

LEGAL AID BOARD

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8 December 2006

FOR ACTION

Legal Aid Officers, Regional Operations Executives, Justice Centre Executives,
other Legal Aid Board staff

FOR INFORMATION

The Chief Justice, The President of the Supreme Court of Appeal, Judges President of All Divisions of the High Court, The National Director of Public Prosecutions, Registrars and Bars of the Cape 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, Mafikeng High Court, Bisho High Court, Mthatha High Court and Thohoyandou High Court, General Council of the Bar of South Africa, the Law Society of South Africa, the Law Societies of the Cape, Kwa-Zulu Natal, Free State and Northern Provinces, National Association of Democratic Lawyers, Black Lawyers Association, Association of Independent Advocates of South Africa, The National Forum of Advocates of South Africa, The Magistrates' Commission, National Prosecuting Authority, Department of Justice, Judicial Inspectorate of Prisons, Human Rights Commission, The Public Protector, Commission on Gender Equality, the Editor of De Rebus and the Editor of Advocate.

Dear Sir/Madam

CIRCULAR NO. 5 OF 2006

JUDICARE TARIFF AMENDMENTS AND INCREASES

1. The Legal Aid Board has approved the following amendments to both the civil and criminal legal aid tariffs as detailed herein below:
 - 1.1 Item 2.1(Preparation Fees) of the Judicare Fees payable in Criminal matters is hereby amended by the substitution thereof by the following:



"2.1 In respect of all matters, including guilty pleas and withdrawals, which are finalized within five trial days, actual preparation and necessary consultations shall be remunerated in respect of not more than two hours for the first accused and additional actual preparation and consultation time of not more than 1 hour per co-accused represented, subject to a maximum of 8 hours per matter."

1.2 Note 2.1 of the criminal tariffs is hereby amended by the substitution thereof of with the following:

"2.1 In respect of all trials of an anticipated duration in excess of 5 trial days the legal practitioner is to submit a detailed written motivation to the Justice Centre Executive responsible, detailing the preparation required, including preparation per co-accused, perusal of documents, necessary consultations and the anticipated duration thereof."

1.3 Note 2 in the criminal tariffs is hereby amended by inserting the following new paragraph 2.4:

"2.4 If a practitioner in a trial that has duration in excess of 5 trial days, is satisfied with the preparation fees in item 2.1 of the tariffs, then the practitioner can claim actual preparation time to the maximum stipulated in terms of the said item without obtaining any further authority for such preparation."

1.4 Note 8 in the criminal tariffs are hereby amended by inserting the following paragraph new paragraph 8.6:

"8.6 The subsistence allowance under item 8.6 of the tariffs may be paid to a practitioner, irrespective of whether such allowance is claimed in conjunction with a claim for accommodation, on condition that the claim complies with the requirements stipulated in these tariffs."

1.5 Note 6 in the civil tariffs are hereby amended by inserting the following new paragraph 6.6:

"6.6 The subsistence allowance under item 3.8 of the tariffs may be paid to a practitioner, irrespective of whether such allowance is claimed in conjunction with a claim for accommodation, on condition that the claim complies with the requirements stipulated in these tariffs."

1.6 Item 1 of the civil tariffs is hereby amended by the insertion of sub - item 1.4 which provides as follows:

"1.4 Merit reports

In any matter where a practitioner is required to prepare a merit report such a practitioner shall be remunerated at the rate as stipulated in Item 1.1 of the tariff that corresponds with the level of the matter, subject to a maximum of 3 hours."

2. The amendments as envisaged in Paragraphs 1.1 to 1.6 above will become effective on the 1 January 2007. The fees appearing in Annexure E and F of Circular 1 of 2006 shall be applicable until the increased tariffs under this Circular become effective on 1 April 2007.
3. The Legal Aid Board has approved an increase of 5.3% in respect of both the criminal and civil legal aid tariffs rounded to the nearest Rand, with effect from 1 April 2007.
4. The fees stipulated in the legal aid tariffs that are set out in Annexure E and F hereto and will be applicable with effect from 1 April 2007.

