shall be remunerated in accordance with E.1 to F.5 of the tenth edition of the Guide of 1 May 2002.
- E. With effect from 1 July 2002 Legal Practitioners shall be remunerated in accordance with Circular 2 of 2002 as amended by Circular 4 of 2002 with effect from 1 September 2002 and Circular 2 of 2003 with effect from 1 April 2003.
- F. With effect from 1 July 2003 Legal Practitioners shall be remunerated in accordance with Circular 3 of 2003.
- G. With effect from 1 April 2004 legal practitioners will be remunerated in accordance with Circular 1 of 2004.
- H. Under no circumstances will any collapse/reservation/cancellation/waiting time fees be paid by the Board to any legal practitioner in respect of any matter whatsoever. The Board will pay legal practitioners in accordance with its tariffs strictly according to services rendered and in so far as the applicable tariff makes provision for the service rendered.
- H. All sums referred to are amounts exclusive of VAT.

ANNEXURE F.2

TARIFF OF FEES

1. At the commencement of each calendar year or so soon thereafter as practical each Legal Practitioner who makes himself/herself available to undertake Judicare legal aid instructions, each Legal Practitioner in the employ of the L.A.B. and each Legal Practitioner in the employ of a Co-operation Partner shall be classified as being of a level from one to five in accordance with the following table:

Level	Minimum Required Experience	Permitted professional Services
1	Entry level (in respect of reserved work must be legally permitted to undertake the work)	<ul 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 & permitted by Legal Aid Guide c. Maintenance matters – where permitted by Legal Aid Guide d. Mediation and conciliation matters e. Paralegal work f. Domestic violence matters – where permitted by the Legal Aid Guide 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
2	Minimum one year full time general practice as a Legal Practitioner	<ul 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 Guide c. Children's Court matters. d. Child Justice matters.

		<ul style="list-style-type: none"> e. Appearances before a Standing Committee in respect of a Review in terms of Section 25 of the Refugees Act
3	Minimum three years full time general practice as a Legal Practitioner	<ul style="list-style-type: none"> a. Matters which if conducted without legal aid would fall within scale C Magistrates' Courts b. Labour Court matters c. Divorce, custody, guardianship and Family Court matters not otherwise provided for d. General arbitrations and ADR not otherwise provided for e. Appearances before an Appeals Board in respect of an Appeal in terms of Section 26 of the Refugees Act
4	Minimum five 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	<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 Guide
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	<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 the LAB who himself/herself 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 the Legal Aid Board at executive level, customarily performed by a specialist attorney and as permitted by the

2. In calculating the time spent by a Legal Practitioner in full time practice regard shall be had to:

2.1 A period not exceeding two years as a candidate attorney provided the Legal Practitioner was subsequently admitted as an attorney; and

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

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

2.3.1 For his/her own account; and/or

2.3.2 In partnership with other practising Legal Practitioners; and/or

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

2.3.4 As an attorney employed by a person, partnership or company described in 2.3.1, 2.3.2 or 2.3.3 above; and/or

2.3.5 In the employ of the Legal Aid Board; and/or

2.3.6 In the employ of the State Attorney; and/or

2.3.7 As legal advisor but only in respect of non-litigious work and after admission as a Legal Practitioner.

3. Before any legal aid instruction is allocated to any Legal Practitioner a Principal Attorney or High Court Unit Manager in the employ of the LAB shall classify the legal services required from level 1 to level 5 in accordance with paragraph 1 above.

4. No Legal Practitioner shall be permitted to provide any legal services requiring a higher level of experience than that Legal Practitioner had as

at the first of January in the year in which the legal aid instruction was allocated to him/her.

5. A Legal Practitioner may render legal services at a level below the maximum for which he/she is classified, subject thereto that:
 - 5.1 In the case of a Judicare Legal Practitioner such legal services shall be remunerated at the level at which legal aid instruction is classified.
 - 5.2 In the case of Legal Practitioners employed by the L.A.B. or a Co-operation Partner the value of such legal services shall be computed at the level at which the legal aid instruction is classified.

6. Where a legal practitioner in the employ of the Legal Aid Board 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, he/she:
 - 6.1 Shall be entitled but not obliged to require the legal practitioner to demonstrate that he/she has the requisite level of expertise in addition to the minimum required experience set out in respect of Level 5 by reference to at least three reported decisions in which the legal practitioner acted as attorney or advocate on behalf of the successful party or parties.
 - 6.2 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 6.1 above.

7. Any reference to the High court includes the Admiralty Court, the Land Claims Court, the Water Court, the Income Tax court and the Labour Appeal Court.

