

P R O G R A M M E

INTERNATIONAL CONFERENCE

ACCESS TO JUSTICE, LEGAL COSTS AND
OTHER INTERVENTIONS

31 October – 2 November 2018

Garden Court Marine Parade, Durban, South Africa

Hosted by

South African Law Reform Commission

Supported by

European Union

Department of Justice and Constitutional
Development

WEDNESDAY 31 OCTOBER 2018

Time	Action
14:00 – 17:00	Confirmation of bookings Early registration

DAY 1: THURSDAY 1 NOVEMBER 2018

Session	Venue	Time	Action
	DHS 1 & 2	07:00 – 08:15	Registration
Programme Director Adv Anthea Platt SC Commissioner: SA Law Reform Commission			
	DHS 1 & 2	08:15 – 08:20	Delegates to be seated
	DHS 1 & 2	08:20 – 08:30	Display of National Flag Playing of National Anthem
Facilitator Sessions 1 to 3 Adv JB Skosana Deputy Director General: Court Services DoJ&CD			
Welcome and Introduction; Goals of the Conference			
Session 1	DHS 1 & 2	08:30 – 09:00	Judge Jody Kollapen Judge of the Gauteng North High Court, Pretoria Chairperson: SA Law Reform Commission
Key Note Address			
Session 2	DHS 1 & 2	09:05 – 09:40	Mr John Jeffery (MP) Deputy Minister: Justice and Constitutional Development
Setting the Scene			
Session 3	DHS 1 & 2	09:45 – 10:35	1. “Legal Costs and Fees in South Africa – the Current Position” Judge Dunstan Mlambo Judge President of the Gauteng Division of the High Court of South Africa 2. “Is access to justice dependent on one’s ability to afford legal fees?” Judge Motsamai Makume Judge of the Gauteng South High Court, Johannesburg

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			<p>3. “Transformation in relation to improving access to justice by members of the public” Adv. Elizabeth Baloyi-Mere Advocates for Transformation</p>
		10:40 – 11:00	Question and answer session
		11:00 – 11:20	TEA BREAK
PARALLEL SESSIONS: SESSIONS 4 & 5			
Economic Comparative Analysis			
Session 4 (parallel session)	DHS 1 & 2	11:25 – 12:00	<p>Facilitator: Ms Rochelle Francis-Subbiah Deputy Chairperson: Project 142 Advisory Committee</p> <p>1. “Economic Comparison of Legal Costs with other Professions” Prof Jonathan Klaaren Faculty of Commerce, Law & Management University of the Witwatersrand</p> <p>2. “Costs as a barrier to justice: Empirical finding” Prof Maurits Barendrecht Research Director Hague Institute for Innovation of Law</p>
		12:00 – 12:25	Question and answer session
Comparative Foreign Jurisdictions and their System of Legal Costs			
Session 5 (parallel session)	Glenwood & Hilton	11:25 – 12:00	<p>Facilitator: Ms Yvonne Dausab Chairperson: Namibia Law Reform and Development Commission</p> <p>1. “Inaccessibility of Justice for Marginalized and Vulnerable Kenyans” Mr Joash Dache Secretary / Chief Executive Officer Kenya Law Reform Commission</p> <p>2. “Legal Costs – Uganda Perspective” Ms Frances Katooko Principal Legal Officer Uganda Law Reform Commission</p>

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			<p>3. “Legal costs: United Kingdom, Germany & South Africa perspectives” Mr Patrick Hundermark Chief Legal Executive, Legal Aid South Africa</p>
		12:05 – 12:25	Question and answer session
		12:30 – 13:30	LUNCH
Socio-Economic Factors Impeding Access to Justice			
Session 6	DHS 1 & 2	13:30: – 14:30	<p>Facilitator: Mr Irvin Lawrence Vice-Chairperson: SA Law Reform Commission</p> <p>1. “List of some legal and socio-economic factors impacting on legal costs” Dr Willem Gravett Senior Lecturer, Department of Procedural Law, University of Pretoria Project 142 Advisory Committee Member</p> <p>2. “Access to Environmental Justice” Ms Janice Tooley: Janice Tooley Attorneys Mr Mametlwe Sebei: Lawyers for Human Rights</p> <p>3. “The Role of the Public Protector to provide access to administrative justice within the broader justice system” Advocate Busisiwe Mkhwebane Public Protector of South Africa</p> <p>4. “Revisiting arguments for the implementation of student practice Rules” Advocate Inez Bezuidenhout Director: University of Free State Law Clinic</p>
		14:35 – 15: 00	Question and answer session
		15:00 – 15:30	TEA BREAK
Transformative Costing			
Session 7	DHS 1 & 2	15:35 – 16:40	<p>Facilitator: Mr Max Boqwana President: SADC Lawyers’ Association</p> <p>1. “Fixed Fees as a Way to Enhance Access to Justice” Dr Ben Groot: Ben Groot Attorneys</p>