Yours faithfully



V N VEDALANKAR
CHIEF EXECUTIVE OFFICER

ANNEXURE E

Fees and disbursements payable to Judicare Legal Practitioners in respect of Criminal Matters

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
1.	Criminal trials – Appearance ¹				
1.1	For appearing before any court when a postponement is granted at the request of the State subject thereto that a postponement fee will not be paid unless the charge sheet demonstrates that the practitioner opposed any unnecessary application for postponement of a matter by the State after the commencement of the trial.	130.00 Per postponement	130.00 Per postponement	132.00 Per postponement	N.A.
1.2	For appearing before court and any other professional services incidental thereto (excluding permitted preparation on any trial day.	838.00 Per trial day	996.00 Per trial day	1125.00 Per trial day	N.A.
1.3	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. The minimum fee permitted in respect of any trial day shall be:	130.00 Per day	130.00 Per day	132.00 Per day	N.A.
2	Preparation Fees ²				
2.1	In respect of all matters, including guilty pleas and withdrawals, which are finalised within five trial days, actual preparation and necessary consultations shall be remunerated in respect of not more than two hours for the first accused and additional actual preparation and consultation time of not more than 1 hour per co-accused represented subject to a maximum of 8 hours per matter.	117.00 Per hour	164.00 Per hour	215.00 per hour	N.A.
2.2	In respect of trials of an anticipated duration of more than five trial days duration.	117.00 per hour	164.00 per hour	215.00 per hour	N.A.

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
3.	Increased Trial Day Fees³				
3.1	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:	N.A.	2165.00 Per trial day	2836.00 Per trial day	N.A.
3.2	In highly rare and very exceptional circumstances, the National Operations Executive 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.	N.A.	1298.00 Per trial day	1700.00 Per trial day	N.A.
4.	Bail Applications and Interlocutory Applications⁴				
4.1	A legal practitioner shall be remunerated for bail and other interlocutory applications not otherwise provided for at the rates set out above as if such bail or interlocutory application formed part of the trial of the accused.	838.00 Per trial day	996.00 Per trial day	1125.00 Per trial day	N.A.
5.	Criminal Trials – General⁵				
5.1	Application for a transcript of the evidence	52.65 Per application	52.65 Per application	54.00 Per application	
5.2	Necessary perusal of a docket and/or record:	2.21 Per page	2.21 Per page	3.26 Per page	N.A.
6.	Criminal Appeals⁶				
6.1	Written report on the merits of a matter when required	170.00 Per report	170.00 Per report	239.00 Per report	239.00 Per report
6.2	Application to the court a quo for leave to appeal	117.00 Per application	117.00 Per application	173.00 Per application	N.A.
6.3	Drafting petition for leave to appeal to the High court/application to	N.A.	N.A.	346.00	477.00

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	the SCA including all typing, copies and attendances relevant thereto			Per petition	Per application
6.4	Drafting of documents not otherwise provided for, including all typing, copies and attendances relevant thereto	N.A.	N.A.	22.00 per page Up to a max of 219.00	33.00 per page Up to a max of 328.00
6.5	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 Uniform Rules including all typing, copies and attendances relevant thereto	53.00 Per application	53.00 Per application	54.00 Per application	54.00 Per application
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	2.21 per page	2.21 per page	3.26 per page	N.A.
6.7	Heads of argument including all typing, copies and attendances relevant thereto	N.A.	N.A.	477.00 Per set of Heads	477.00 Per set of Heads
6.8	On appearing before the superior court to argue application for leave to appeal including the final report to the LAB and the report back to the legal aid applicant	N.A.	N.A.	931.00 This fee includes any consultations, perusal, drafting or attendance on that day and any other application made on that day	1051.00 This fee includes any consultations, perusal, drafting or attendance on that day and any other application made on that day

