

**Legal Aid**  
South Africa

18 March 2010

**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

**FOR INFORMATION**

Judiciary: The Chief Justice

The President of the Supreme Court of Appeal

Judges President: South Gauteng High Court

North Gauteng High Court

Western Cape 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 Kwa-Zulu 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

**Your voice. For justice.**

National Office

29 De Beer Street

Breamfontein

2017

Tel: 011-877-2055

Fax: 011-877-2222

[www.legal-aid.co.za](http://www.legal-aid.co.za)



Eastern Cape Society of Advocates (Grahamstown)  
Eastern Cape Society of Advocates (Port Elizabeth)  
Northern Cape Society of Advocate  
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

Prosecution: The National Director of Public Prosecutions

Director of Public Prosecutions: South Gauteng  
North Gauteng  
Western Cape  
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  
Western Cape 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, Bhisho  
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

Dear Sir/Madam

**CIRCULAR NUMBER 1 OF 2010**  
**AMENDMENTS TO THE LEGAL AID GUIDE 2009**

Notice is hereby given that the board of Legal Aid South Africa has approved the following amendments to the 2009 Legal Aid Guide (11<sup>th</sup> edition). The amendments set out below will come into effect from 1 April 2010. Save in respect of Annexures C, E and F, the striking through of words indicates the deletion of such words and the underlining of words indicates the insertion of new text. In the case of Annexures C, E and F the entire annexures are replaced by the annexures hereto.

**1. CHAPTER 4**

**1.1 Paragraph 4.3.2(a) page 39**

- Overloading of a vehicle under the Road Traffic Act
- Reckless and/or negligent driving
- Any attempt to commit any of the above offences

**1.2 Paragraph 4.9.1 page 52**

**(p) Administrative tribunals**

Legal Aid is not available for hearings before administrative tribunals eg

- Parole hearings
- Liquor licensing applications
- Rezoning applications

In appropriate cases, legal aid may be granted to review decisions of administrative tribunals

1.3 Paragraph 4.9.1 page 52

**(g) Restrictions on number of civil matters**

Legal aid applicants are restricted to one civil matter on legal aid at a time unless additional matters are approved by the ROE

2. CHAPTER 5

2.1 Paragraph 5.2.6 page 79

**5.2.6 HIGH COST AND HIGH RISK MATTERS**

~~A District or Regional Court case must be referred to the ROE and a High Court or Commercial Crimes Court matter must be referred to the CCMC before legal aid is granted in any application in which the JCE believes:~~


- ~~• The fees and disbursements to be paid by the LAB will exceed a total of R50,000, or~~
- ~~• The duration of the trial is likely to be more than 20 trial days.~~
- ROEs and the CCMC will monitor high cost and lengthy duration matters where the costs exceed R 50 000 or ensues for longer than 20 trial days.

The ROE or CCMC will choose whether or not to request a forensic enquiry before deciding whether or not the application for legal aid is to be granted.

→ See Also 10.7 on pages 129 to 132 on forensic investigations where fraud and abuse of legal aid is suspected.

3. CHAPTER 6

3.1 Paragraph 6.1.8 page 89

 The JCE must consult with the ROE in a ~~District or Regional Court~~ case and the CCMC in a High Court or Regional Court Commercial Crimes case before any legal aid instruction is issued or before any *Justice Centre* starts providing legal aid, in (a) to (e) below and also with the ROE in District Court cases in (c) to (e) below, when:

- a) The anticipated cost of the matter is more than R50,000.
- b) The anticipated duration of the matter is more than 20 trial days.
- c) An increased fee exceeds the JCE's delegated authority.
- d) The matter was previously privately funded and the JCE intends to allocate a Judicare instruction to the practitioner, who was previously privately instructed.
- e) The matter is likely to attract public attention because of the nature of the matter or the identity of the client.

ROEs and the CCMC will monitor high cost and lengthy duration matters where the costs exceed R 50 000 or ensues for longer than 20 trial days.

