

TARIFF OF FEES AND DISBURSEMENTS IN CIVIL MATTERS¹ - 2012

The fees and disbursements contained in this Annexure come into effect from 1 April 2012

Number	Matter	Magistrate's Court	<u>Regional Court</u>	High Court	Supreme Court of Appeal	Constitutional Court
1	Judicare remuneration for services according to levels^{2 + 3}					
1.1(a)	Hourly rates Level 1 Level 2 Level 3 Level 4 Level 5	R270.00 R317.00 R381.00 R475.00 NA	NA NA R404.00 R497.00 NA	NA NA R426.00 R519.00 R610.00	NA NA NA NA NA	NA NA NA NA NA
1.2	Rates per completed 4 hour trial day Level 1 Level 2 Level 3 Level 4 Level 5	R1,141.00 R1,354.00 R1,583.00 R1,901.00 NA	NA NA R1,858.00 R2,321.00 NA	NA NA R2,132.00 R2,740.00 R3,655.00	NA NA NA NA NA	NA NA NA NA NA
1.3 (a)	Instruction to sue/ or defend or to counter claim or defend counter-claim, including perusal of all documentation and all necessary consultations to issue summons					

Number	Matter	Magistrate's Court	<u>Regional Court</u>	High Court	Supreme Court of Appeal	Constitutional Court
	Level 1 Level 2 Level 3 Level 4 Level 5	R227.00 R303.00 R366.00 R456.00 NA	NA NA R396.00 R480.00 NA	NA NA R426.00 R518.00 R610.00	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	R12.48 R13.52 R14.56 R15.60 NA	NA NA R19.72 R23.42 NA	NA NA R24.15 R30.45 R43.05	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:	R173.00 Per postponement	R173.00 Per postponement	R173.00 Per postponement	NA	NA
1.5	Merit reports In any matter where a practitioner is required to prepare a merit report, the practitioner shall be remunerated at the rate as stipulated in Item 1.1 above that corresponds to the level of the matter, subject to a maximum of 3 hours.					

Number	Matter	Magistrate's Court	<u>Regional Court</u>	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 Legal Aid SA will be entitled to be remunerated as follows:					
2.1	To be negotiated and agreed in each instance but never more than:					
2.1.1	Attorneys	NA	NA	Not more than double the amount that would be allowed by a taxing master as between attorney and client on the applicable statutory tariff if the work had been performed by an attorney		
2.1.2	Junior Counsel	NA	NA	Not more than two thirds of the rates paid to Senior Counsel		
2.1.3	Hourly rate for Senior Counsel and specialist attorneys	NA	NA	R1,132.00 to R1,698.00 Per hour	R1,132.00 to R1,698.00 Per hour	R1,132.00 to R1,698.00 Per hour
2.1.4	Senior Counsel and specialist	NA	NA	R11,333.00	R11,333.00	R11,333.00

Number	Matter	Magistrate's Court	<u>Regional Court</u>	High Court	Supreme Court of Appeal	Constitutional Court
	attorneys per 10 hour day			to R17,001.00 Per day	to R17,001.00 Per day	to R17,001.00 Per day
3	Disbursements⁶					
3.1	These disbursements shall be allowed over and above the fees set out above.					
3.2	The fees of any expert authorised by Legal Aid SA	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised
3.3	Necessary revenue stamps	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs	As set out in applicable statutory tariffs
3.4	Necessary sheriff's fees or like process (edictal citation). Necessary advertisement costs 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	As set out in applicable statutory tariffs
3.5	Necessary travel within or outside of any magisterial district in which the legal practitioner has an office provided that the distance of a single trip is more than 30km.	R3.05 Per km	R 3.05 Per km	R3.05 Per km	R3.05 Per km	R3.05 Per km
3.6	Necessary air travel	NA	<u>NA</u>	NA	Economy class	Economy class
3.7	Where it is necessary for a legal practitioner to hire accommodation at the court venue the Legal Aid SA will pay the legal practitioner an allowance for accommodation		R708.00 Per night provided that the court venue is situated 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 court		R212.00 per night provided that the court venue is situated more than 130 km			