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
6.9	On appearing before the superior court to argue appeal and including the noting of judgement, the final report to the LAB and the report back to the legal aid application	N.A.	N.A.	1149.00 This fee includes any consultations or perusal on that day and any application made on that day	1642.00 This fee includes any consultations or perusal on that day and any application made on that day
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.	170.00 Per consultation	170.00 Per consultation	173.00 Per consultation	173.00 Per consultation
7.	Tariff of Fees in respect of death sentence conversion matters, in terms of the Criminal Law Amendment Act 1997 (Act 105 of 1997) 7				
7.1	Consultation with legal aid applicant, subject to a maximum of four hours	N.A.	N.A.	173.00 Per hour	N.A.
7.2	Any document necessarily perused	N.A.	N.A.	3.26per page	N.A.
7.3	Drafting of written arguments, including all typing, copies and service	N.A.	N.A.	22.00 per page subject to a maximum of 219.00	N.A.
7.4	Appearing before court to submit oral argument, where requested by the court and authorised by the designated legal administration officer.	N.A.	N.A.	704.00 Per Matter	N.A.
8.	Disbursements ⁸				
	The following disbursements shall be allowed over and above the fees set out above				

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
8.1	The fees of any expert authorised by the LAB	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
8.3	Necessary travel outside of any magisterial district in which the legal practitioner concerned has an office	R2.74 per km	R2.74 per km	R2.74 per km	R2.60-2.74 per km
8.4	Necessary air travel	N.A.	N.A.	Economy class	Economy class
8.5	Where it is necessary for a legal practitioner to hire accommodation for himself/herself at the seat of a court LAB will pay such legal practitioner an allowance in respect of accommodation	R547.00 per night provided the seat of the court is more than 130km from the offices/chambers of the legal practitioner	R547.00 per night provided the seat of the court is more than 130km from the offices/chambers of the legal practitioner	R547.00 per night provided the seat of the court is more than 130km from the offices/chambers of the legal practitioner	R547.00 per night provided the seat of the court is more than 130km from the offices/chambers of the legal practitioner
8.6	Where it is necessary for a legal practitioner to attend at a venue away from his/her chambers/offices the LAB shall pay such legal practitioner a subsistence allowance	R164.00 per day provided the seat of the court is more than 130km from the offices/chambers of the legal practitioner	R164.00 per day provided the seat of the court is more than 130km from the offices/chambers of the legal practitioner	R164.00 per day provided the seat of the court is more than 130km from the offices/chambers of the legal practitioner	R164.00 per day provided the seat of the court is more than 130km from the offices/chambers of the legal practitioner

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal practitioner
8.7	Toll roads to the extent that such were reasonably necessary	Actual out of pocket expenses	Actual out of pocket expenses	Actual out of pocket expenses	Actual out of pocket expenses
	See also note 9				

NOTES TO THE FEES AND DISBURSEMENTS PAYABLE TO LEGAL PRACTITIONERS IN RESPECT OF CRIMINAL MATTERS

With effect from 1 April 2007 Legal Practitioners shall be remunerated in accordance with Circular No 5 of 2006.

1. Criminal Trials – Appearance Fees

- 1.1 No additional fees will be permitted in respect of any trial day lasting in excess of four hours or in respect of any waiting time or any other attendance whatsoever.

2. Preparation Fees

- 2.1 In respect of all trials of an anticipated duration in excess of 5 trial days the legal practitioner is to submit a detailed written motivation to the Justice Centre Executive responsible detailing the preparation required, including preparation per co-accused, perusal of documents ,necessary consultations and the anticipated duration thereof.
- 2.2 Justice Centre Executives must consult their delegations to determine what preparation fees they may authorise and which must be referred to Regional Operations Executives.

- 2.3 In exceptional circumstances preparation time in excess of 2 hours may be authorised in response to a detailed written motivation submitted to the Justice Centre Executive in respect of a trial of an anticipated duration of less than 5 trial days.
- 2.4 If a practitioner in a trial that has a duration in excess of 5 trial days, is satisfied with the preparation fees in item 2.1 of the tariffs, then the practitioner can claim actual preparation time to the maximum stipulated in terms of the said item without obtaining any further authority for such preparation.

