

Amendments to 2009 Legal Aid Guide as approved by the board of Legal Aid South Africa

No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
1.	All	All	<u>LAB</u>	<u>Legal Aid South Africa</u>	Reflects the change of operating name.
2.	Definitions	11	Indigent/Indigent person A person who qualifies for legal aid under the LAB's <i>means test</i> .	Indigent/Indigent person A person who qualifies for legal aid under <u>Legal Aid South Africa's means test</u> . (<u>Not everyone who qualifies for legal aid will be assisted. Some matters are excluded</u>)	This clarifies that qualification for legal aid requires meeting other criteria than the means test.
3.	Definitions	13	Means test The LAB's test to decide if someone is <i>indigent</i> or can afford their own legal representation, and if they qualify for legal aid.	Means test <u>Legal Aid South Africa's test to decide if someone is indigent or can afford their own legal representation, and if they qualify for legal aid. (Not everyone who qualifies in terms of the means test will be assisted. Some matters are excluded)</u>	This clarifies that qualification for legal aid requires meeting other criteria than the means test.
4.	Chapter 1 1.4	24 27	<u>Organisational charts</u>	<u>Replace with current organisational charts</u>	Reflects revised structure.
5.	Chapter 2	28 30	Remove all of the chapter from paragraph 2.1 to strategy 3	Replace it with paragraphs 1-4 on page vi and delete the whole of page vi	Update to match new strategic plan.
6.	Chapter 4 4.3.2 (a)	39	<ul style="list-style-type: none"> • Overloading of a vehicle under the Road Traffic Act • Any attempt to commit any of the above offences 	<ul style="list-style-type: none"> • Overloading of a vehicle under the Road Traffic Act • <u>Reckless and/or negligent driving</u> • Any attempt to commit any of the above offences 	Reckless and/or negligent driving charges considered sufficiently serious to qualify for legal aid.

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7.	Chapter 4 4.9.1(a)	49	<p>(a) Financial enquiries under section 65 and Administration Orders under section 74 of Magistrates' Courts Act</p> <p>Legal aid is not available for these proceedings under sections 65 and 74 of the Magistrates' Courts Act 32 of 1944.</p> <p>This exclusion also includes proceedings that originate from cases where legal aid has already been granted to a litigant. The ROE however, may consent to proceedings under these sections to recover <i>capital</i> on behalf of clients and costs on behalf of Legal Aid SA.</p>	<p>(a) Financial enquiries under section 65 and Administration Orders under section 74 of Magistrates' Courts Act</p> <p>Legal aid is not available <u>to judgement debtors</u> for these proceedings under sections 65 and 74 of the Magistrates' Courts Act 32 of 1944.</p> <p>This exclusion also includes proceedings that originate from cases where legal aid has already been granted to a litigant. The ROE however, may consent to proceedings under these sections to recover capital on behalf of clients and costs on behalf of Legal Aid SA.</p>	<p>This clarifies that judgment debtors cannot be assisted and therefore relieves ROEs of having to approve these types of matters to recover capital and/or costs for legal aid recipients</p>
8.	Chapter 4 4.9.1	50	<p>(g) Civil appeals</p> <p>Legal aid is not available in civil appeals without the NOE's consent. The NOE must be satisfied that:</p> <ul style="list-style-type: none"> • On a balance of probabilities, there is a chance that the appeal will succeed, <u>and</u> • The costs of the appeal will justify the benefit to the legal aid applicant. 	<p>(g) Civil appeals</p> <p>Legal aid is not available in civil appeals without the NOE's consent. The NOE must be satisfied that:</p> <ul style="list-style-type: none"> • On a balance of probabilities, there is a chance that the appeal will succeed, <u>and</u> • The costs of the appeal will justify the benefit to the legal aid applicant. <p># See also paragraph 12.6.2 page 162</p>	<p>Cross reference added.</p>
9.	Chapter 4 4.9.1	51	<p>(k) Conveyancing and notarial matters</p> <p>Legal aid is not available for any case where the main provider of legal services is a notary or a conveyancer. In these cases, clients should be referred to the relevant Law Society for pro bono</p>	<p>(k) Conveyancing and notarial matters</p> <p>Legal aid is not available for any <u>notarial or conveyancing matters</u>. In these cases, clients should be referred to the relevant Law Society for pro bono (free) assistance.</p>	<p>Clarification of exclusion of conveyancing and notarial matters.</p>

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			(free) assistance.		
10.	Chapter 4 4.9.1	51	<p>(m) Applicant already receiving legal representation Legal aid is not available for a civil matter where the legal aid applicant is already entitled to legal representation at the expense of the State Attorney or a government department.</p>	<p>(m) Applicant <u>entitled to other State funded legal representation</u> Legal aid is not available for a civil matter where the legal aid applicant is entitled to legal representation at the expense of the State Attorney or a government department.</p>	Clarification of this exclusion.
11.	Chapter 4 4.9.1	51	<p>(n) Road accident fund and personal injury claims Legal aid is not available for bringing claims against the Road Accident Fund and for bringing personal injury claims. But Legal aid can be made available when a minor child is the <i>claimant</i>, assisted by their guardian.</p>	<p>(n) Road <u>Accident Fund</u> and personal injury claims Legal aid is not available for bringing claims against the Road Accident Fund <u>or any kind of personal injury claims except in the case of minors. Legal aid can be made available when a minor child is the claimant, assisted by their guardian.</u></p>	Typographical correction.
12.	Chapter 4 4.9.1	52	N/A	<p>(p) <u>Administrative tribunals</u> <u>Legal Aid is not available for hearings before administrative tribunals eg</u></p> <ul style="list-style-type: none"> • <u>Parole hearings</u> • <u>Liquor licensing applications</u> • <u>Rezoning applications</u> <p><u>In appropriate cases, legal aid may be granted to review decisions of administrative tribunals</u></p>	This makes it clear that legal aid is not available for appearances before administrative tribunals.
13.	Chapter 4 4.9.1	52	N/A	<p>(q) <u>Restrictions on number of civil matters</u> <u>Legal aid applicants are restricted to one civil matter on legal aid at a time unless additional matters are approved by the ROE</u></p>	Restriction on number of civil matters per applicant to

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					discourage litigious applicants.
14.	Chapter 4 4.11.1	53	<p>4.11.1 USE OF THE DIVORCE COURT</p> <p>If legal aid is granted for bringing a divorce action, the action must be started in the Divorce Court, unless the JCE grants approval for <i>instituting action</i> in another court.</p> <p>The Jurisdiction of Regional Courts Amendment Bill 48 of 2007 is currently under discussion. When this Bill becomes law, Legal Aid SA policy may have to change. Necessary Legal Aid SA amendments will be sent out by Circular.</p>	<p>4.11.1 USE OF THE DIVORCE REGIONAL CIVIL COURT</p> <p>If legal aid is granted for bringing a divorce action, the action must be started in the Divorce Regional Civil Court, unless the JCE grants approval for <i>instituting action</i> in another court.</p> <p>The Jurisdiction of Regional Courts Amendment Bill 48 of 2007 is currently under discussion. When this Bill becomes law, Legal Aid SA policy may have to change. Necessary Legal Aid SA amendments will be sent out by Circular.</p>	This amendment ensures that the Legal aid Guide provides for the newly established Civil Regional Courts
15.	Chapter 5 5.1.1	71	<p>5.1.1 MEANS TEST ENQUIRY — 3 STEPS</p> <p>These guidelines set out 2 steps for determining qualification for legal aid through the means test in criminal or civil matters and a 3rd step in criminal cases where the means test is exceeded by the applicant.</p> <p><i>First:</i></p> <ul style="list-style-type: none"> The legal aid applicant completes, or is assisted in completing, the legal aid application. 	<p>5.1.1 MEANS TEST ENQUIRY — 3 STEPS</p> <p>These guidelines set out 2 steps for determining qualification for legal aid through the means test in criminal or civil matters and a 3rd step in criminal cases where the means test is exceeded by the applicant. <u>A legal aid applicant must qualify both in respect of gross monthly income and net assets to pass the means test.</u></p> <p><i>First:</i></p> <ul style="list-style-type: none"> The legal aid applicant completes, or is assisted in completing, the legal aid 	This clarifies that an applicant must qualify for legal aid based on both their income and assets.

