

**TARIFF OF FEES AND DISBURSEMENTS IN CRIMINAL MATTERS  
AS FROM 1 APRIL 2020**

<b>Number</b>	<b>Matter</b>	<b>District Magistrate's Court</b>	<b>Regional Magistrate's Court</b>	<b>High Court</b>	<b>Supreme Court of Appeal</b>
<b>1</b>	<b>Criminal trials – Appearance<sub>1</sub></b>				
1.1(a)	For appearing before any court when a postponement is granted at the request of the State.	R257.00 Per postponement	R257.00 Per postponement	R257.00 Per postponement	Not applicable (N/A)
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.	R92.00	R92.00	R92.00	N/A

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>	N/A	N/A	R3 103.00	N/A

<b>Number</b>	<b>Matter</b>	<b>District Magistrate's Court</b>	<b>Regional Magistrate's Court</b>	<b>High Court</b>	<b>Supreme Court of Appeal</b>
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, for reconstruction of records, identity parades and inspections conducted by the Court.	R1 664.00 Per trial day	R1 980.00 Per trial day	R3 103.00 Per trial day	N/A
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:	R257.00 Per day	R257.00 Per day	R257.00 Per day	N/A
1.3(b)	If a matter is finalised by means of a formal withdrawal (which must be in writing as opposed to matters which are merely struck off the roll), guilty plea, diversion or plea bargain, a finalisation fee, inclusive of all necessary consultations and preparations will be paid, irrespective of when such consultations or	R1 664.00	R1 980.00	R3 103.00	N/A

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	<p>preparation took place. No additional preparation fees will be paid in respect of the trial. This will not preclude claims for postponements and court appearances before or after the date in respect of which the finalisation fee is claimed (e.g. for sentencing).</p>				
2	<p><b>Preparation fees</b></p> <p>All claims for preparation fees (pre-trial or in-trial) must be for actual time spent on preparation.</p> <p>Pre-trial preparation fees are inclusive of the perusal of the docket. Where the number of pages in the docket to be perused exceeds 50 pages, a separate claim for perusal must be made in terms of item 5.2(a) of the tariffs.</p>				

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2.1	<p><b>Pre-trial preparation fees</b></p> <p>Practitioners may claim for actual pre-trial preparation as follows:</p> <p>(a) DC – maximum of 2 hours' pre-trial preparation for the first accused plus an additional 1 hour per co-accused, up to 2 co-accused.</p> <p>(b) RC – maximum of 4 hours' pre-trial preparation for the first accused plus an additional 2 hours per co-accused, up to a maximum of 2 co-accused.</p> <p>(c) HC – maximum of 8 hours' pre-trial preparation for the first accused plus an additional 4 hours per co-accused, up to a maximum of 2 co-accused.</p>	R232.00 Per hour	R325.00 Per hour	R411.00 Per hour	N/A
2.2	In respect of trials where the practitioner requires additional preparation time beyond what is provided for above, a written				

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	motivation for increased pre-trial preparation must be forwarded to the Local Office for approval.				
2.3	Necessary travelling and accommodation disbursements outside of the magisterial district in which the practitioner practises will be paid if required to execute such preparation at prison.				
2.4	<p><b>In-trial preparation fees</b></p> <p>Practitioners may claim for in-trial preparation as follows:</p> <p>(a) DC – A maximum of 1 hour for the first accused plus an additional 30 minutes per co-accused, up to a maximum of 2 co-accused may be claimed per trial day.</p> <p>(b) RC – A maximum of 1 hour for the first accused plus an additional 30 minutes per co-accused, up to a maximum of 2 co-accused</p>	R232.00 Per hour	R325.00 Per hour	R411.00 Per hour	N/A

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	<p>may be claimed per trial day.</p> <p>(c) HC – A maximum of 2 hours for the first accused plus an additional 30 minutes per co-accused, up to a maximum of 2 co-accused may be claimed per trial day.</p>				
2.4.1	Claims for in-trial preparation fees must be based on actual preparation done, which should be done prior to or on the morning of the trial day.				
2.4.2	In-trial preparation fees may only be claimed together with the trial day that the preparation relates to.				
<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 PE/NOE, these shall not exceed:	N/A	R4 303.00 Per trial day	R5 434.00 Per trial day	N/A

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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>	N/A	R2 579.00 Per trial day (Maximum)	R3 250.00 Per trial day (Maximum)	N/A
<b>4</b>	<b>Bail applications and interlocutory applications <sup>4</sup></b>				
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 664.00 Per trial day	R1 980.00 Per trial day	R3 103.00 Per trial day	N/A

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<b>5</b>	<b>Criminal trials – General <sup>5</sup></b>				
5.1	Application for a transcript of the evidence	R189.00 Per application	R189.00 Per application	R189.00 Per application	N/A
5.2(a)	Necessary perusal of a docket	R4.41 Per page	R4.41 Per page	R4.41 Per page	N/A
(b)	Necessary perusal of a record:	R4.41 Per page	R4.41 Per page	R4.41 Per page	
5.3	Preparation of heads of argument at the request of the court. Proof of the court's request must accompany the account. A folio consists of 100 words.	N/A	R23.02 Per folio	R32.72 Per folio	N/A
<b>6</b>	<b>Criminal appeals <sup>6</sup></b>				
6.1	Written report on the merits of a matter when required by the Local Office.	R512.00 Per report	R512.00 Per report	R512.00 Per report	R512.00 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:	R257.00 Per postponement	R257.00 Per postponement	R257.00 Per postponement	N/A