3. Increased Trial Day

- 3.1 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
- 3.2 Justice Centre Executives must consult their delegations to determine what preparation fees they may authorise and which must be referred to Regional Operations Executives.
- 3.3 The National Operations Executive shall ensure that at each ordinary meeting of the Legal Aid Board particulars of any increased fees authorised and particulars of any increased fees paid since the last such report are tabled for the information of members of the Legal Aid 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 Justice Centre Executive, which should only be granted in response to a detailed motivation in writing in respect of any second or subsequent bail application
- 4.2 Upon accounting to the LAB the legal practitioner shall indicate whether a bail application was launched and shall report on the result of such bail application.
- 4.3 If an accused on legal aid is granted bail in excess of R5000.00 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 forthwith report such fact in writing to the applicable Justice Centre Executive. The applicable Justice Centre Executive shall give directions as to whether the matter is to be:

- 4.3.1 Continued on legal aid; or
- 4.3.2 Referred back to the legal aid officer 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 way of separate legal aid instructions and subject to the tariffs set out in respect of 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 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 magistrate's 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 fees is obliged to submit a copy of the charge sheet and annexures thereto to the LAB with his/her 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 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. Save in the above circumstances the perusal of a record, other than as part of the Preparation Fees allowed in terms of Item 2 of the above tariff, shall only be allowed with the prior written consent of the Justice Centre Executive.

5.4 Where in excess of two hours preparation are permitted in respect of any criminal trial, such 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 prior to 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. Death Sentence Conversion Matters

- 7.1 The ROEs have 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 JCE in writing.

8. Disbursements

- 8.1 An ROE, if it appears to him/her to be in the interests of the administration of justice and the LAB, be entitled to authorise the reimbursement of necessary travel within a particular magisterial district by legal practitioners practising in that magisterial district at the same rate as that applicable to travel outside the magisterial district. Applications in this regard are to be submitted in writing via the JCE.
- 8.2 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 LAB.
- 8.3 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.
- 8.4 The LAB may, but is not obliged to, itself book and pay for air travel and/or accommodation and/or meals. In the event of the LAB 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.

- 8.5 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 JCE or any admitted legal practitioner in the employ of the Board delegated by the JCE to make such decision on his/her behalf.
- 8.6 The subsistence allowance under item 8.6 of the tariffs may be paid to a practitioner, irrespective of whether such allowance is claimed in conjunction with a claim for accommodation, on condition that the claim complies with the requirements stipulated in these tariffs.

9. General

- 9.1 After the case has been finalised the legal practitioner must report to the applicable Justice Centre Executive in writing setting out the following information:
- 9.1.1 The case number
 - 9.1.2 The court where the matter was heard
 - 9.1.3 The outcome of the matter
 - 9.1.4 The duration of the hearing
 - 9.1.5 Any other material information
- 9.2 All sums referred to are amounts exclusive of VAT.
- 9.3 Under no circumstances will any collapse/reservation/cancellation/waiting/travelling fees be paid by the LAB to any legal practitioner in respect of any criminal matters, criminal appeals, matters in terms of the Criminal Law Amendment Act, 1997 or any other matters whatsoever. The LAB 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.
- 9.4 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 LAB will dispatch a cheque in payment of the said account within 30 days of receipt thereof or, will instruct its bankers to effect payment by electronic transfer or, in the event of the LAB being unable or unwilling to effect payment, advise legal practitioner in writing of the reason for non payment.

ANNEXURE F

Tariff of Fees payable to Judicare Practitioners in respect of Civil Matters ¹

Number	Matter	Magistrate's Court	High Court	Supreme Court of Appeal	Constitutional Court
1	Judicare Remuneration for Services according to levels ^{2 + 3}				
1.1	Hourly rates Level 1 Level 2 Level 3 Level 4 Level 5	187.00 235.00 281.00 352.00 N.A.	N.A. N.A. 286.00 358.00 477.00	N.A. N.A. N.A. N.A. N.A.	N.A. N.A. N.A. N.A. N.A.
1.2	Rates per completed four hour trial day Level 1 Level 2 Level 3 Level 4 Level 5	838.00 996.00 1125.00 1406.00 N.A.	N.A. N.A. 1146.00 1432.00 2836.00	N.A. N.A. N.A. N.A. N.A.	N.A. N.A. N.A. N.A. N.A.
1.3	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 fee shall be allowed for appearing before court when the postponement is granted of:	129.00 Per postponement	132.00 Per postponement		
1.4	Merit reports In any matter where a practitioner is required to prepare a merit report such a practitioner shall be remunerated at the rate as stipulated in Item 1.1 above that corresponds to the level of the matter, subject to a maximum of 3 hours.				