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			<p>>See Annexure C on page 245.</p> <ul style="list-style-type: none"> If the applicant is unemployed and has no income or assets, or receives a State grant or old age pension, the enquiry is completed. If the applicant is employed, or has an income and assets, then the process continues to the next step. 	<p>application.</p> <p>>See Annexure C on page 245.</p> <ul style="list-style-type: none"> If the applicant is unemployed and has no income or assets, or receives <u>only</u> a State grant or old age pension <u>from the South African Social Security Agency (SASSA)</u>, the enquiry is completed. If the applicant is employed, or has an income <u>and/or</u> assets, then the process continues to the next step. 	
16.	Chapter 5 5.1.3	73	<p>5.1.3 STATE GRANTEES AND PENSIONERS An applicant who receives a State grant or a State old age pension is automatically entitled to legal aid.</p>	<p>5.1.3 STATE GRANTEES AND PENSIONERS SASSA GRANTS An applicant who receives a State grant or a State old age pension is automatically entitled to legal aid. <u>SASSA grants are not taken into account in calculating income for purposes of the means test.</u></p>	This seeks to address a situation where someone earns an income in addition to receiving a SASSA grant
17.	Chapter 5 5.1.4	73	<p>5.1.4 SINGLE APPLICANTS ✓ A single applicant who has a <i>net monthly income</i> after deduction of income tax of R5,000 a month or less will qualify for completely <i>subsidised</i> legal aid.</p>	<p>5.1.4 SINGLE APPLICANTS ✓ A single applicant who has a <i>net monthly income</i> after deduction of income tax of R5,000 <u>R 5,500</u> a month or less will qualify for completely <i>subsidised</i> legal aid.</p>	The means test has not been increased since the 2009 Legal Aid Guide was implemented on 10 February 2009

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18.	Chapter 5 5.1.5	74	<p>5.1.5 HOUSEHOLDS</p> <p>✓ An applicant, who is a member of a household and whose household has a net monthly income after deduction of income tax of R5,500 a month or less, will qualify for completely subsidised legal aid.</p>	<p>5.1.5 HOUSEHOLDS</p> <p>✓ An applicant, who is a member of a household and whose household has a net monthly income after deduction of income tax of R5,500 <u>R 6,000</u> a month or less, will qualify for completely subsidised legal aid.</p>	<p>The means test has not been increased since the 2009 Legal Aid Guide was implemented on 10 February 2009</p>
19.	Chapter 5 5.1.6	74	<p>5.1.6 NET ASSETS</p> <p>A legal aid applicant or household who do not own immovable property will be permitted to have net movable assets (including corporeal or intellectual rights to property) of up to R75,000 without being disqualified under the means test.</p> <p>A legal aid applicant or household who own one immovable property will be permitted to have net immovable assets and movable assets (including corporeal or intellectual rights to property) of up to R300,000, but the applicant/household must physically reside in the immovable property.</p>	<p>5.1.6 NET ASSETS</p> <p>A legal aid applicant or household who do not own immovable property will be permitted to have net movable assets (including corporeal <u>physical</u> and/or intellectual rights to property) of up to R75,000 <u>R100,000</u> without being disqualified under the means test.</p> <p>A legal aid applicant or household who own one immovable property will be permitted to have net immovable assets and movable assets (including corporeal <u>physical</u> and/or intellectual rights to property) of up to R300,000 <u>R500,000</u>, but the applicant/household must physically reside in the immovable property <u>or at least one of the immovable properties (where more than one) unless the ROE authorises to the contrary.</u></p>	<p>The asset limit was last review when the 2009 Legal Aid Guide was implemented.</p> <p>The ROE requires discretion to authorise legal aid where the applicant/household is not resident in the immovable property for a valid reason. There have been instances where legal aid is sought to evict unlawful occupiers from the immovable</p>

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20.	Chapter 5 5.1.8	75	<p>5.1.8 PARTIALLY SUBSIDISED LEGAL AID The LAB may elect to introduce a scheme of partially subsidised legal aid for persons in civil matters when: Net monthly income or household income is more than the current legal aid limits for fully subsidised legal aid, or <ul style="list-style-type: none"> • Net assets or household assets are more than the current legal aid limits for fully subsidised legal aid. If this happens, interested parties will be advised by Circular of the details of the scheme, including the contributions payable by legal aid recipients.</p>	<p>5.1.8 PARTIALLY SUBSIDISED LEGAL AID <u>(a) Applicants who exceed the means test may nevertheless receive legal aid if:</u></p> <ul style="list-style-type: none"> • <u>Substantial injustice would result if the applicant is unable to afford the cost of his/her legal representation; and</u> • <u>A person with the authority to authorise legal aid exercises his/her/its discretion in favour of the applicant, despite the applicant exceeding the means test (see paragraphs 5.1.1, 5.1.14, 5.1.15 and 10.2.2 (a)).</u> <p><u>(b) If an applicant is granted legal aid, despite exceeding the means test by more than the limit of the authority of the JCE (see paragraph 5.1.14), a monthly contribution to the cost of providing legal aid will be payable by the applicant. The applicant will pay this contribution for every calendar month (or portion thereof) during which legal aid is provided.</u></p> <p><u>(c) If a legal practitioner in the employ of Legal Aid South Africa is assigned to the applicant, the monthly contribution must be paid to the trust bank account of Legal Aid South Africa.</u></p> <p><u>(d) Where legal aid is granted, subject to a contribution, such contribution should be made an order of the court, wherever possible.</u></p>	<p>property.</p> <p>Amendment required to detail the policy in respect of applicants who cannot afford the whole cost of their own legal representation but who can afford to make a contribution.</p>



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21.	Chapter 5 5.1.12	77	<p>5.1.12 ASSETS FROM A TRUST</p> <p>Where any legal aid applicant (or spouse, dependant, sibling, parent or descendant) is the beneficiary of a trust, he/she will be <i>deemed</i> to be the owner of the assets of the trust if the legal aid applicant was a founder of the trust.</p> <p>Where any legal aid applicant or any member of the household is the beneficiary of a trust, and the household income is used to determine whether an applicant qualifies for legal aid, he/she will be deemed to be the owner of the assets of the trust.</p> <p>Where there is more than one beneficiary the applicant is deemed to be the owner of his/her percentage share of the assets of the trust.</p>	<p>5.1.12 ASSETS FROM A TRUST</p> <p>Where any legal aid applicant (or spouse, dependant, sibling, parent or descendant) is the beneficiary of a trust, he/she will be <i>deemed</i> to be the owner of the assets of the trust if the legal aid applicant was a founder of the trust.</p> <p>Where any legal aid applicant or any member of the household is the beneficiary of a trust, and the household income is used to determine whether an applicant qualifies for legal aid, he/she will be deemed to be the owner of the assets of the trust.</p> <p>Where there is more than one beneficiary the applicant is deemed to be the owner of his/her percentage share of the assets of the trust.</p> <p><u>5.1.12 TRUST/ COMPANY/LEGAL PERSONALITY ASSETS</u></p> <p><u>If any assets are owned by a trust, company or other legal personality but controlled either directly or indirectly by the legal aid applicant or his/her spouse, dependant, sibling, parent, descendant or nominee for the direct or indirect benefit of the legal aid applicant or his/her spouse, dependant, sibling, parent, descendant or nominee, such assets shall be deemed to be owned by the legal aid applicant for the purposes of determining whether the legal aid applicant qualifies for legal aid.</u></p>	<p>The proposed amendment to this paragraph seeks to circumscribe more clearly the circumstances where applicants for legal aid have and/or hold assets in trusts and or other legal entities.</p>

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				<p><u>Where there are beneficiaries other than the applicant and/or his/her spouse, dependant, sibling, parent, descendant or nominee, the applicant is deemed to be the owner of his/her percentage share of the said assets.</u></p>	
22.	Chapter 5 5.1.14	77	<p>5.1.14 JCE'S DISCRETION A JCE has the discretion to authorise fully subsidised legal aid for any applicant who is over the means test by up to R 1 000 a month for criminal cases in the Regional and High Court. The JCE's decision will then be sent to the person receiving the legal aid application.</p>	<p>5.1.14 JCE'S DISCRETION A JCE has the discretion to authorise fully subsidised legal aid for any applicant who is over the means test by up to R1,000 a month <u>in respect of gross income for all matters.</u> The JCE'S decision will then be sent to the person receiving the legal aid application.</p>	This clarifies that the discretion links to gross income and extends the discretion to all matters.
23.	Chapter 5 5.1.15	77	<p>5.1.15 ROE'S DISCRETION A ROE has the discretion to authorise fully subsidised legal aid for any applicant who is over the means test by up to R 2,000 a month for criminal cases in the Regional and High Court. The ROEs decision will then be sent to the person receiving the legal aid application.</p>	<p>5.1.15 ROE'S DISCRETION A ROE has the discretion to authorise fully subsidised legal aid for any applicant who is over the means test by up to <u>R 3,000 a month in respect of gross income for all matters.</u> <u>A ROE has the discretion to authorise fully subsidised legal aid for any applicant who is over the means test by up to R 100,000.00 in respect of net assets for all matters.</u></p>	This clarifies that the discretion links to gross income. The ROE discretion is also extended to authorise legal aid where an applicant exceeds the net assets portion of the means test and

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				<p>The ROEs decision will then be sent to the person receiving the legal aid application.</p>	<p>furthermore the discretion extends to all matters.</p>
24.	Chapter 5 5.2.6	79	<p>5.2.6 HIGH COST AND HIGH RISK MATTERS</p> <p>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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>	<p>5.2.6 HIGH COST AND HIGH RISK MATTERS</p> <p><u>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.</u></p> <p>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.</p> <p><u>→ See Also 10.7 on pages 129 to 132 on forensic investigations where fraud and abuse of legal aid is suspected.</u></p>	<p>Amendment to clarify and simplify.</p>
25.	Chapter 5 5.5.3(a)	83	<p>(a) 3-stage approach to direction for legal aid by court</p> <p>JCEs should liaise with judicial officers to arrange for the practical application of section 3B(1)(b) of the Act in these 3 stages:</p>	<p>(a) 3-stage 4-stage approach to direction for legal aid by court</p> <p>JCEs should liaise with judicial officers to arrange for the practical application of section 3B(1)(b) of the Act in these 3 4 stages:</p>	<p>A 4th stage has now been included to provide for the 3B procedure as clarified by the SCA</p>