**4. CHAPTER 10**

**4.1 Paragraph 10.7.10 page 132**

**10.7.10 EXCLUSION OF PRIVATE CLIENTS IN JUDICARE MATTERS**

Save with the written consent of the JCE no legal practitioner who has accepted a Judicare instruction may simultaneously act for any private client in the same matter.

**5. CHAPTER 12**

**5.1 Paragraph 12.4.4 page 158**

**12.4.4 MEDICO-LEGAL SERVICES AND OTHER EXPERT WITNESSES**

**(a) Applying for consent**

If the services of medical practitioners or other expert witnesses are required, a legal practitioner must get prior written consent from the JCE Legal Aid South Africa:

- The practitioner must send an estimate of the costs on Annexure J when applying ~~to the JCE.~~
- If ~~only one or two~~ less than three quotations are obtainable, reasons must be submitted.
- If the anticipated cost exceeds R500 000, Legal Aid South Africa will need to follow a tender procedure
- The JCE's Approval or refusal must be given in writing.
- The authority to approve medico-legal services and other expert witnesses will be delegated in accordance with Approval Framework and Standard Operating Procedures of Legal Aid South Africa, save that JCE's only have the authority to approve such services and/or expert witnesses to a Maximum of R 10 000.

■ See Annexure J on page 255.

**5.2 Paragraph 12.5.2 page 160**

**12.5.2 PROGRESS REPORTS**

Simple matters ~~, and these~~ that are resolved within 3 months of the instruction may not need progress reports and it will be sufficient to report with the final account.

For more complex, longer matters, the legal practitioner must report to the JCE at least every 4 ~~3~~ months on progress, giving any information relevant to the disposal of the matter.

Examples of issues to report on:

- The complexities of the case
- Financial implications
- Settlement issues, including the possibility of curtailing the proceedings by plea-bargaining

**5.3 Paragraph 12.5.4 page 160**

**12.5.4 REPORTING WITH ACCOUNTS**

~~The JCE may allow a legal practitioner to account to the LAB monthly or at any other regular interval because of the anticipated length of the matter or for other reasons. Then the legal practitioner must provide a progress report with the rendering of each account~~

A legal practitioner must provide a progress report with the rendering of an account. If interim accounts are permitted, a progress report must accompany each account.

**6. ANNEXURE C**

The following words are added to section F of the LA1 Application for Legal Aid:  
I irrevocably authorise Legal Aid South Africa to act as my attorney and to inspect, copy and carry out quality control tests in respect of the file of any legal practitioner appointed by Legal Aid South Africa to act on my behalf.

**7. ANNEXURES E AND F**

Annexures E and F to the 2009 Legal Aid Guide are replaced by Annexures E and F hereto with effect from 1 April 2010. 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 off to the nearest Rand in most instances.

**8. ANNEXURE O**

**8.1 Paragraph 3.46 page 281**

3.46 An agent Legal Aid Officer must only perform the functions as stipulated in Circular 3 of 2005 and submit applications for legal aid to the relevant Justice Centre as per Appendix 1 of receiving/completing legal aid applications (LA1), means tests (LA13 & LA13C) with supporting documentation and submitting these to the relevant Justice Centre for evaluation and allocation

**8.2 Appendix 3 page 295**

**8. ACCESS TO INFORMATION**

~~Without derogating in any way from the privilege which exists between Attorney and Client in appropriate circumstances and with the client's consent, the Board shall be entitled to gain access to privileged information, which otherwise may not have been available in accordance with the Rules of Privilege.~~

**8. QUALITY CONTROL**

8.1 In every matter in which the Practitioner is instructed by Legal Aid South Africa, the client has irrevocably authorised Legal Aid South Africa to act as his/her attorney in addition to any legal practitioner who may be appointed to act on his/her behalf.

8.2 Legal Aid South Africa is entitled to inspect, copy and carry out quality control tests in respect of the file of any legal practitioner appointed by Legal Aid South Africa to act on behalf of any legal aid recipient irrespective of whether the legal practitioner is in private practice or in the employ of Legal Aid South Africa.