Number	Matter	Magistrate's Court	High Court	Supreme Court of Appeal	Constitutional Court
	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 the LAB 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 and Junior Counsel	N.A.	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 by an attorney		
2.1.2	Hourly rate for Senior Counsel and specialist attorneys	N.A.	876.00 to 1314.00 per hour	876.00 to 1314.00 per hour	876.00 to 1314.00 per hour
2.1.3	Senior Counsel and specialist attorneys per 10 hour day	N.A.	8760.00 to 13141.00 per day	8760.00 to 13141.00 per day	8760.00 to 13141.00 per day
3	Disbursements ⁶				
3.1	The following disbursements shall be allowed over and above the fees set out above.				
3.2	The fees of any expert authorised by the LAB.	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
3.4	Necessary sheriff's fees or like process (edictal citation).	As set out in	As set out in	As set out in	As set out in

Number	Matter	Magistrate's Court	High Court	Supreme Court of Appeal	Constitutional Court
	Necessary advertisement costs pursuant to the grant of a substituted service order.	applicable statutory tariffs	applicable statutory tariffs	applicable statutory tariffs	applicable statutory tariffs
3.5	Necessary travel outside of any magisterial district in which the legal practitioner concerned has an office/chambers	2.74 per km	2.74 per km	2.74 per km	2.74 per km
3.6	Necessary air travel	N.A.	N.A.	Economy class	Economy class
3.7	Where it is necessary for a legal practitioner to hire accommodation for himself/herself at the seat of a court the LAB will pay such legal practitioner an allowance in respect of accommodation	547.00 per night provided the seat of the court is more than 130 km from the offices/chambers of the legal practitioner			
3.8	Where it is necessary for a legal practitioner to attend at a venue more than 130km from his/her chambers the LAB shall pay such legal practitioner a subsistence allowance	164.00 per night provided the seat of the court is more than 130 km from the offices/chambers of the legal practitioner			
3.9	Toll roads to the extent that such were reasonable necessary	Actual out of pocket expenses			
	See also Note 7				

Notes to the Fees and disbursements payable to Judicare Legal Practitioners in respect of Civil Matters

1. Applicable Tariff

1.1 With effect from 1 April 2007 legal practitioners shall be remunerated in accordance with Circular 5 of 2006.

2. Experience levels of Legal Practitioners

2.1 At the commencement of each calendar year or so soon thereafter as practical each Legal Practitioner shall be classified as being of a level from one to five in accordance with the following criteria

2.2

Level	Minimum Required Experience
1	Entry level (in respect of reserved work must be legally permitted to undertake the work)
2	Minimum one year full time general practice as a Legal Practitioner
3	Minimum three years full time general practice as a Legal Practitioner
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
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 In calculating the time spent by a Legal Practitioner in full time practice regard shall be had to:

- 2.3.1 A period not exceeding two years as a candidate attorney provided the Legal Practitioner was subsequently admitted as an attorney; and
- 2.3.2 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
- 2.3.3 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 his/her 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 the LAB; and/or
 - 2.3.3.6 In the employ of the State Attorney; and/or
 - 2.3.3.7 As a legal advisor but only in respect of 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 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 2.2 above.
- 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 him/her.
- 2.6 A legal practitioner may render legal services at a level below the maximum for which he/she 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 the LAB 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:
 - 2.7.1 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.
 - 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 and the Labour Appeal Court.

3.

Level	Permitted Professional Services
1	<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 and 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
Level 2	<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. 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. Labour Court matters c. Children's court matters. d. Child Justice matters. e. Divorce, custody, guardianship and Family Court matters not otherwise provided for f. General arbitrations and ADR not otherwise provided for g. 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 Guide
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 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 LAB at executive level, customarily performed by a specialist attorney and as permitted by the Legal Aid Guide
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4. General Provisos

- 4.1 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.
- 4.2 Save with the consent of the JCE or a Legal Practitioner employed by the LAB and delegated thereto by the JCE.
- 4.2.1 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.
- 4.2.2 However, in respect of default judgements, settled or undefended matters and interlocutory applications such remunerated consultation, preparation and other pre trial chamber work shall ordinarily be limited to not more than two hours.
- 4.3 In addition to the foregoing 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 the LAB in terms of the judicare instruction.
- 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 shall ordinarily be expected of the Legal Practitioner concerned to draft at a rate of 100 words per 15 minutes.
- 4.4.2 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.
- 4.4.3 The rates set out in paragraphs 4.4.1 and 4.4.2 may be varied by the JCE or a Legal Practitioner employed by the LAB and delegated thereto by the JCE.