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			<p><i>First</i></p> <ul style="list-style-type: none"> • A court should first advise an accused of the right to legal representation under section 73(2A) of the Criminal Procedure Act, as amended by Act 86 of 1996, and allow the accused a reasonable opportunity to get legal assistance under section 73 of the Criminal Procedure Act. <p><i>Second</i></p> <ul style="list-style-type: none"> • If the accused is refused legal aid, the accused should appeal against the refusal to the ROE. <p><i>Third</i></p> <ul style="list-style-type: none"> • The court may refer the case to Legal Aid SA for evaluation and report under section 3B(1)(b) of the Act if the accused reports to the court at a later date that: <ul style="list-style-type: none"> * He/She applied for legal aid, but was refused, and * The appeal against refusal of legal aid to the ROE was unsuccessful or that he/she did not receive a reply to the application/appeal within a reasonable period of time. 	<p><i>First</i></p> <ul style="list-style-type: none"> • A court should first advise an accused of the right to legal representation under section 73(2A) of the Criminal Procedure Act, as amended by Act 86 of 1996, and allow the accused a reasonable opportunity to get legal assistance under section 73 of the Criminal Procedure Act. <p><i>Second</i></p> <ul style="list-style-type: none"> • If the accused is refused legal aid, the accused should appeal against the refusal to the ROE <u>and if unsuccessful, to the NOE.</u> <p><i>Third</i></p> <ul style="list-style-type: none"> • The court may refer the case to Legal Aid SA for evaluation and report under section 3B(1)(b) of the Act if the accused reports to the court at a later date that: <ul style="list-style-type: none"> * He/She applied for legal aid, but was refused, and * The appeal against refusal of legal aid to the <u>ROE and NOE</u> was unsuccessful or that he/she did not receive a reply to the application/appeal within a reasonable period of time. <p><i>Fourth</i></p> <p>The court may conduct an inquiry into the means of the</p>	<p>in the matter of Legal Aid SA v Porritt and Bennett.</p>

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				<p>applicant and for this purpose may:</p> <ul style="list-style-type: none"> • <u>Subpoena the legal aid applicant, other witnesses and documents</u> • <u>Require the legal aid applicant and other witnesses to give evidence under oath and to be subjected to cross-examination.</u> 	
26.	Chapter 5 5.5.3 (d)	84	<p>d) Court ordering recovery of costs</p> <p>Under section 73(2C) of the Criminal Procedure Act, as amended by Act 86 of 1996, a court may order that the costs or portion of the costs of legal representation provided at State expense must be recovered from the accused. The contribution to be paid by the accused will be determined by the LAB in accordance with the powers set out in section 3(d) of the Act.</p> <p>Under section 3(d) of the Act, the LAB may also fix conditions for the payment of a contribution to the Board by the legal aid applicant, especially when the legal aid applicant exceeds the means test but is granted legal aid at State expense after the assessment under Step 3 of the means test enquiry in 5.1.1 on page 71.</p> <p>The contribution to be paid by the legal aid applicant will be determined by the LAB in accordance with the powers set out in section</p>	<p>d) Court ordering recovery of costs</p> <p>Under section 73(2C) of the Criminal Procedure Act, as amended by Act 86 of 1996, a court may order that the costs or portion of the costs of legal representation provided at State expense must be recovered from the accused.</p> <p>Under section 3(d) of the Act, <u>Legal Aid South Africa</u> may also fix conditions for the payment of a contribution to the Board by the legal aid applicant, especially when the legal aid applicant exceeds the means test but is granted legal aid at State expense after the assessment under Step 3 of the means test enquiry in 5.1.1 on page 71.</p> <p>The contribution to be paid by the legal aid applicant will be determined by <u>Legal Aid South Africa</u> in accordance with the powers set out in section 3((d) of the Act. The contribution to be paid by the legal aid applicant should be made an order of court, <u>wherever</u></p>	<p>The amendment reflects that Legal Aid SA cannot control orders a court may be willing to make.</p>

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			<p>3((d) of the Act. The contribution to be paid by the legal aid applicant should be made an order of court.</p> <p>➤ For the procedure for advising the legal practitioner about the court order, see 11.2.2 on page 145.</p>	<p>possible.</p> <p>➤ For the procedure for advising the legal practitioner about the court order, see 11.2.2 on page 145.</p>	
27.	Chapter 6 6.1.8	89	<p>6.1.8 JCE TO CONSULT WITH ROE OR CCMC</p> <p>The JCE must consult with the ROE in a 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 <i>Justice Centre</i> starts providing legal aid, in (a) to (e) below and also with the ROE in District Court cases in (c) to (e) below, when:</p> <p>(a) The anticipated cost of the matter is more than R50,000.</p> <p>(b) The anticipated duration of the matter is more than 20 trial days.</p> <p>(c) An increased fee exceeds the JCE's delegated authority.</p> <p>(d) The matter was previously privately funded and the JCE intends to allocate a Judicare instruction to the</p>	<p>6.1.8 JCE TO CONSULT WITH ROE OR CCMC</p> <p><u>In criminal matters to be conducted on a Judicare basis</u>, the JCE must consult with the ROE in a 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:</p> <p>(a) The anticipated cost of any regional court the matter instruction is more than R50,000 <u>or the anticipated cost of any High Court or Regional Court Commercial Crimes Court instruction is more than R 100,000.00.</u></p> <p>(b) The anticipated duration of the matter any regional court matter is more than 20 trial days <u>or the anticipated duration of any High Court or Regional Court Commercial Crimes Court instruction is more than 40 trial</u></p>	<p>This amendment seeks to remove provisions that have been impractical to implement or no longer serve the intended purpose as well as to provide for different levels of monitoring in the different courts.</p>

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			<p>practitioner, who was previously privately instructed.</p> <p>(e) The matter is likely to attract public attention because of the nature of the matter or the identity of the client.</p> <p>ROEs and the CCMC will monitor high cost and lengthy duration matters where the costs exceed R50 000 or ensues for longer than 20 trial days.</p>	<p>days.</p> <p>(c) An increased fee exceeds the JCE's delegated authority <u>in terms of the Approval Framework of Legal Aid SA.</u></p> <p>(d) The matter was previously privately funded and the JCE intends to allocate a Judicare instruction to the practitioner, who was previously privately instructed.</p> <p>(e) The matter is likely to attract public attention because of the nature of the matter or the identity of the client.</p> <p>ROEs and the CCMC will monitor high cost and lengthy duration matters where the costs exceed R50,000 or ensue for longer than 20 trial days.</p>	
28.	Chapter 7 7.1.2	98	<p>7.1.2 THE MOVEMENT FROM JUDICARE TO SALARIED PRACTITIONERS</p> <p>During the 1990s, starting with the Office of the Public Defender, Legal Aid SA became involved in a number of pilot projects in which legal aid was provided by <i>salaried legal practitioners</i> employed by Legal Aid SA or a <i>Co-operation Partner</i> of Legal Aid SA under a <i>Co-operation Agreement</i>.</p> <p>In 1997, Legal Aid SA decided to move towards a system of salaried legal practitioners as the main way of providing legal aid in future. Since</p>	<p>7.1.2 THE MOVEMENT FROM JUDICARE TO SALARIED PRACTITIONERS</p> <p>During the 1990s, starting with the Office of the Public Defender, Legal Aid SA became involved in a number of pilot projects in which legal aid was provided by salaried legal practitioners employed by Legal Aid SA or a Co-operation Partner of Legal Aid SA under a Co-operation Agreement.</p> <p>In 1997, Legal Aid SA decided to move towards a system of salaried legal practitioners as the main way of providing legal aid in future. Since 2000, Legal Aid SA has established a nationwide network of Justice Centres where salaried legal practitioners provide</p>	<p>The previous heading and paragraph were dated as the move/change is completed. We also deal with our practitioner per court model and seek to introduce our own code of professional conduct for our</p>



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			<p>2000, Legal Aid SA has established a nationwide network of <i>Justice Centres</i> where salaried legal practitioners provide legal aid.</p>	<p>legal aid.</p> <p><u>7.1.2 SALARIED LEGAL PRACTITIONERS</u> <u>Legal Aid SA mostly provides legal services by salaried legal practitioners employed at Justice Centres and satellite offices. In criminal matters one of the models for legal service delivery involves the stationing of a salaried legal practitioner at most district and regional magistrates' courts. The practitioner per court model is mostly used as it ensures the efficient and effective use of resources in covering the criminal courts.</u></p> <p><u>The salaried legal practitioners employed by Legal Aid SA are obliged to adhere to all the legal and ethical obligations applicable to legal practitioners in private practice. Furthermore, in criminal matters, Legal Aid SA has its own Code of Professional Conduct for legal practitioners it employs.</u></p> <p><u>This Code of Professional Conduct is contained in Annexure U hereto.</u></p> <p><u>See Annexure U on page 313</u></p>	<p>salaried practitioners.</p>
29.	Chapter 7 7.1.3	98	<p>7.1.3 JUSTICE CENTRES AND CO-OPERATION AGREEMENTS Legal Aid SA is now rendering <i>access to justice</i></p>	<p>7.1.3 JUSTICE CENTRES AND CO-OPERATION AGREEMENTS Legal Aid SA is now rendering <i>access to justice</i> mainly</p>	<p>This chapter deals with Co-operation</p>