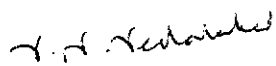
8.3 The authorisation given by the legal aid recipient will survive the termination or finalisation of the mandate of any legal practitioner appointed by Legal Aid South Africa to act on his/her behalf.

8.4 This authorisation will only be utilised for quality control purposes and then only after either all evidence in any case has been heard or the mandate of the Practitioner has been terminated.

8.5 Legal Aid South Africa undertakes to safeguard attorney/client privilege in respect of any information acquired by it in the course of any quality control tests.

8.6 The Practitioner undertakes to co-operate and assist with Legal Aid South Africa in the performance of the quality control tests and to make any closed file available to Legal Aid South Africa for inspection and/or copying within ten business days of such a request.

Yours faithfully



Ms Vidhu Vedalankar  
Chief Executive Officer  
Legal Aid South Africa

APPLICATION FOR LEGAL AID

GREY SHADED AREA/BOLD BLOCKS ARE MANDATORY FIELDS AND MUST BE COMPLETED

OFFICE USE ONLY

A

APPLICANT NAME [grid]

SURNAME [grid]

ID NO. [grid] GENDER [ ] Male [ ] Female

NATIONALITY [ ] SA Citizen [ ] Other

BIRTH DATE [grid]

APPLICANT IS [ ] CHILD UP TO 18 [ ] ADULT 18-60 [ ] SENIOR CITIZEN 60+

Is this application on behalf of a MINOR? [ ] [ ]

MARITAL STATUS

[ ] Single [ ] Married [ ] Widowed [ ] Divorced

RACE [ ] Black [ ] Indian [ ] Other

[ ] White [ ] Coloured

HOME LANGUAGE [ ]

HOME ADDRESS [ ]

PERIOD AT CURRENT ADDRESS [ ] YEARS [ ] MONTHS

Home Tel: [ ]

Work Tel: [ ]

Cell: [ ]

PARENT/GUARDIAN [ ]

B

MEANS TEST

ARE YOU EMPLOYED? [ ] [ ]

DO YOU HAVE AN INCOME? [ ] [ ]

DO YOU HAVE ANY ASSETS? [ ] [ ]

If the answers to all the above questions is No the applicant is not required to complete the full means test.

Qualifications [ ] Job [ ]

Name of employer [ ]

Time in current job [ ] Years [ ] Months

C

TYPE OF CASE

[ ] CIVIL [ ] CRIMINAL [ ] LEAVE TO APPEAL [ ] PETITION [ ] APPEAL

MAIN CHARGE Most serious charge [ ]

D

CASE DETAILS

[ ] HIGH COURT [ ] REGIONAL COURT [ ] DISTRICT COURT

SEAT OF COURT [ ]

COURT ROOM [ ]

CASE NO. [ ]

SAPS CAS NO. [ ]

NEXT COURT DATE [ ] / [ ] / 20 [ ]

Number of accused in matter [ ]

Bail granted [ ] Bail paid [ ] Bail amount R [ ]

Previous court date [ ] / [ ] / 20 [ ]

Name of prison [ ]

Prisoner no. [ ]

Investigating officer [ ]

Date of arrest [ ] / [ ] / 20 [ ]

E

SPOUSES DETAILS ONLY REQUIRED FOR CIVIL CASES

NAME [ ]

ID NUMBER / DATE OF BIRTH [ ]

F

DECLARATION

I declare that the above mentioned information is true, correct and complete. I understand that a false declaration could lead to the suspension of legal aid, and in appropriate circumstances, to criminal prosecution.

I irrevocably authorise Legal Aid South Africa to act as my attorney and to inspect, copy and carry out quality control tests in respect of the file of any legal practitioner appointed by Legal Aid South Africa to act on my behalf.