Number	Matter	Magistrate's Court	<u>Regional Court</u>	High Court	Supreme Court of Appeal	Constitutional Court
	venue more than 130 km from his/her chambers the Legal Aid SA shall pay the legal practitioner a subsistence allowance		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						

2012 CIVIL TARIFFS: NOTES

1. Applicable Tariff

1.1. With effect from 1 April 2011, 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 Legal Aid SA; and/or

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

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

2.4. Before any legal aid instruction is allocated to any legal practitioner a Principal 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"> 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. Children’s court matters. c. Children’s Act matters. d. Divorce, custody, guardianship and Regional Court matters not otherwise provided for e. General arbitrations and ADR not otherwise provided for f. Appearances before an Appeals Board in respect of an Appeal in terms of Section 26 of the Refugees Act

Level 4	<ul style="list-style-type: none"> a. Civil matters falling within the exclusive jurisdiction of the High Court b. Civil matters in the Magistrates' Courts in which jurisdiction would not have vested in any magistrate but for the consent of the parties to the jurisdiction of the Magistrates' Court c. Non litigious services customarily performed by an admitted attorney and as permitted by the Legal Aid Guide d. Labour Court matters e. Civil matters sounding in money in the Regional Court
Level 5	<ul style="list-style-type: none"> a. Civil appeals and reviews before any Provincial or Local Division of the High court b. Complex High Court civil matters classified as such (pursuant to detailed written representations) by an authorised legal practitioner in the employ of Legal Aid SA who 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 Legal Aid SA at executive level, customarily performed by a specialist attorney and as permitted by the Legal Aid Guide

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 Legal Aid SA in terms of the judicare instruction.
- 4.4. Drafting documents
- 4.4.1. Where the drafting of any pleadings, affidavits (of a non-formal nature and excluding annexures) or heads of argument are required in any matter, it is expected of the Legal Practitioner concerned 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 Legal Aid SA.
- 4.8. No Senior or Junior Counsel may be instructed without the express written consent of the ROE or a Legal Practitioner employed by Legal Aid SA and delegated thereto by the ROE.
- 4.9. After the case has been finalised the legal practitioner must report to the JCE in writing setting out:

- 4.9.1. The case number
- 4.9.2. The court where the matter was heard
- 4.9.3. The outcome of the matter
- 4.9.4. The duration of the hearing
- 4.9.5. Any other material information

- 4.10. In any civil matter a Legal Practitioner shall account to Legal Aid SA by way of detailed itemised account setting out, the date, the work performed, the time taken (with reference to a 24 hour clock), the number of pages drafted or perused and the fees claimed.
- 4.11. No additional fees or disbursements are payable at levels 1 to 5 to any Legal Practitioner for any matter not provided for by this tariff and not agreed to in writing by the ROE/NOE . Thus, for example, the Legal Practitioner who draws a plea is entitled to be remunerated for 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. 6.1 Except as set out above no legal practitioner shall be entitled to recover any allowance or disbursement in respect of travel, accommodation, subsistence or any other incidental expenses from Legal Aid SA.
- 6.2. 6.2 Except in the case of economy class air fares and toll roads (where vouchers must be produced and where the legal practitioner is reimbursed according to actual out of pocket expenditure) the allowances set out above are payable irrespective of the actual expenditure (either greater or lesser) incurred by the legal practitioner.
- 6.3. 6.3 Legal Aid SA may, but is not obliged to, itself book and pay for air travel and/or accommodation and/or meals. In the event of Legal Aid SA booking and paying for meals and/or accommodation the allowances in respect of accommodation and/or subsistence, as the case may be, will not be paid.
- 6.4. 6.4 Except as set out above, no other disbursements, including, but not by way of limitation, counsel's fees and correspondent's fees shall be paid to any legal practitioner without the prior written consent of the ROE/NOE.
- 6.5. 6.5 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 Legal Aid SA pay any collapse/reservation/cancellation/waiting/travelling fees to any legal practitioner for any matters whatsoever. Legal Aid SA will pay legal practitioners in accordance with its tariffs strictly according to services rendered and to the extent that the applicable tariff makes provision for the service rendered.
- 7.3. It shall be the responsibility of the legal practitioner upon submitting 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 Legal Aid SA being unable or unwilling to effect payment, advise the legal practitioner in writing of the reason for non-payment.