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			<p>mainly by salaried legal practitioners and support staff at Justice Centres throughout the country. In addition to direct service delivery through its Justice Centres and Satellite Offices, Legal Aid SA continues to make use of other means of facilitating access to justice. As a result, Legal Aid SA has entered into Co-operation Agreements with other persons and bodies to jointly render legal services to the public.</p>	<p>by salaried legal practitioners and support staff at Justice Centres throughout the country. In addition to direct service delivery through its Justice Centres and Satellite Offices, Legal Aid SA continues to make use of other means of facilitating access to justice. As a result, Legal Aid SA has entered into Co-operation Agreements with other persons and bodies to jointly render legal services to the public.</p>	<p>Partners and there is no need to deal with Justice Centres and our salaried practitioner model in this paragraph.</p>
30.	Chapter 7 7.1.4	99	<p>7.1.4 A MIX OF DELIVERY SYSTEMS</p> <p>Legal aid is thus increasingly being granted in appropriate circumstances where the client is represented by a salaried legal practitioner employed by the LAB at a Justice Centre. The Justice Centre Executive normally, but not exclusively, makes referrals to these legal representatives.</p> <p>Judicare continues to supplement the LAB's capacity to provide legal services through its Justice Centres in a mix of delivery mechanisms, as decided by the LAB from time to time. A Justice Centre must render legal services through salaried legal practitioners in all matters within their area of jurisdiction.</p> <p><input checked="" type="checkbox"/> However, Judicare may be used in these circumstances:</p>	<p>7.1.4 A MIX OF DELIVERY SYSTEMS</p> <p>Legal aid is thus increasingly being granted in appropriate circumstances where the client is represented by a salaried legal practitioner employed by <u>Legal Aid South Africa</u> at a Justice Centre. The Justice Centre Executive normally, but not exclusively, makes referrals to these legal representatives.</p> <p>Judicare continues to supplement <u>Legal Aid South Africa's</u> capacity to provide legal services through its Justice Centres in a mix of delivery mechanisms, as decided by the <u>Legal Aid South Africa</u> from time to time. A Justice Centre must render legal services through salaried legal practitioners in all matters within their area of jurisdiction.</p> <p><input checked="" type="checkbox"/> However, Judicare may be used in these circumstances:</p> <ul style="list-style-type: none"> • In matters where there is a conflict of interest 	<p>This permits the grant of Judicare Legal Aid where a Justice Centre lacks the capacity to adequately represent a client.</p>

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			<ul style="list-style-type: none"> In matters where there is a conflict of interest between <i>legal aid applicants</i> and separate legal representatives are required. In matters where specialist knowledge is required that is not available at the Justice Centre. In all other matters on condition that the total amount of Judicare does not exceed the 10–15% overall limit on Judicare and the National Office of the Legal Aid Board approves this Judicare. 	<p>between <i>legal aid applicants</i> and separate legal representatives are required.</p> <ul style="list-style-type: none"> In matters where specialist knowledge is required that is not available at the Justice Centre. <u>In matters where the Justice Centre lacks the capacity to adequately represent the legal aid applicant.</u> In all other matters on condition that the total amount of Judicare does not exceed the 10–15% overall limit on Judicare and the National Office of the Legal Aid Board approves this Judicare. 	
31.	Chapter 7 7.3.3	104	<p>7.3.3 APPROVAL OF IMPACT SERVICES MATTERS</p> <p>7.3.3.1 The Legal Services Technical Committee (LSTC) shall consist of the Chief Operations Officer, the National Operations Executive, the Legal Development Executive, a senior attorney employed in the Legal Development Department and a non-executive member of the Board.</p> <p>7.3.3.2 The Regional Operations Executives within whose area a proposed Impact Legal Service will be rendered will be a member of the LSTC when an Impact Legal Services proposal is considered, if it is envisaged that the proposed Impact</p>	<p>7.3.3 APPROVAL OF IMPACT SERVICES MATTERS</p> <p>7.3.3.1 The Legal Services Technical Committee (LSTC) <u>Constitutional Case Management Committee (CCMC)</u> shall consist of the Chief Operations Officer, the National Operations Executive, the Legal Development Executive, a senior attorney employed in the Legal Development Department and a non-executive member of the Board. <u>The terms of reference of the CCMC are set out in Annexure V.</u></p> <p>7.3.3.2 The Regional Operations Executives within whose area a proposed Impact Legal Service will be rendered will be a member of the LSTC <u>CCMC</u> when an Impact Legal</p>	<p>The Constitutional Case Management Committee (CCMC) and not LSTC considers and approves Impact Litigation Matters. The CCMC terms of reference are also included in the Legal Aid Guide as they did not exist at the time the 2009 Legal Aid Guide was implemented.</p>

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			<p>Legal Services will have a regional rather than a national impact.</p> <p>7.3.3.3 The non-executive member of the Board shall be selected by the Board annually and shall hold office until a successor is selected.</p> <p>7.3.3.4 The NOE shall chair the LSTC.</p> <p>7.3.3.5 Unless varied by this policy, meetings and proceedings of the LSTC will be governed by generally accepted rules.</p> <p>7.3.3.6 Meetings of the LSTC will be held as the NOE deems appropriate. Meetings should be organised so that attendance is maximised.</p> <p>7.3.3.7 The notice of each meeting of the LSTC, confirming the venue, time and date and enclosing an agenda of items to be discussed shall, save in exceptional circumstances, be forwarded to each member of the LSTC not less than 7 working days before the date of the meeting.</p> <p>7.3.3.8 The quorum for decisions of the LSTC shall be any 3 members present and voting on the matter for decision.</p> <p>7.3.3.9 The Chairperson, at his/her discretion, may invite such executives and senior management as appropriate, to attend</p>	<p>Services proposal is considered, if it is envisaged that the proposed Impact Legal Services will have a regional rather than a national impact.</p> <p>7.3.3.3 The non-executive member of the Board shall be selected by the Board annually and shall hold office until a successor is selected.</p> <p>7.3.3.4 The NOE shall chair the LSTC <u>LSTC-CCMC</u>.</p> <p>7.3.3.5 Unless varied by this policy, meetings and proceedings of the LSTC <u>LSTC-CCMC</u> will be governed by generally accepted rules.</p> <p>7.3.3.6 Meetings of the LSTC <u>LSTC-CCMC</u> will be held as the NOE deems appropriate. Meetings should be organised so that attendance is maximised.</p> <p>7.3.3.7 The notice of each meeting of the LSTC <u>LSTC-CCMC</u>, confirming the venue, time and date and enclosing an agenda of items to be discussed shall, save in exceptional circumstances, be forwarded to each member of the LSTC <u>LSTC-CCMC</u> not less than 7 working days before the date of the meeting.</p> <p>7.3.3.8 The quorum for decisions of the LSTC <u>LSTC-CCMC</u> shall be any 3 members present and voting on the matter for decision.</p> <p>7.3.3.9 The Chairperson, at his/her discretion, may invite such executives and senior</p>	

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			<p>and be heard at meetings of the LSTC.</p> <p>7.3.3.10 Based on the functions performed by the non-executive Board member of the LSTC, in addition to his/her functions as a member of the Board, the member of the LSTC, who is a non-executive Board member, may be paid remuneration for his/her appointment as fixed by the Board.</p> <p>The LSTC must approve all impact legal services matters irrespective of the expenditure authority of any officials of Legal Aid SA.</p> <p>The NOE and LDE jointly may approve any urgent matters, where the total cost of the matter is less than R50,000 (including VAT) or they may authorise initial proceedings in a matter to prevent prescription or default. These matters must be reported to the LSTC at its next meeting.</p> <p>7.3.3.11 All Impact Legal Services matters approved by the LSTC shall be reported to the Board at its next meeting.</p>	<p>management as appropriate, to attend and be heard at meetings of the LSTC <u>LSTCCMC</u>.</p> <p>7.3.3.10 Based on the functions performed by the non-executive Board member of the LSTC <u>LSTCCMC</u>, in addition to his/her functions as a member of the Board, the member of the LSTC <u>LSTCCMC</u>, who is a non-executive Board member, may be paid remuneration for his/her appointment as fixed by the Board.</p> <p>The LSTC <u>LSTCCMC</u> must approve all impact legal services matters irrespective of the expenditure authority of any officials of Legal Aid SA.</p> <p>The NOE and LDE jointly may approve any urgent matters, where the total cost of the matter is less than R50,000 (including VAT) or they may authorise initial proceedings in a matter to prevent prescription or default. These matters must be reported to the LSTC <u>LSTCCMC</u> at its next meeting <u>for ratification</u>.</p> <p>7.3.3.11 All Impact Legal Services matters approved by the LSTC <u>LSTCCMC</u> shall be reported to the Board at its next meeting.</p> <p><u>See Annexure V on page 321</u></p>	

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32.	Chapter 7 7.3.4	105	<p>7.3.4 APPEAL AGAINST DECISION OF THE LSTC</p> <p>A proposer has the right of appeal to the CEO against the refusal of the LSTC to grant legal aid for a proposed impact matter.</p> <p>The Senior Impact Litigation Attorney (SILA) shall inform the proposer of this right and, if requested within 3 months of being informed of this right, the Chairperson of the LSTC shall give detailed reasons for the refusal of legal aid.</p> <p>The grounds of appeal must be submitted to the SILA in writing. The SILA must forward these to the CEO together with the application documents and his/her comments.</p>	<p>7.3.4 APPEAL AGAINST DECISION OF THE <u>LSTCCMC</u></p> <p>A proposer has the right of appeal to the CEO against the refusal of the <u>LSTCCMC</u> to grant legal aid for a proposed impact matter.</p> <p>The Senior Impact Litigation Attorney (SILA) shall inform the proposer of this right and, if requested within 3 months of being informed of this right, the Chairperson of the <u>LSTCCMC</u> shall give detailed reasons for the refusal of legal aid.</p> <p>The grounds of appeal must be submitted to the SILA in writing. The SILA must forward these to the CEO together with the application documents and his/her comments.</p>	<p>Once again this proposed amendment merely links to the change from LSTC to CCMC for the approval of Impact matters.</p>
33.	Chapter 8 8.4.5	109	<p>8.4.5 The scoring of firms/companies as a whole can be scored according to this formula: <u>60% X + 40%</u> <u>Z + W</u></p> <p>X = aggregate scores of all equity partners/directors in the firm/company. Y = aggregate scores of all legal practitioners willing to accept legal aid instructions from the firm/company. Z = number of equity partners/directors in that firm/company. W = number of admitted legal practitioners in the firm/company</p>	<p>8.4.5 The scoring of firms/companies as a whole can be scored according to this formula: <u>60% X + 40%Y</u> <u>Z + W</u></p> <p>X = aggregate scores of all equity partners/directors in the firm/company. Y = aggregate scores of all legal practitioners <u>from the firm/company</u> willing to accept legal aid instructions. Z = number of equity partners/directors in that firm/company. W = number of admitted legal practitioners in the firm/company</p>	<p>Correction of typographical error.</p>