[ ] / [ ] / 20 [ ]



## Annexure E

### TARIFF OF FEES AND DISBURSEMENTS IN CRIMINAL MATTERS - 2010

The fees and disbursements contained in this Annexure come into effect from 1 April 2010 for work done on or after 1 April 2010. The tariff of fees and disbursements applicable to work done from 1 April 2009 to 31 March 2010 appears in the 2009 Legal aid Guide. The various tariffs of fees and disbursements that are applicable for work done prior to 1 April 2009 are listed on the Legal Aid SA website ([www.legal-aid.co.za](http://www.legal-aid.co.za)) under the heading "LAB Tariffs Pre- April 2009".

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
1.	<b>Criminal trials – Appearance<sup>1</sup></b>				
1.1 (a)	For appearing before any court when a postponement is granted at the request of the State	R160.00 Per postponement	R160.00 Per postponement	R160.00 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	R58.00	R58.00	R58.00	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	<p>R1,741.00 Per postponement where a practitioner has less than 5 years experience</p> <p>R2,321.00 Per postponement where a practitioner has more than 5 years experience</p>	NA
1.2	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.	R1,032.00 Per trial day	R1,227.00 Per trial day	<p>R1,741.00 Per trial day if a practitioner has less than 5 years experience</p> <p>R2,321.00 Per trial day if a practitioner has more than 5 years experience</p>	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:	R160.00 Per day	R160.00 Per day	R160.00 Per day	NA
1.3 (b)	If a matter is finalised by means of a formal withdrawal (which must be in writing), guilty plea, diversion or plea bargain, a finalisation fee, inclusive of all necessary consultations and preparations will be paid. 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 (eg. for sentencing).	R517.00	R737.00	R1,218.00 If practitioner has less than 5 years experience  R1,624.00 If practitioner has more than 5 years experience.	NA
<b>2</b>	<b>Preparation fees<sup>2</sup></b>				
2.1	Practitioners may claim preparation and consultation fees from the date of instruction by Legal Aid South Africa.  Preparation before the start of the trial is required (eg in the High Court up to 8 hours preparation should routinely be done prior to	R144.00 Per hour	R202.00 Per hour	R265.00 Per hour	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	<p>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> <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</p>				

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	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.				
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 ROE/NOE.	R144.00 Per hour	R202.00 Per hour	R265.00 Per hour	NA
<b>3.</b>	<b>Increased trial day fees<sup>3</sup></b>				
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	R2,667.00 Per trial day	R3,494.00 Per trial day	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
3.2	<p>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.</p> <p>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.</p>	NA	R1,599.00 Per trial day (Maximum)	R2,095.00 Per trial day (Maximum)	NA
4.	<b>Bail applications and interlocutory applications</b> <sup>4</sup>				
4.1	A legal practitioner shall be remunerated for bail and other 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.	R1,032.00 Per trial day	R1,227.00 Per trial day	R1,741.00 Per trial day if a practitioner has less than 5 years experience  R2,321.00 Per trial day if a practitioner has more than 5 years experience	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
5.	<b>Criminal trials – General<sup>5</sup></b>				
5.1	Application for a transcript of the evidence	R117.00 Per application	R117.00 Per application	R117.00 Per application	NA
5.2	Necessary perusal of a docket and/or record:	R2.90 Per page	R2.90 Per page	R2.90 Per page	NA
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	R14.00 Per folio	R22.00 Per folio	NA
6.	<b>Criminal appeals<sup>6</sup></b>				
6.1	Written report on the merits of a matter when required.	R319.00 Per report	R319.00 Per report	R319.00 Per report	R319.00 Per report
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:	R160.00 Per postponement	R160.00 Per postponement	R160.00 Per postponement	NA
6.2	Application to the court a quo for leave to appeal (where done by a practitioner who appeared at trial)	R349.00 Per application	R464.00 Per application	R581.00 Per application	NA