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			<p>2. “The desirability of tariffs in criminal and other matters: How should tariffs in litigious & non-litigious matters be determined – the referral system” Mr Etienne Barnard Co-Chairperson: Law Society of South Africa</p> <p>3. “The current costs regime as it pertains to advocates: What should the mechanism be in determining fair and reasonable fees payable to advocates” Adv Greg Harpur SC General Council of the Bar of South Africa</p> <p>4. “The evolution of legal services – legal costs in the bigger picture of today’s realities” Mr Ignaz Fuesgen Managing Director, KOHMAP Consulting</p>
		16:40 – 17:00	Question and answer session
		17:00	END OF DAY 1

DAY 2: FRIDAY 2 NOVEMBER 2018

Session	Venue	Time	Action
<p>Programme Director Adv Anthea Platt SC Commissioner: SA Law Reform Commission</p>			
<p>Contingency Fees and Absence of Mandatory Fee Agreements</p>			
	DHS 1 & 2	08:20 – 08:30	Delegates to be seated
Session 8	DHS 1 & 2	08:30 – 09:25	<p>Facilitator: Adv Johan de Waal SC Commissioner: SA Law Reform Commission</p> <ol style="list-style-type: none"> “Use of Contingency Fees Agreements: Are we justified in gambling with our client’s cases?” Mr Odwa Nweba Stellenbosch University Law Clinic “Contingency Fees: The Contingency Fees Act & Case law” Mr Anthony Millar Director Norman Berger & Partner Inc “Contingency Fees: International perspectives” Prof Fawzia Cassim Associate Professor: Department of Criminal & Procedural Law, UNISA Project 142 Advisory Committee Member
		09:25 – 10:00	Question and answer session
		11: 00 – 11:15	TEA BREAK
<p>Facilitator Sessions 9 and 10: Mr Raj Daya Secretary: Rules Board for Courts of law Project 142 Advisory Committee Member</p>			
<p>Non-litigious Legal Costs & Various Categories of Legal Services</p>			
Session 9	DHS 1 & 2	10:25 – 11:05	<ol style="list-style-type: none"> “Treatment of Non-litigious Fees of Legal Practitioners: Non-litigious Corporate and Business Legal Services” Mr Brent Williams CEO: Cliffe Dekker Hofmeyr Attorneys Mr Sbu Gule CEO: Norton Rose Fulbright Attorneys

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Session	Venue	Time	Action
			<p>2. “Legal Practitioners and Non-Litigious Legal Fees” Mr Asif Essa: President: KZN Law Society</p>
State Legal Services			
Session 10	DHS 1 & 2	11:10 – 11:30	Mr Rodney Isaacs Acting Chief Litigation Officer: DoJ&CD
		11:30 – 11:50	Question and answer session
Pro Bono and Community Legal Services			
Session 11	DHS 1 & 2	12:00: – 12:35	<p>Facilitator: Ms Nontuthuzelo Memka Director: M Memka Attorneys</p> <p>1. “Improving access to justice in South Africa in civil matters through existing community-based paralegals and some considerations as to possible law graduate post-study community service” Dr David Holness Director: University of KwaZulu-Natal Law Clinic</p> <p>2. “Paralegals and access to justice: A dream deferred” Ms Joanne Harding Social Change Assistance Trust Ms Alison Tilley: Co-ordinator: Judges Matter</p>
		12:35 – 13:20	LUNCH
Pro Bono and Community Legal Services (continued)			
	DHS 1 & 2	13: 25 – 13: 55	<p>3. “Dealing with costs of Access to Justice, Legal Costs and Other Interventions through Community Advice Offices” Mr Seth Mnguni Chairperson: ACAOSA</p> <p>4. “How to achieve access to justice for all in South Africa: Some Suggestions for the way forward” Professor David McQuoid-Mason Centre for Socio-Legal Studies University of KwaZulu-Natal</p>
		13:55 – 14:15	Question and answer session

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Facilitator Sessions 11 and 12 Adv Anthea Platt SC Commissioner: SA Law Reform Commission			
Way Forward			
Session 12	DHS 1 & 2	14:25 – 14:40	Judge Jody Kollapen Judge of the Gauteng North High Court, Pretoria Chairperson: SA Law Reform Commission
Closing Remarks			
Session 13	DHS 1 & 2	14:45 – 15:10	Adv Michael Masutha (MP) Honourable Minister of Justice and Correctional Services
Vote of Thanks			
	DHS 1 & 2	15:10 – 15:15	Adv Anthea Platt SC
		15:00	END OF CONFERENCE

NATIONAL ANTHEM OF SOUTH AFRICA

*Nkosi sikelel' i-Afrika
Maluphakanyisw' uphondo lwayo
Yizwa imithadanzo yethu
Nkosi sikelela, thina lusapho lwayo*

*Morena boloka setjhaba sa Heso
O fedise dintwa le matshwenyeho
O se boloke, O se boloke
Setjhaba sa heso
Sechaba sa South Africa - South Afrika*

*Uit die blou van onse hemel
uit die diepte van ons see
Oor ons ewige gebergtes
Waar die kranse antwoord gee*

*Sounds the call to come together
And united we shall stand
Let us live and strive for freedom
In South Africa, our land*