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6.2	Application to the court <i>a quo</i> for leave to appeal (where done by a practitioner who appeared at trial).	R562.00 Per application	R748.00 Per application	R901.00 Per application	N/A
6.3	Drafting petition for leave to appeal to the HC or application to the SCA including all typing and attendances relevant thereto.	N/A	R1 302.00 Per petition	R1 956.00 Per petition	N/A
6.4	Drafting of documents not otherwise provided for, including all typing and relevant attendances.	N/A	N/A	R42.00 per page Up to a max of R812.00	R63.00 per page Up to a max of R1 081.00
6.5	Application for a copy of a record under Rule 66(9) of the Magistrate's Court, Rule 49A of the Uniform Rules, Rule 52 of Uniform Rules including all typing and attendances relevant thereto.	R257.00 Per application	R257.00 Per application	R257.00 Per application	R257.00 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	R4.63 Per page	R4.63 Per page	R4.63 Per page	N/A

Number	Matter	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal
	<p><b>or</b>  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.</p>				
6.7	Heds of argument including perusal of record to prepare heads of argument, all typing and relevant attendances	N/A	N/A	R2 700.00 Per set of Heads	R2 700.00 Per set of Heads
6.8	<p>On appearing before the trial court to argue application for leave to appeal including the final report to Legal Aid SA and the report back to the legal aid applicant (where done by practitioner other than the practitioner who appeared at the trial).</p> <p>This fee includes any consultations, perusal, drafting or attendance on that day and any other application made on that day.</p>	R1 217.00	R1 592.00	R1 799.00	N/A

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6.9	<p>On appearing before a superior court to argue appeal and including the noting of judgement, the final report to Legal Aid SA and the report back to the legal aid applicant.</p> <p>This fee includes any consultations or perusal on that day and any application made on that day.</p>	N/A	N/A	R2 700.00	R6 301.00
6.10	<p>Any necessary consultation with an accused or a witness whose evidence is yet to be led.</p> <p>Not more than one consultation per accused or per witness.</p>	R373.00 Per consultation	R373.00 Per consultation	R373.00 Per consultation	R373.00 Per consultation
<b>7</b>	<b>Agency Agreement Global Fees</b>				
7.1	All inclusive global fee per finalised matter shall be paid as follows:	R1 880.00	R4 439.00		
<b>8</b>	<b>Disbursements <sup>8</sup></b>				
	These disbursements shall be allowed over and above the fees set out above.				

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8.1	The fees of any expert authorised by Legal Aid SA	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised	At the rate and to the maximum authorised
8.2	Necessary copies of documents such as charge sheets, petitions and heads of argument.	R2.65 Per page	R2.65 Per page	R2.65 Per page	R2.65 Per page
8.3	Necessary travel	Amount determined monthly as per Department of Transport guidelines	Amount determined monthly as per Department of Transport guidelines	Amount determined monthly as per Department of Transport guidelines	Amount determined monthly as per Department of Transport guidelines
8.4	Necessary air travel	N/A	N/A	Economy class	Economy class
8.5	Necessary accommodation allowance	R1 505.00	R1 505.00	R1 505.00	R1 505.00
8.6	Subsistence allowance	Not payable	Not payable	Not payable	Not payable
8.7	Toll roads to the extent that these were reasonably necessary	Actual out of pocket expenses	Actual out of pocket expenses	Actual out of pocket expenses	Actual out of pocket expenses
8.8(a)	Data usage for trial conducted by virtual means	R120.00	R120.00	R120.00	R120.00
8.8(b)	Data usage for court appearance for incidental professional services by virtual means	R60.00	R60.00	R60.00	R60.00
8.8(c)	Data usage for postponements by virtual means	R30.00	R30.00	R30.00	R30.00
<b>9</b>	<b>Telephone call costs</b>	R30.00	R30.00	R30.00	R30.00

## **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. PEs 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. PEs 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 HoO, 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 R7 094.00 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 HoO. The applicable HoO 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 PE/NOE.

## **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 PEs 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 HoO in writing.

## **7. Disbursements**

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

## **8. General**

- 8.1 After the case has been finalised, the legal practitioner must report to the applicable HoO in writing setting out:
  - 8.1.1.1 The case number
  - 8.1.1.2 The court where the matter was heard
  - 8.1.1.3 The outcome of the matter
  - 8.1.1.4 The duration of the hearing
  - 8.1.1.5 Any other material information
- 8.2 All sums referred to are amounts exclusive of VAT.
- 8.3 Under no circumstances will any collapse/reservation/cancellation/waiting/travelling fees be paid by Legal Aid SA to any legal practitioner for any criminal matters, criminal appeals or any other matters whatsoever. Legal Aid SA will pay legal practitioners in accordance with its tariffs strictly according to services rendered and to the extent that the applicable tariff makes provision for the service rendered.
- 8.4 It shall be the responsibility of the legal practitioner upon submitting 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 PE/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.