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34.	Chapter 8 8.7.3	112	<p>8.7.3 REPORTING ON PROGRESS</p> <p>Legal practitioners instructed by the LAB must submit a final account within 6 months from date of instruction, or report every 4 months on progress. If practitioners do not report within these time-frames, they may be requested in writing to report within 21 days.</p> <p>If a legal practitioner still does not report within 21 days as requested:</p> <ul style="list-style-type: none"> • The LAB's file on the case will be closed. • It will be accepted, without <i>waiver</i> of any rights of the LAB, that no moneys are owed to the legal practitioner <p><input checked="" type="checkbox"/> For further procedures on rendering accounts, see 13.2 on page 164.</p>	<p>8.7.3 REPORTING ON PROGRESS</p> <p>Legal practitioners instructed by <u>Legal Aid South Africa</u> must submit a final account within 6 months from date of instruction, or report every 4 months on progress. If practitioners do not report within these time-frames, they may be requested in writing to report within 21 days.</p> <p>If a legal practitioner still does not report within 21 days as requested:</p> <ul style="list-style-type: none"> • <u>Legal Aid South Africa's</u> file on the case will be closed. • It will be accepted, without <i>waiver</i> of any rights of <u>Legal Aid South Africa</u>, that no moneys are owed to the legal practitioner. <p><input checked="" type="checkbox"/> For further procedures on rendering accounts, see 13.2 on page 164.</p> <p><input checked="" type="checkbox"/> For a pro-forma report in a criminal matter, see <u>Annexure T</u></p>	Pro forma report added.
35.	Chapter 9 9.2.5.1	116	<p>9.2.5.1 The Legal Services Technical Committee (LSTC) shall consist of the Chief Operations Officer, the National Operations Executive, the Legal Development Executive, a senior attorney employed in the Legal Development Department and a non-</p>	<p>9.2.5.1 The Legal Services Technical Committee (LSTC) shall consist of the Chief Operations Officer, the National Operations Executive, the Legal Development Executive, a senior attorney employed in the Legal Development Department and a non-executive member of</p>	It is proposed that the Legal Services Technical Committee terms of reference should be included as an Annexure to the

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			executive member of the Board.	<p>the Board. The terms of reference of the <u>LSTC</u> are set out in <u>Annexure W</u>.</p> <p><u>See Annexure W on page 324</u></p>	Legal Aid Guide.
36.	Chapter 10 10.2.2(c)	122	<p>(c)Limited increased fees</p> <p>In general, only fees set out in Legal Aid SA tariffs will be allowed. However, ROEs and the NOE have the discretion to permit payment of limited increased fees in very exceptional cases. Full details must be submitted to the ROEs or the NOE when applying for increased fees.</p> <p>The NOE must:</p> <ul style="list-style-type: none"> • Maintain a register of all increased fees allowed at Legal Aid SA's National Office and Regional Offices. • Report to the Board on all increased fees granted. 	<p>(c) Limited increased fees</p> <p>In general, only fees set out in Legal Aid SA tariffs will be allowed. However, ROEs and the NOE have the discretion to permit payment of limited increased fees in very exceptional cases. Full details must be submitted to the ROEs or the NOE when applying for increased fees.</p> <p>The NOE must:</p> <ul style="list-style-type: none"> • Maintain a register of all increased <u>trial day</u> fees allowed at Legal Aid SA's National Office and Regional Offices. • Report to the Board on all increased <u>trial day</u> fees granted. <p><u>The authorisation of additional work at standard tariff rates does not need to be reported to the Board.</u></p>	The proposed amendment seeks to clarify that additional work at standard tariffs does not constitute an increased fee that must be reported to Board.
37.	Chapter 10 10.2.2	123	(d) Exercising discretion on reasonable grounds	<p>(d) Interim fees</p> <p><u>To authorise the payment of interim fees in any matter in which a legal practitioner makes written representations.</u></p>	NOE to be given a discretion re interim fees.

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39.	Chapter 10 10.7.10	132	NA	<p>10.7.10 EXCLUSION OF PRIVATE CLIENTS IN JUDICARE MATTERS</p> <p>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.</p>	
40.	Chapter 11 11.2.3	145	<p>11.2.3 RECOVERY OF CONTRIBUTIONS</p> <p>Contributions recovered by legal practitioners must immediately be deposited directly into Legal Aid SA's trust bank account. The relevant deposit slip must be forwarded to the Chief Financial Officer (CFO).</p>	<p>11.2.3 RECOVERY OF CONTRIBUTIONS</p> <p>Contributions recovered by legal practitioners must immediately be deposited directly into Legal Aid SA's trust bank account. The relevant deposit slip must be forwarded to the Chief Financial Officer (CFO).</p> <p>11.2.3 RECOVERY OF CONTRIBUTIONS</p> <p><u>(a) An accused who is obliged to make a contribution must be advised in writing in accordance with Annexure G4 to the Legal Aid Guide. The signature of the accused must be obtained on Annexure G4 before any legal aid instruction (Annexure D/LA2) is authorised. A copy of the signed Annexure G4 must be annexed to the legal aid instruction forwarded to the legal practitioner assigned to the accused. A further copy of the signed Annexure G4 must be handed to the accused. The signed original G4 must be retained by the JCE.</u></p> <p>See Annexure G4 on page ...</p>	<p>This proposed amendment seeks to introduce a more detailed procedure for the payment and recovery of client contributions.</p>



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				<p>(b) <u>At the first appearance after the authorisation of legal aid the assigned legal practitioner must place it on record that legal aid has been authorised subject to the payment of monthly contributions by the accused</u></p> <p>(c) <u>Where legal aid is granted pursuant to a court order in terms of Section 3B of the Legal Aid Act and where a contribution is appropriate the JCE or his/her representative must request the presiding judicial officer to make the payment of monthly contributions by the accused part of the court order. A judicial officer has no legal authority in terms of Section 3B to himself/herself determine whether a contribution should be made and if so in what amount.</u></p> <p>(d) <u>Contributions are payable monthly in advance by not later than four days after the initial grant of legal aid in respect of the month in which legal aid is initially granted and the fourth of each succeeding month for each month or portion of a month during which legal aid continues to be extended to an accused.</u></p> <p>(e) <u>Contributions must be deposited directly to the Trust Account of Legal Aid SA by the accused or his/her agent.</u></p> <p>(f) <u>No contribution may be received by any legal</u></p>	



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				<p>practitioner or the employee or agent of any legal practitioner acting on a legal aid instruction. No employee of Legal Aid SA may receive any contribution.</p> <p>(g) <u>The accused must deliver proof of payment of all contributions due to his/her assigned legal practitioner by not later than the fifth day after the initial grant of legal aid in respect of the month in which legal aid is initially granted and the fifth day of each succeeding month for each month or portion of a month during which legal aid continues to be extended to an accused.</u></p> <p>(h) <u>If any accused fails to make any contribution due, legal aid terminates and the assigned legal practitioner must advise the accused and the relevant judicial officer of the termination of legal aid either in writing or in court at the next appearance.</u></p>	
41.	Chapter 11 11.5.2	151	<p>11.5.2 THE LEGAL PRACTITIONER'S RESPONSIBILITIES</p> <p>The LA5 instructs the legal practitioner to:</p> <ul style="list-style-type: none"> • Give notice to any other party to litigation that any payment is to be made 	<p>11.5.2 THE LEGAL PRACTITIONER'S RESPONSIBILITIES</p> <p>The LA5 instructs the legal practitioner to:</p> <ul style="list-style-type: none"> • Give notice to any other party to litigation that any payment is to be made only to the legal practitioner instructed, or if he/she 	<p>It is proposed that an example should be included in the Legal Aid Guide to practically demonstrate how the provisions of this paragraph</p>



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			<p>only to the legal practitioner instructed, or if he/she withdraws, to Legal Aid SA, and <i>not</i> to the legal aid applicant.</p> <ul style="list-style-type: none"> • Receive any amount due to the legal aid applicant as a result of any court order or settlement, and retain all amounts for costs and 50% of any other amounts until the legal aid applicant's debt to Legal Aid SA has been determined and discharged. • Pay to Legal Aid SA all amounts due to Legal Aid SA, including the <i>benefit</i> to Legal Aid SA calculated in accordance with the provisions of this Guide. <p>>For more information on costs and the benefit owing page 143.</p>	<p>withdraws, to Legal Aid SA, and <i>not</i> to the legal aid applicant.</p> <ul style="list-style-type: none"> • Receive any amount due to the legal aid applicant as a result of any court order or settlement, and retain all amounts for costs and 50% of any other amounts until the legal aid applicant's debt to Legal Aid SA has been determined and discharged. • Pay to Legal Aid SA all amounts due to Legal Aid SA, including the <i>benefit</i> to Legal Aid SA calculated in accordance with the provisions of this Guide. <p>>For more information on costs and the benefit owing page 143.</p> <p>➤ <u>For example a Judicare practitioner who on behalf of a successful legal aid litigant recovered R 150,000.00 general damages and R 50,000.00 party-and-party costs, but whose attorney-client costs were taxed at R 75,000.00 by Legal Aid SA would:</u></p> <ul style="list-style-type: none"> • <u>Bank both the R 150,000.00 and the R 50,000.00 in his/her trust account;</u> • <u>Pay R 75,000.00 (50% of the capital) to the client;</u> • <u>Pay R 50,000 (party-and-party costs) to Legal Aid SA;</u> • <u>Pay R 9,000 (the Benefit due to Legal Aid SA on the capital) to Legal Aid SA;</u> 	<p>should be implemented.</p>