8.1 Subject to the foregoing and the provisos set out in Annexure F.3 Legal Practitioner in private practice will be remunerated as follows:

8.2 Likewise, subject to the foregoing and the provisos set out in Annexure F.3, Legal Practitioners in the employ of the L.A.B. or a Co-operation Partner will have their legal services valued as follows:

8.3	<u>Level</u>	<u>Per Hour</u>	<u>Per Completed 4 Hour Trial Day</u>
	1	R160,00	R 715,00
	2	R200,00	R 850,00
	3	R240,00	R 960,00
	4	R300,00	R1 200,00
	5	R400,00	R2 375,00

8.4 Impact Services

Legal Practitioners who perform impact services on the instruction of the LAB will be entitled to be remunerated as follows:

8.4.1 To be negotiated and agreed in each instance but never more than:

8.4.1.1 In the case of attorneys double the amount that would be allowed by a taxing master as between attorney and client on the applicable statutory tariff.

8.4.1.2 In the case of junior counsel not more than the attorney would have been entitled to had he/she performed the work in person.

8.4.1.3 In the case of Senior Counsel between R8000.00 and R12000.00 per day where an all inclusive fee is charged for a full days work (10 hours) or between R800.00 and R1200.00 per hour when the services of Senior Counsel are rendered for part of a day.

8.5 Without derogating from the generality of the foregoing; Impact Services shall include Constitutional Court matters, civil appeals before the Supreme Court of Appeal, matters classified as impact litigation by the LAB, and non litigious impact services classified as such by the LAB.

ANNEXURE F.3

PROVISOS

1. 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 judgement pursuant to the hearing of evidence for an aggregate time of not less than four hours. Where a trial day is of less than 4 hours duration the trial day fee is reduced pro rata.
2. Where a matter is postponed without evidence being led or argument being heard on the substantive matter or judgement being handed down pursuant to the hearing or submission of evidence a maximum fee of R110 excluding VAT shall be allowed for appearing before court when the postponement is granted.
3. Save with the consent of the CEO or a Legal Practitioner employed by the LAB and delegated thereto by the CEO:
 - 3.1 Not more than ten hours remunerated consultation, preparation and other pre trial chamber work after litis contestatio shall ordinarily be allowed in respect of each anticipated trial day in a civil trial or civil matter which is referred to evidence.
 - 3.2 However, in respect of default judgements and interlocutory applications such remunerated consultation, preparation and other pre trial chamber work shall ordinarily be limited to not more than two hours.
4. In addition to the foregoing the CEO or Legal Practitioner who approves a legal aid instruction to which the tariff set out in Annexure F2 applies shall approve the maximum amount payable by the LAB in terms of the judicare instruction.
 - 5.1 Where the drafting of any pleadings, affidavits (of a non formal nature and excluding annexures) or heads of argument are required in any matter in the High Court, the Supreme Court of Appeal or the Constitutional Court it shall ordinarily be expected of the Legal Practitioner concerned to draft at a rate of 100 words per 15 minutes.
 - 5.2 Where the drafting of any other document is required it shall ordinarily be expected of the Legal Practitioner concerned to draft at a rate of 150 words per 15 minutes.

- 5.3 The rates set out in paragraphs 5.1 and 5.2 may be varied by the CEO or a Legal Practitioner employed by the L.A.B. and delegated thereto by the CEO.
- 5.4 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 the L.A.B. what the rates set out in paragraphs 5.1 and 5.2 above were achieved unless he/she clearly, simultaneously and in writing advises the L.A.B. to the contrary.
- 6.1 Where the perusal of any pleadings, affidavits (of a non formal nature and excluding annexures) or heads of argument are required in any matter in the High Court, Supreme Court of Appeal or the Constitutional Court it shall ordinarily be expected of the Legal Practitioner concerned to peruse at a rate of 7 pages per 15 minutes.
- 6.2 Where the perusal of any other document, including but not by limitation a record, is required it shall ordinarily be expected of the Legal Practitioner concerned to peruse at a rate of 10 pages per 15 minutes.
- 6.3 The rates set out in paragraphs 6.1 and 6.2 may be varied by the CEO or a Legal Practitioner employed by the L.A.B. and delegated thereto by the CEO.
- 6.4 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 the L.A.B. that the rates set out in paragraphs 6.1 and 6.2 above were achieved unless he/she clearly, simultaneously and in writing advises the L.A.B. to the contrary.
7. Where it is necessary to appoint a correspondent, a Legal Practitioner acting on a legal aid instruction shall, if there is an office of the L.A.B. in the magisterial district concerned, offer the work, in the first instance, to the office of the L.A.B. 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:
- 7.1 That the Legal Practitioner, and consequently the correspondent, act on a legal aid instruction and are entitled to be remunerated by the L.A.B. alone and on L.A.B. tariffs.
- 7.2 That the correspondent will be contracting with the Legal Practitioner and not with the L.A.B. and will have no claim against the L.A.B. directly.