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
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	R840.00 Per petition	R1,260.00 Per application
6.4	Drafting of documents not otherwise provided for, including all typing and relevant attendances	NA	NA	R27.00 per page Up to a max of R523.00	R41.00 per page Up to a max of R 696.00
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 the Uniform Rules including all typing and attendances relevant thereto.	R160.00 Per application	R160.00 Per application	R160.00 Per application	R160.00 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 or where the client indicated that he/she did not require leave to appeal but subsequently requested an application for leave to appeal and a period of longer than 3 months has expired since sentence.	R2.90 Per page	R2.90 Per page	R2.90 Per page	NA



Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
6.7	Heads of argument including perusal of record to prepare heads of argument, all typing and relevant attendances	NA	NA	R1,741.00 Per set of Heads	R1,741.00 Per set of Heads
6.8	On appearing before the trial court to argue application for leave to appeal including the final report to the LAB and the report back to the legal aid 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	R754.00	R986.00	R1,160.00	NA
6.9	On appearing before a 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 applicant  This fee includes any consultations or perusal on that day and any application made on that day	NA	NA	R1,741.00	R4,061.00

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
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.	R232.00 Per consultation	R232.00 Per consultation	R232.00 Per consultation	R232.00 Per consultation
7.	<b>Disbursements<sup>8</sup></b>				
	These disbursements shall be allowed over and above the fees set out above				
7.1	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
7.2	Necessary revenue stamps	As required by the prosecution	As required by the prosecution	As required by the prosecution	As required by the prosecution
7.2 (a)	Necessary copies of documents such as charge sheets, petitions and heads of argument.	R1.74 Per page	R1.74 Per page	R1.74 Per page	R1.74 Per page
7.3	Necessary travel outside of any magisterial district in which the legal practitioner has an office	R3.38 Per km	R3.38 Per km	R3.38 Per km	R3.38 Per km
7.4	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
7.5	Where it is necessary for a legal practitioner to hire accommodation at the court venue, the LAB will pay the legal practitioner an allowance in respect of accommodation  <b>NB</b> – Where the actual expenditure exceeds the allowance in paragraphs 7.5 and 7.6 but is still within the LAB Travel Policy, the practitioner may choose between requesting the LAB to book and pay for his /her expenses or pay on his /her own accommodation and then claim a refund from the LAB	R674.00 Per night provided that the court venue is situated more than 130km from the offices/chambers of the legal practitioner	R674.00 Per night provided that the court venue is situated more than 130km from the offices/chambers of the legal practitioner	R674.00 Per night provided that the court venue is situated more than 130km from the offices/chambers of the legal practitioner	R674.00 Per night provided that the court venue is situated more than 130km from the offices/chambers of the legal practitioner
7.6	Where it is necessary for a legal practitioner to attend at a court venue away from his/her chambers/offices the LAB shall pay the legal practitioner a subsistence allowance	R202.00 Per day provided that the court venue is situated is more than 130km from the offices/chambers of the legal practitioner	R202.00 Per day provided that the court venue is situated more than 130km from the offices/chambers of the legal practitioner	R202.00 Per day provided that the court venue is situated more than 130km from the offices/chambers of the legal practitioner	R 202.00 Per day provided that the court venue is situated 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
7.7	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

## 2010 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 judgement 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 R5,576.00 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 his/her 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 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 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 his/her 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. An ROE, if it appears to him/her to be in the interests of the administration of justice and Legal Aid SA, is 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 for this must be submitted in writing via the JCE.
- 7.2. 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.
- 7.3. 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.
- 7.4. 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.
- 7.5. 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 the Board delegated by the JCE to make this decision on his/her behalf.
- 7.6. The subsistence allowance under item 7.6 of the tariffs may be paid to a practitioner, irrespective of whether this allowance is claimed in conjunction with a claim for accommodation, on condition that the claim complies with the requirements stipulated in these tariffs.

## 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. The case number
  - 8.1.2. The court where the matter was heard
  - 8.1.3. The outcome of the matter
  - 8.1.4. The duration of the hearing
  - 8.1.5. 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 his/her 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.