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				<ul style="list-style-type: none"> • <u>Pay R 25,000 (the difference between attorney-client costs and party-and-party costs) to Legal Aid SA;</u> • <u>Receive R 75,000.00 (the attorney-client costs) from Legal Aid SA for deposit in the practitioner's Business Account;</u> • <u>Pay R 41,000.00 (the balance of the capital) to the client, once accounts were finalised.</u> <p><u>The process might be shortened by set-off but the result would still be that the client received a total of R 116,000.00 (in two instalments) the practitioner received R 75,000.00 and Legal Aid SA received R 9,000.00 more than it disbursed. Although this example refers to a Judicare practitioner the same principles apply when legal aid is provided by a salaried legal practitioner at a Justice Centre.</u></p>	
42.	Chapter 12 12.4.4	158	<p>12.4.4 MEDICO-LEGAL SERVICES AND OTHER EXPERT WITNESSES</p> <p>(a) Applying for consent If the services of medical practitioners or other expert witnesses are required, a legal practitioner must get prior consent from the JCE:</p> <ul style="list-style-type: none"> • The practitioner must send an estimate of the costs on Annexure J when applying to the JCE. • If only one or two quotations are obtainable, 	<p>12.4.4 MEDICO-LEGAL SERVICES AND OTHER EXPERT WITNESSES</p> <p>(a) Applying for consent If the services of medical practitioners or other expert witnesses are required, a legal practitioner must get prior <u>written</u> consent from <u>Legal Aid South Africa</u></p> <ul style="list-style-type: none"> • The practitioner must send an estimate of the costs on Annexure J when applying. • If <u>less than three</u> quotations are obtainable, reasons must be submitted. 	Procedure concerning expert witnesses to be clarified and brought into line with procurement procedures.

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			<p>reasons must be submitted.</p> <ul style="list-style-type: none"> The JCE's approval or refusal must be given in writing. <p>➡ See Annexure J on page 255.</p>	<ul style="list-style-type: none"> If the anticipated cost exceeds R500 000, Legal Aid South Africa will need to follow a tender procedure 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. <p>➡ See Annexure J on page 255.</p>	
43.	Chapter 12 12.5.2	160	<p>12.5.2 PROGRESS REPORTS</p> <p>Simple matters, and those that are resolved within 3 months of the instruction, may not need progress reports.</p> <p>For more complex, longer matters, the legal practitioner must report to the JCE at least every 4 months on progress, giving any information relevant to the disposal of the matter.</p> <p>Examples of issues to report on:</p> <ul style="list-style-type: none"> The complexities of the case Financial implications Settlement issues, including the possibility of curtailing the proceedings by plea-bargaining 	<p>12.5.2 PROGRESS REPORTS</p> <p>Simple matters that are resolved within 3 months of the instruction may not need progress reports <u>and it will be sufficient to report with the final account.</u></p> <p>For more complex, longer matters, the legal practitioner must report to the JCE at least every <u>3</u> months on progress, giving any information relevant to the disposal of the matter.</p> <p>Examples of issues to report on:</p> <ul style="list-style-type: none"> The complexities of the case Financial implications Settlement issues, including the possibility of curtailing the proceedings by plea-bargaining 	Clarification of reporting requirements in respect of simple matters.

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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
44.	Chapter 12 12.5.4	160	<p>12.5.4 REPORTING WITH ACCOUNTS</p> <p>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</p>	<p>12.5.4 REPORTING WITH ACCOUNTS</p> <p><u>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.</u></p>	Clarification of reporting requirements.
45.	Chapter 13 13.1	164	Deals with Judicare accreditation system	Incorporate it into chapter 8 between 8.1 and 8.4.8 (pages 106-110), which deals with Accreditation, BEE and exclusions	Rearranging content to group topics.
46.	Chapter 13 13.2.4	166	<p>13.2.4 FORMAT AND FURTHER INFORMATION REQUIRED</p> <ul style="list-style-type: none"> • See Annexure K3 on page 260 for a full checklist. 	<p>READ WITH</p> <p><u>See changes to Annexure K3</u></p>	See above
47.	Chapter 13 13.2.5	166	<p>13.2.5 PROCEDURES FOR ACCOUNT SUBMISSION AND ENQUIRIES</p> <p>Accounts for criminal trials must be submitted to the LAB on the form in Annexure K1.</p> <p>➡ See Annexure K1 on page 257</p> <p>Account enquiries must be submitted to the LAB on the form in Annexure K2, with all necessary</p>	<p>13.2.5 PROCEDURES FOR ACCOUNT SUBMISSION AND ENQUIRIES</p> <p>Accounts for criminal trials must be submitted to <u>Legal Aid South Africa</u> on the form in Annexure K1.</p> <p>➡ See Annexure K1 on page 257</p> <p><u>Accounts for civil matters must be submitted to Legal Aid South Africa on form in Annexure K6</u></p>	Approved in February 2010 but further revised in November 2010 – see below.

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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
			<p>supporting documentation.</p> <p>➔ See Annexure K2 on page 258.</p> <p>☑ For the convenience of legal practitioners submitting accounts, there is a checklist in Annexure K3.</p> <p>➔ See Annexure K3 on page 260.</p> <p>Legal practitioners who submit accounts enquiries relating to accounts that have been paid correctly before the date of the enquiry, will be debited R100 for each enquiry.</p>	<p>Account enquiries must be submitted to <u>Legal Aid South Africa</u> on the form in Annexure K2, with all necessary supporting documentation.</p> <p>➔ See Annexure K2 on page 258.</p> <p>☑ For the convenience of legal practitioners submitting accounts, there is a checklist in Annexure K3.</p> <p>➔ See Annexure K3 on page 260.</p> <p>Legal practitioners who submit accounts enquiries relating to accounts that have been paid correctly before the date of the enquiry, will be debited R100 for each enquiry.</p>	
48.	Chapter 13 13.2.5	166	<p>13.2.5 PROCEDURES FOR ACCOUNT SUBMISSION AND ENQUIRIES</p> <p>Accounts for criminal trials must be submitted to Legal Aid South Africa on the form in Annexure K1.</p> <p>> See Annexure K1 on page 287.</p> <p>Accounts for civil matters must be submitted to Legal Aid South Africa on form in Annexure K6.</p> <p>Account enquiries must be submitted to Legal Aid South Africa on the form in Annexure K2, with all necessary supporting documentation.</p>	<p>13.2.5 PROCEDURES FOR ACCOUNT SUBMISSION AND ENQUIRIES</p> <p><u>All accounts must be submitted to Legal Aid SA by no later than four months after the finalisation of the matter. The practitioner who fails to submit his/her account within four months of finalisation forfeits the right to payment.</u></p> <p>Accounts for criminal trials must be submitted to <u>Legal Aid South Africa</u> on the form in Annexure K1.</p> <p>See Annexure K1 on page 287.</p>	<p>It is proposed that a contractually agreed period of 4 months be implemented for the submission of accounts by Judicare practitioners. This</p>

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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
			<p>>See Annexure K2 on page 289.</p> <p>For the convenience of legal practitioners submitting accounts, there is a checklist in Annexure K3.</p> <p>>See Annexure K3 on page 290.</p> <p>Legal practitioners who submit accounts enquiries relating to accounts that have been paid correctly before the date of the enquiry, will be debited R100 for each enquiry.</p>	<p><u>Accounts for civil matters must be submitted to Legal Aid South Africa on form in Annexure K6.</u></p> <p>Account enquiries must be submitted to <u>Legal Aid South Africa</u> on the form in Annexure K2, with all necessary supporting documentation.</p> <p>>See Annexure K2 on page 289.</p> <p>For the convenience of legal practitioners submitting accounts, there is a checklist in Annexure K3.</p> <p>>See Annexure K3 on page 290.</p> <p>Legal practitioners who submit accounts enquiries relating to accounts that have been paid correctly before the date of the enquiry, will be debited R100 for each enquiry.</p>	<p>is necessary as it is found that practitioners are submitting accounts late and this impacts on our contingent liability/provisions.</p>
49.	Chapter 13 13.6.3	172	<p>13.6.3 DISPUTING OF ELECTRONIC PAYMENT</p> <p>If payment is made to the practitioner by electronic funds transfer, the practitioner must return the amount to the LAB within 30 days of original transfer if the practitioner wishes to dispute the correctness of the amount paid.</p>	<p>13.6.3 DISPUTING ELECTRONIC PAYMENT</p> <p>If payment is made to the practitioner by electronic funds transfer, the practitioner must return the amount to <u>Legal Aid South Africa</u> prior to referral to arbitration.</p>	<p>Clarification of pre arbitration requirement.</p>
50.	Chapter 13 13.6.4	172	<p>13.6.4 DISPUTING OF CHEQUE PAYMENT</p> <p>If payment is made to the practitioner by cheque,</p>	<p>13.6.4 DISPUTING CHEQUE PAYMENT</p> <p>If payment is made to the practitioner by cheque,</p>	<p>Clarification of pre arbitration requirement.</p>