- 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 the LAB what the rates set out in paragraphs 4.4.1 and 4.4.2 above were achieved unless he/she clearly, simultaneously and in writing advises the LAB to the contrary.
- 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 shall ordinarily be expected of the Legal Practitioner concerned 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 shall ordinarily be expected of the Legal Practitioner concerned 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 JCE or a Legal Practitioner employed by the LAB and delegated thereto by the JCE.
- 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 the LAB that the rates set out in paragraphs 4.5.1 and 4.5.2 above were achieved unless he/she clearly, simultaneously and in writing advises the LAB 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 the LAB in the magisterial district concerned, offer the work, in the first instance, to the office of the LAB. 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 the LAB alone and on LAB tariffs.
- 4.6.2 That the correspondent will be contracting with the attorney and not with the LAB and will have no claim against the LAB directly.
- 4.7 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 JCE or a Legal Practitioner employed by the LAB and delegated thereto by the JCE, elect to instruct an advocate in a matter in the High Court, subject to the condition that if the LAB 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 the LAB alone and on LAB tariffs.
- 4.7.2 That the advocate will be contracting with the attorney and not with the LAB and will have no claim against the LAB directly.
- 4.7.3 That the LAB 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.
- 4.7.4 That save with the express written consent of the JCE or a Legal Practitioner employed by the LAB and delegated thereto by the JCE, 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.
- 4.8 No Senior Counsel may be instructed without the express written consent of the ROE or a Legal Practitioner employed by the LAB and delegated thereto by the ROE.
- 4.9 After the case has been finalised the legal practitioner must report to the Justice Centre Executive in writing setting out the following information:
 - 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 the LAB 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.
- 4.11 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 JCE or a Legal Practitioner employed by the LAB and delegated thereto by the JCE. 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 LAB 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.
- 4.12 A Legal Practitioner shall retain his/her complete case file in respect of legal services rendered in any civil or non-litigious matter for at least seven 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 at all a Legal Practitioner at Levels 1 to 5 shall not, without the consent of the JCE or a Legal Practitioner employed by the LAB and delegated thereto by the JCE, 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 contestation, this shall be reduced to four 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 the LAB and non litigious impact services classified as such by the LAB.
- 5.2 All representations in relation to the classification of any matter as an Impact Services Matter and all other correspondence ancillary thereto is to be addressed to the Impact Services Section at the National Office of the LAB.

6. Disbursements

- 6.1 The ROE, if it appears to him/her to be in the interests of the administration of justice and the LAB, be entitled to authorise the reimbursement of necessary travel within a particular magisterial district by legal practitioners practising in that magisterial district at the same rate applicable to travel outside the magisterial district. Applications in this regard are to be submitted via the JCE.
- 6.2 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 incidental thereto from the LAB.

- 6.3 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.
- 6.4 The LAB may, but is not obliged to, itself book and pay for air travel and/or accommodation and/or meals. In the event of the LAB 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.
- 6.5 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 JCE or an admitted legal practitioner in the employ of the LAB delegated by the JCE to make such decision on his/her behalf.
- 6.6 The subsistence allowance under Item 3.8 may be paid to a practitioner, irrespective of whether such allowance is claimed in conjunction with a claim for accommodation, on condition that the claim complies with the requirements stipulated in these tariffs.

7. General

- 7.1 All sums referred to are amounts exclusive of VAT.
- 7.2 Under no circumstances will any collapse/reservation/cancellation/waiting/travelling fees be paid by the LAB to any legal practitioner in respect of any matters whatsoever. The LAB 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.
- 7.3 It shall be the responsibility of the legal practitioner upon submitting his/her account to ensure that the LAB 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 LAB will dispatch a cheque in payment of the said account within 30 days of receipt thereof or by electronic transfer, will instruct its bankers to effect payment, or, in the event of the LAB being unable to unwilling to effect payment, advise the legal practitioner in writing of the reason for non payment.