## TARIFF OF FEES AND DISBURSEMENTS IN CIVIL MATTERS<sup>1</sup> - 2010

The fees and disbursements contained in this Annexure come into effect from 1 April 2010 for work done on or after 1 April 2010. The tariff of fees and disbursements applicable to work done from 1 April 2009 to 31 March 2010 appears in the 2009 Legal aid Guide. The various tariffs of fees and disbursements that are applicable for work done prior to 1 April 2009 are listed on the Legal Aid SA website ([www.legal-aid.co.za](http://www.legal-aid.co.za)) under the heading "LAB Tariffs Pre- April 2009".

Number	Matter	Magistrate's Court	High Court	Supreme Court of Appeal	Constitutional Court
1	Judicare remuneration for services according to levels <sup>2</sup> + <sup>3</sup>				
1.1(a)	Hourly rates Level 1 Level 2 Level 3 Level 4 Level 5	R248.00 R290.00 R349.00 R435.00 NA	Not applicable(NA) NA R406.00 R494.00 R581.00	NA NA NA NA NA	NA NA NA NA NA
1.1 (b)	Counsel fees (High Court Matters Only) Hourly rates Level 3 Level 4 Level 5	NA NA NA	R494.00 R581.00 R667.00	NA NA NA	NA NA NA
1.2(a)	Rates per completed 4 hour trial day Level 1 Level 2 Level 3 Level 4 Level 5	R1,045.00 R1,241.00 R1,450.00 R1,741.00 NA	NA NA R2,031.00 R2,610.00 R3,481.00	NA NA NA NA NA	NA NA NA NA NA



Number	Matter	Magistrate's Court	High Court	Supreme Court of Appeal	Constitutional Court
1.2(b)	Counsel fees per completed 4 hour trial day (High Court Matters Only) Level 3 Level 4 Level 5	NA NA NA	R2,031.00 R2,610.00 R3,481.00	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 consultations to issue summons Level 1 Level 2 Level 3 Level 4 Level 5	R209.00 R278.00 R336.00 R418.00 NA	NA NA R406.00 R494.00 R581.00	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	R12.00 R13.00 R14.00 R15.00 NA	NA NA R23.00 R29.00 R41.00	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 judgement 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:	R159.00 Per postponement	R163.00 Per postponement	NA	NA

Number	Matter	Magistrate's Court	High Court	Supreme Court of Appeal	Constitutional Court
1.5	<p><b>Merit reports</b></p> <p>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 that corresponds to the level of the matter, subject to a maximum of 3 hours.</p> <p>See also Note 4 on the General Provisos applicable to all civil matters not classified as Impact Services.</p>				
<b>2</b>	<p><b>Impact Services</b> <sup>5</sup></p> <p>Legal practitioners who perform impact services on the instruction of the LAB will be entitled to be remunerated as follows:</p>				
2.1	To be negotiated and agreed in each instance but never more than:				
2.1.1	Attorneys	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 by an attorney		
2.1.2	Junior Counsel	NA	Not more than two thirds of the rates paid to Senior Counsel		

Number	Matter	Magistrate's Court	High Court	Supreme Court of Appeal	Constitutional Court
3.8	Where it is necessary for a legal practitioner to attend at a court venue more than 130km from his/her chambers the LAB shall pay the legal practitioner a subsistence allowance	R202.00 per night provided that the court venue is situated more than 130km from the offices/chambers of the legal practitioner			
3.9	Toll road fees to the extent that these were reasonably necessary	Actual out of pocket expenses			
See also Note 7					