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			<p>deposit of the cheque is acceptance of the offer of payment. If the payment is not accepted, the cheque must be returned to the LAB within 30 days of deposit, together with details of the dispute.</p>	<p>deposit of the cheque is acceptance of the offer of payment. If the cheque is not accepted, the cheque must be returned to <u>Legal Aid South Africa prior to referral to arbitration.</u></p>	
51.	Chapter 13 13.7.2	174	<p>13.7.2 WHEN A DISPUTE ARISES</p> <p>If negotiations fail, a dispute must be declared within a year of the dispute arising, or within a year of the issue in dispute coming to the knowledge of the aggrieved party.</p> <p>With a claim by a legal practitioner against Legal Aid SA for fees or disbursements, a dispute is <i>deemed</i> to arise, and to come to the knowledge of the legal practitioner instructed by Legal Aid SA, by not later than 30 days after the date on which Legal Aid SA received the account on which the dispute is based.</p> <p>The aggrieved party must deliver the details of the dispute to the defaulting party on a 'Declaration of Dispute' standard form, as in Annexure K4 and Annexure K5.</p> <p>>See Annexure K4 on page 292 and Annexure K5 on page 293.</p>	<p>13.7.2 WHEN A DISPUTE ARISES</p> <p>If negotiations fail, a dispute must be declared within a <u>year of the dispute arising, or within a year of the issue in dispute coming to the knowledge of the aggrieved party</u> three months after Legal Aid SA notifies the <u>practitioner that the account has been taxed. The account received by Legal Aid SA must have been in proper form with all necessary supporting reports, vouchers, certificates and documents as required by the Legal Aid Guide.</u></p> <p>With a claim by a legal practitioner against Legal Aid SA for fees or disbursements, a dispute is <i>deemed</i> to arise, and come to the knowledge of the legal practitioner instructed by Legal Aid SA, by not later than 30 days after the date on which Legal Aid SA received the account on which the dispute is based.</p> <p>The aggrieved party must deliver the details of the dispute to the defaulting party on a 'Declaration of Dispute' standard form, as in Annexure K4 and Annexure K5.</p>	<p>It is further proposed that a Judicare practitioner must declare a dispute concerning the payment of an account within 3 months of the practitioner being notified of the taxation of the account. Once again this is necessary as disputed accounts impact on our contingent liability/provisions.</p>



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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
				>See Annexure K4 on page 292 and Annexure K5 on page 293	
52.	Chapter 13 13.8.1	177	<p>13.8.1 BEGINNING OF PRESCRIPTION</p> <p>Once a legal aid matter has been finalised, the legal practitioner must submit his/her account by the end of the calendar month following the calendar month in which the matter was finalised. Prescription starts running from the end of the second calendar month.</p> <p>Legal Aid SA has 30 days after receipt of an account to tax the account, and then to pay, partially pay or refuse to pay the account. If the practitioner does not institute arbitration proceedings within one year after the expiration of this period or of receiving the Board's response, whichever is the earlier, the practitioner's claim will prescribe.</p>	<p>13.8.1 BEGINNING OF PRESCRIPTION</p> <p>Once a legal aid matter has been finalised, the legal practitioner must submit his/her account by the end of the calendar month following the calendar month in which the matter was finalised <u>as soon as reasonably possible, but in any event within four months of such finalisation.</u> Prescription starts running from the end of the second calendar month <u>date on which the matter was finalised.</u></p> <p>Legal Aid SA has 30 days after receipt of an account to tax the account, and then to pay, partially pay or refuse to pay the account. If the practitioner does not institute arbitration proceedings within one year after the expiration of this period or of receiving Legal Aid SA's response, whichever is the earlier <u>three months of being notified of the taxation of the account,</u> the practitioner's claim will <u>also</u> prescribe.</p> <p><u>The CSE has discretion to extend the period within which to institute arbitration proceedings by not more than six months where satisfied that the extended period is required to tax and pay/partially pay the account and/or negotiate a settlement in relation to any account. Within one year after finalisation of a matter,</u></p>	<p>The CSE is given a discretion to extend the period within which arbitration proceedings must instituted.</p>

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				<p>the CSE also has discretion to authorise taxation and payment/part payment of an account, which was submitted within the compulsory 4 month period, where satisfied by written representations from the practitioner that there are satisfactory reasons for the delay in instituting arbitration proceedings. Any exercise by the CSE of discretion in terms of this paragraph shall be in writing.</p>	
53.	Annexure A	186	<p>3A Legal Aid Guide</p> <p>(1) (a) Subject to the provisions of this act and in order to attain its objects and to exercise its powers referred to in section 3 (d) and (dA), the board shall, in consultation with the Minister, include particulars of the scheme under which legal aid is rendered or made available and the procedure for its administration in a guide called the Legal Aid Guide.</p>	<p>3A Legal Aid Guide</p> <p>(1) (a) Subject to the provisions of this act and in order to attain its objects and to exercise its powers referred to in section 3 (d) and (dA), the board shall, in consultation with the Minister, include particulars of the scheme under which legal <u>aid</u> is rendered or made available and the procedure for its administration in a <u>guide</u> called the Legal Aid Guide.</p>	Correction of typographical error.
54.	Annexure C	220	See Legal Aid Guide	<p>Add to section B of the LA 13 form: <u>Do you or your spouse expect to receive any money or property from a deceased estate and/or are either of you beneficiaries of any trust? YES or NO</u> <u>Do you or any of your family control any company or trust or legal personality? YES or NO</u></p>	These additional questions are required on the legal aid application form failing which applicants would be able to allege that they were not asked these

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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments																
					questions at the time of making their application for legal aid.																
55.	Annexure C	220	LA1 Application for Legal Aid	Add the following paragraph to Section F <u>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.</u>	Provision to facilitate quality control.																
56.	Annexure E 1.2	224	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 (Currently only applicable to the Western Cape High Court).	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, <u>identity parades and inspections conducted by the Court.</u>	Clarification of position in respect of identity parades and inspections.																
57.	Annexure E 1.3(a)	225	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: <table border="1" data-bbox="524 1182 1122 1310"> <thead> <tr> <th>District Magistrate's Court</th> <th>Regional Magistrate's Court</th> <th>High Court</th> <th>Supreme Court of Appeal</th> </tr> </thead> <tbody> <tr> <td>R152.00 Per day</td> <td>R152.00 Per day</td> <td>R152.00 Per day</td> <td>NA</td> </tr> </tbody> </table>	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal	R152.00 Per day	R152.00 Per day	R152.00 Per day	NA	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: <table border="1" data-bbox="1144 1182 1800 1310"> <thead> <tr> <th>District Magistrate's Court</th> <th>Regional Magistrate's Court</th> <th>High Court</th> <th>Supreme Court of Appeal</th> </tr> </thead> <tbody> <tr> <td>R152.00 Per day</td> <td>R152.00 Per day</td> <td>R152.00 Per day</td> <td>NA</td> </tr> </tbody> </table>	District Magistrate's Court	Regional Magistrate's Court	High Court	Supreme Court of Appeal	R152.00 Per day	R152.00 Per day	R152.00 Per day	NA	Correction of typographical error.
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R152.00 Per day	R152.00 Per day	R152.00 Per day	NA																		



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No	Chapter/ Para	Page No in 2009	Current				Proposed	Comments
			R152.00 Per day	R152.00 Per day	R155.00 Per day	NA		
58.	Annexure E 1.3 (b)	225	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.				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. <u>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).</u>	Clarification of globular fee.
59.	Annexure E 2.1	225	In all matters actual preparation and necessary consultations prior to and during the trial shall be allowed and remunerated as follows:				<p><u>Practitioners may claim preparation and consultation fees from the date of instruction by Legal Aid South Africa.</u></p> <p><u>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 the date of the commencement of the trial).</u></p> <p><u>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.</u></p> <p>In all matters actual preparation and necessary</p>	

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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments								
				consultations prior to and during the trial shall be allowed and remunerated as follows:									
60.	Annexure E 5	228	N/A	<p><u>ADDING IN</u></p> <p><u>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.</u></p> <table border="1" data-bbox="1149 746 1816 935"> <thead> <tr> <th data-bbox="1149 746 1335 839"><u>District Magistrate's Court</u></th> <th data-bbox="1335 746 1520 839"><u>Regional Magistrate's Court</u></th> <th data-bbox="1520 746 1706 839"><u>High Court</u></th> <th data-bbox="1706 746 1816 839"><u>Suprem Court o Appeal</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="1149 839 1335 935">N/A</td> <td data-bbox="1335 839 1520 935">R14.00 per folio</td> <td data-bbox="1520 839 1706 935">R22.00 per folio</td> <td data-bbox="1706 839 1816 935">NA</td> </tr> </tbody> </table>	<u>District Magistrate's Court</u>	<u>Regional Magistrate's Court</u>	<u>High Court</u>	<u>Suprem Court o Appeal</u>	N/A	R14.00 per folio	R22.00 per folio	NA	Provision to permit remuneration for heads of argument.
<u>District Magistrate's Court</u>	<u>Regional Magistrate's Court</u>	<u>High Court</u>	<u>Suprem Court o Appeal</u>										
N/A	R14.00 per folio	R22.00 per folio	NA										
61.	Annexure E 6	228	N/A	<p><u>6.1 (a)</u></p> <p><u>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:</u></p> <table border="1" data-bbox="1149 1153 1816 1398"> <thead> <tr> <th data-bbox="1149 1153 1335 1246"><u>District Magistrate's Court</u></th> <th data-bbox="1335 1153 1520 1246"><u>Regional Magistrate's Court</u></th> <th data-bbox="1520 1153 1706 1246"><u>High Court</u></th> <th data-bbox="1706 1153 1816 1246"><u>Suprem Court o Appeal</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="1149 1246 1335 1398"></td> <td data-bbox="1335 1246 1520 1398">R152.00 Per postponeme nt</td> <td data-bbox="1520 1246 1706 1398">R152.00 Per postponeme nt</td> <td data-bbox="1706 1246 1816 1398">NA</td> </tr> </tbody> </table>	<u>District Magistrate's Court</u>	<u>Regional Magistrate's Court</u>	<u>High Court</u>	<u>Suprem Court o Appeal</u>		R152.00 Per postponeme nt	R152.00 Per postponeme nt	NA	Provision to permit remuneration of postponements in appeal matters.
<u>District Magistrate's Court</u>	<u>Regional Magistrate's Court</u>	<u>High Court</u>	<u>Suprem Court o Appeal</u>										
	R152.00 Per postponeme nt	R152.00 Per postponeme nt	NA										