ANNEXURE F.4

DISBURSEMENTS

The following disbursements shall be allowed over and above the fees set out in Annexure F.2.

- 1.1 The fees of any expert authorised by the L.A.B. at the rate so authorised and to the extent of any maximum authorised.
- 1.2 Necessary revenue stamps.
- 1.3 Necessary sheriff's fees or like process (edictal citation). Necessary advertisement costs pursuant to the grant of a substituted service order.
- 1.4 Necessary travel outside of any magisterial district in which the legal practitioner concerned has an office: R2.50 per kilometre excluding VAT or economy class air fare, whichever is the lesser.
- 1.5 Where it is necessary for a legal practitioner to hire accommodation for himself/herself at the seat of a court more than 130 kilometres from his/her offices/chambers the L.A.B. will pay such legal practitioner an allowance in respect of accommodation of R500,00 (excluding VAT) per night.
- 1.6 Where it is necessary for a legal practitioner to attend at a venue more than 130 km from his/her chambers the L.A.B. shall pay such legal practitioner a subsistence allowance of R150,00 (excluding VAT) per day or part thereof.
- 1.7. The CEO, if it appears to him/her to be in the interests of the administration of justice and the Board, be entitled to authorise the reimbursement of necessary travel within a particular magisterial district by legal practitioners practising in that magisterial district at R2,50c per kilometre excluding VAT.
- 1.8 The actual out of pocket expense of toll roads to the extent that such were reasonably necessary
- 1.9 Save as set out above no legal practitioner shall be entitled to recover any allowance or disbursement in respect of travel, accommodation, subsistence or any matter reasonably incidental thereto from the Legal Aid Board.

- 1.9 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 unless the L.A.B. itself decides to book and pay for the flight) or where the L.A.B. itself books and pays for accommodation and/or meals (which it is not obliged to do) the allowances set out above are payable irrespective of the actual expenditure (either greater or lesser) incurred by the legal practitioner.
- 1.10 Save 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 CEO of the Board or any admitted legal practitioner in the employ of the Board delegated by the CEO of the Board to make such decision on his/her behalf.

8. A Legal Practitioner who accepts a legal aid instruction is ordinarily expected to render the necessary legal services himself/herself. An attorney may, with the consent of the CEO or a Legal Practitioner employed by the LAB and delegated thereto by the CEO, elect to instruct an advocate in a matter in the High Court, the Supreme Court of Appeal or the Constitutional Court, subject to the condition that if the L.A.B. 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.
 - 8.1 That the attorney and consequently the advocate act on a legal aid instruction and are entitled to be remunerated by the L.A.B. alone and on L.A.B. tariffs.
 - 8.2 That the advocate will be contracting with the attorney and not with the L.A.B. and will have no claim against the L.A.B. directly.
 - 8.3 That the L.A.B. will not pay either Legal Practitioner for any work that would have been unnecessary had the attorney elected to do all the work himself/herself and will not pay for any duplication of work.
 - 8.4 That save with the express written consent of the CEO or a Legal Practitioner employed by the LAB and delegated thereto by the CEO, the attorney client costs payable by the LAB pursuant to the employment of an advocate shall not exceed the attorney client costs that would have been payable by the LAB if all the professional services had been rendered by the attorney instructed by the LAB.
9. No Senior Counsel may be instructed without the express written consent of the CEO or a Legal Practitioner employed by the L.A.B. and delegated thereto by the CEO..
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. In any civil matter a Legal Practitioner shall account to the L.A.B. by way of detailed itemised account setting out, the date, the work performed, the time taken (with reference to a 24 clock) and the fees claimed.
12. No additional fees or disbursements are payable at levels 1 to 5 to any Legal Practitioner in respect of any matter not provided for by this tariff and not agreed to in writing by the CEO or a Legal Practitioner employed by the L.A.B. and delegated thereto by the CEO. Thus, for example, the Legal Practitioner who draws a plea is entitled to be remunerated for his/her time spent drawing the document. This is an inclusive fee and the L.A.B. may not separately be invoiced for tying, copying, delivery, filing and similar non professional services customarily rendered by the subordinate staff of the Legal Practitioner.
13. A Legal Practitioner shall retain his/her complete case file in respect of legal services rendered in any civil or non-litigious matter and shall permit the L.A.B., its auditors and agents access thereto during normal office hours on not less than five days notice for at least seven years after the finalisation of the mandate of the legal Practitioner.
14. 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 at pro rata.
15. In any civil matter prior to litis contestatio or non-litigious matter at all a Legal Practitioner at Levels 1 to 5 shall not, without the consent of the CEO or a Legal Practitioner employed by the LAB and delegated thereto by the CEO, be entitled to be remunerated for in 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 contestatio, this shall be reduced to four hours.