Number	Matter	Magistrate's Court	High Court	Supreme Court of Appeal	Constitutional Court
2..1.3	Hourly rate for Senior Counsel and specialist attorneys	NA	R1,079.00 to R1,618.00 Per hour	R1,079.00 to R1,618.00 Per hour	R1,079.00 to R1,618.00 Per hour
2.1.4	Senior Counsel and specialist attorneys per 10 hour day	NA	R10,794.00 to R16,192.00 Per day	R10,794.00 to R16,192.00 Per day	R10,794.00 to R16,192.00 Per day
<b>3</b>	<b>Disbursements<sup>6</sup></b>				
3.1	<b>These disbursements shall be allowed over and above the fees set out above.</b>				
3.2	The fees of any expert authorised by Legal Said 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
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). Necessary advertisement costs pursuant to the grant of a substituted service order.	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
3.5	Necessary travel outside of any magisterial district in which the legal practitioner has an office/chambers	R3.38 Per km	R3.38 Per km	R3.38 Per km	R3.38 Per km
3.6	Necessary air travel	NA	NA	Economy class	Economy class
3.7	Where it is necessary for a legal practitioner to hire accommodation at the court venue the LAB will pay the legal practitioner an allowance for accommodation	R674.00 Per night provided that the court venue is situated more than 130 km from the offices/chambers of the legal practitioner			

## 2010 CIVIL TARIFFS: NOTES

1. **Applicable Tariff**
  - 1.1. With effect from 1 April 2010, 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 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 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 Attorney 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 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 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, 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, the Labour Court and the Labour Appeal Court.

### 3. Matter Classification

Level	Permitted Professional Services
1	<ul style="list-style-type: none"> <li>a. Matters which if conducted without legal aid would fall within Scale A Magistrates' Court</li> <li>b. CCMA – where permitted by Commissioner and permitted by Legal Aid Guide</li> <li>c. Maintenance matters – where permitted by Legal Aid Guide</li> <li>d. Mediation and conciliation matters</li> <li>e. Paralegal work</li> <li>f. Domestic violence matters – where permitted by the Legal Aid Guide.</li> <li>g. Appearances before a Refugee Status Determination Officer at a hearing in terms of Section 24 of the Refugees Act No. 130 of 1998.</li> <li>h. Any civil or non-litigious matter not otherwise provided for</li> </ul>
2	<ul style="list-style-type: none"> <li>a. Matters which if conducted without legal aid would fall within Scale B Magistrates' Courts.</li> <li>b. Labour arbitrations whether before CCMA or otherwise, where permitted by Commissioner and the Legal Aid Guide</li> <li>c. Appearances before a Standing Committee in respect of a Review in terms of Section 25 of the Refugees Act.</li> </ul>
3	<ul style="list-style-type: none"> <li>a. Matters which if conducted without legal aid would fall within Scale C Magistrates' Court</li> <li>b. Children's court matters.</li> <li>c. Childrens Act matters.</li> <li>d. Divorce, custody, guardianship and Family Court matters not otherwise provided for</li> </ul>

	<p>e. General arbitrations and ADR not otherwise provided for</p> <p>f. Appearances before an Appeals Board in respect of an Appeal in terms of Section 26 of the Refugees Act</p>
Level 4	<p>a. Civil matters falling within the exclusive jurisdiction of the High Court</p> <p>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</p> <p>c. Non litigious services customarily performed by an admitted attorney and as permitted by the Legal Aid Guide</p> <p>d. Labour Court matters</p>
Level 5	<p>a. Civil appeals and reviews before any Provincial or Local Division of the High court</p> <p>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 himself/herself has the required experience in respect of this level.</p> <p>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 Guide</p>

#### 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 judgement 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/NOE 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 judgements, 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 the LAB 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 to 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 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 ROE/NOE 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 he/she 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 he/she 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 himself/herself. 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 himself/herself 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 the LAB.
- 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 SAe LAB 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 his/her time spent drawing 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 his/her 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 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 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. The ROE, if it appears to him/her to be in the interests of the administration of justice and Legal Aid SA, is 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. 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.
- 6.3. 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. 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.
- 6.5. 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 .
- 6.6. The subsistence allowance under Item 3.8 may be paid to a practitioner, irrespective of whether this 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 Legal Aid SA 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 his/her 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, 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.