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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
62.	Annexure E	223	<p>Judicare Criminal Legal Aid Tariffs – Annexure E</p> <p>Tariff as set out in Annexure E implemented by Circular 1 of 2009 with effect from 1 April 2009</p>	<p>Judicare Criminal Legal Aid Tariffs – Annexure E</p> <p><u>The Tariff (both Fees and disbursements) as set out in Annexure E to the 2009 Legal Aid Guide will be increased by 5% across the board with effect from 1 April 2010 for work done or disbursements incurred after 1 April 2010.</u></p>	<p>Approved in February 2010 but further revised in November 2010 – see below.</p>
63.	Annexure E	223	<p>Judicare Criminal Legal Aid Tariffs – Annexure E</p>	<p>Judicare Criminal Legal Aid Tariffs – Annexure E</p> <p>The Tariff (both Fees and disbursements) as set out in Annexure E to Circular 1 of 2010 will be amended as per revised Annexure E hereto with effect from 1 April 2011 for all work done and disbursements incurred after 1 April 2011. The amendments can be summarised as follows:</p> <ul style="list-style-type: none"> • District court, regional court and standard High Court fees increased by 4%. • Standard trial day fees in the High Court amended to R 2, 000.00 for all practitioners. Higher fees for practitioners with more than five years experience removed. • Specific High Court and SCA fees left unchanged. • Withdrawal fees increased but clarified. • Accommodation and subsistence allowances left unaltered as still adequate. 	<p>The proposed general increase is based on the average CPI at 4%. The Average CPI for the preceding 12 months has been 4.9% but CPI is steadily decreasing, and is currently at 3.2% and so it is proposed that the increase be based on an average.</p>

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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
				<ul style="list-style-type: none"> • Rate per km reduced to R 2.90 per km. 	
64.	Annexure F Note 3	244	<p>Level 3</p> <ol style="list-style-type: none"> a. Matters which if conducted without legal aid would fall within Scale C Magistrates' Court b. Labour Court matters e. Children's court matters. d. Childrens' Act matters. e. Divorce, custody, guardianship and Family Court matters not otherwise provided for f. General arbitrations and ADR not otherwise provided for g. Appearances before an Appeals Board in respect of an Appeal in terms of Section 26 of the Refugees Act <p>Level 4</p> <ol 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 	<p>Level 3</p> <ol 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. Childrens' Act matters. d. Divorce, custody, guardianship and Family 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 <p>Level 4</p> <ol 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. <u>Labour Court matters</u> 	Labour Court matters reclassified.

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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
65.	Annexure F Note 8	250	<p>Judicare Civil Legal Aid Tariffs –Annexure F</p> <p>Tariff as set out in Annexure F implemented by Circular 1 of 2009 with effect from 1 April 2009</p>	<p>Judicare Civil Legal Aid Tariffs – Annexure F</p> <p><u>The Tariff (both Fees and disbursements) as set out in Annexure F to the 2009 Legal Aid Guide will be increased by 5% across the board with effect from 1 April 2010 for work done or disbursements incurred after 1 April 2010.</u></p>	<p>Approved in February 2010 but further revised in November 2010 – see below.</p>
66.	Annexure F	226	<p>Judicare Civil Legal Aid Tariffs –Annexure F</p>	<p>Judicare Civil Legal Aid Tariffs – Annexure F</p> <p>The Tariff (both Fees and disbursements) as set out in Annexure F to Circular 1 of 2010 will be amended as per revised Annexure F hereto with effect from 1 April 2011 for all work done and disbursements incurred after 1 April 2011. The amendments can be summarised as follows:</p> <ul style="list-style-type: none"> • Provision made for Regional Civil Court fees • Magistrate’s court and standard High Court fees increased by 4%. • Higher rates for advocates (1.1(b) and 1.2(b)) removed. • High Court, SCA, CC and Impact fees left unchanged. • Accommodation and subsistence allowances left unaltered as still adequate. • Rate per km reduced to R 2.90 per km. 	<p>The proposed general increase is based on the average CPI at 4%. The Average CPI for the preceding 12 months has been 4.9% but CPI is steadily decreasing, and is currently at 3.2% and so it is proposed that the increase be based on an average.</p>
67.	Annexure G1 & G2	251	<p>See Legal Aid Guide</p>	<p>Under B. ASSETS</p> <ul style="list-style-type: none"> • Add a line for <u>Moveable property</u> 	<p>This links to the proposed means</p>

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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
				<ul style="list-style-type: none"> • Change R 75,000.00 to R 100,000.00 • Change R 300,000.00 to R 500,000.00 	test amendments'
68.	Annexure G3	252	See Legal Aid Guide	Layout to be improved without material alteration of the contents.	Layout improved.
69.	Annexure G4	NA	New	See annexed.	This links to the new Contribution procedures
70.	Annexure K3	260		<u>Add Section D after Section C Note Wording as per attached annexure</u>	Guidelines on the compilation of an account added.
71.	Annexure O Preamble to 3.40	268 279	Deals with Accreditation, BEE and exclusions	To be incorporated in Chapter 8 between 8.1 (page 106) and 8.4.8 (page 110), which also deals with Accreditation, BEE and exclusions	Rearranging content to group topics.
72.	Annexure O 3.41 - 3.44	279 281	Deals with Processing of Legal Aid applications for criminal trials and criminal appeals in the High Court	To be incorporated in Chapter 11 in paragraphs 11.1 and 11.2 (Pages 139-147), which deal with Processing Legal Aid applications and co-ordinating and evaluating applications in criminal cases	Rearranging content to group topics.
73.	Annexure O 3.45 - 4.5	281 284	Deals with Evaluation and Allocation of Legal Aid instructions	To be incorporated in Chapter 12 in paragraph 12.1 (page 152), which deals with Allocating instructions	Rearranging content to group topics.
74.	Annexure O 3.46	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.	3.46 An agent Legal Aid Officer must only perform the function 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	Clarification of the function of an agent Legal Aid Officer.

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75.	Annexure O 5	284 285	Deals with Electronic Invoicing	To be incorporated in Chapter 13 as a new paragraph 13.10 (page 178), which deals with Judicare procedures	Rearranging content to group topics.
76.	Annexure O Appendix 1	285	Deals with Allocation of Magisterial Districts to Regions and Justice Centres	Do away with Appendix 1 and change all references to Appendix 1 to Annexure P (pages 300-308), which deals with the Allocation of Magisterial Districts to Regions and Justice Centres	Rearranging content to group topics.
77.	Annexure O Appendix 2	286	Deals with Accreditation criteria	Becomes Annexure O 1	Rearranging content to group topics.
78.	Annexure O Appendix 3	292	6.6.2 regularly report progress of the matter in question, as applicable, at such intervals and at those stages of proceedings as required in terms of paragraph 10, chapter 5 of the Legal Aid Guide.	6.6.2 regularly report progress of the matter in question, as applicable, at such intervals and at those stages of proceedings as required in terms of paragraph 12.5.2, Chapter 12 of the Legal Aid Guide.	Correction of cross reference.
79.	Annexure O Appendix 3	295	<p>8. ACCESS TO INFORMATION</p> <p>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.</p>	<p>8. QUALITY CONTROL</p> <p><u>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.</u></p> <p><u>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</u></p>	Provisions introduced to facilitate quality control of Judicare work.



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				<p><u>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.</u></p> <p><u>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.</u></p> <p><u>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.</u></p> <p><u>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.</u></p> <p><u>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.</u></p>	
80.	Annexure O Appendix	287 297	Deals with Accreditation Agreement for private practitioners	Becomes Annexure O 2	Rearranging content to group topics.



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No	Chapter/Para	Page No in 2009	Current	Proposed	Comments
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81.	Annexure O2 previously Appendix 3 to Annexure O	287	See Legal Aid Guide	See annexed	It is proposed that the Accreditation Contract be simplified and that the terms and conditions be specified in a separate document
82.	Annexure O3 previously Appendix 3 to Annexure O	287	See Legal Aid Guide	See annexed.	Rearranging content to group topics.
83.	Annexure O Appendix 4	298	Deals with Application for Accreditation	Becomes Annexure O3	Rearranging content to group topics.
84.	Annexure U	NA	New	<u>Code of Professional Conduct</u>	New matter introduced for the ethical guidance of employee practitioners
85.	Annexure V	NA	New	<u>Terms of Reference of the CCMC</u>	Incorporated in Legal Aid Guide for transparency.
86.	Annexure	NA	New	<u>Terms of Reference of the LSTC</u>	Incorporated in



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No	Chapter/ Para	Page No in 2009	Current	Proposed	Comments
	W				Legal Aid Guide for transparency.