



28 February 2015

**FOR ACTION**

Legal Aid SA: Regional Operations Executives

Justice Centre Executives

High Court Unit Managers

Other Legal Aid SA staff

Other: Accredited Judicare Legal Practitioners

Agent Legal Aid Officers at Magistrates' Courts

National Office

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Braamfontein

2017

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

**FOR INFORMATION**

See Annexure "A"

Dear Sir/Madam

**CIRCULAR NUMBER 1 OF 2015**

**AMENDMENTS TO THE 2014 LEGAL AID GUIDE**

Notice is hereby given that the Board of Legal Aid South Africa has approved the following amendments to the 2014 Legal Aid Guide (13<sup>th</sup> edition). The amendments set out below will come into effect from 28 February 2015. The strikethrough of words indicates the deletion of such words and the underlining of words indicates the insertion of new text.

**1. CHAPTER 4**

**1.1 PARAGRAPH 4.9.2 - PAGE 54**

**4.9.2 CIVIL PRIORITY CASES**

Legal aid must be prioritised for civil matters, in accordance with the provisions of this guide, which have a significant impact on client's lives including but not limited to:

- (a) Civil proceedings involving children;
- (b) Evictions;
- (c) Social security matters;
- (d) Educational matters; and

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(e) Income related matters (employment/ dismissals; pension and related funds, and maintenance).

Legal aid should be granted immediately and without imposing a waiting period in matters which fall into the above prioritisation but subject to the normal qualification criteria contained in this Guide.

A waiting period of 3 months should be imposed in all non-priority cases save where:

- The applicant is in receipt of court papers and which need to be acted upon to prevent default by the applicant in court proceedings;
- The applicants matter will prescribe within the waiting period or within 3 months of the expiration of the waiting period; and/or
- The applicant is a woman and she is the subject of domestic violence and has instituted domestic violence proceedings or has obtained a domestic violence interdict.

In non-priority matters clients may be provided with advice and be referred to other service providers or Legal Aid SA's self-help modules on the website, should they want to act on their matter within the waiting period.

Specific actions during the waiting period in divorce matters are detailed in paragraph 4.11 on page 56.

## **1.2 PARAGRAPH 4.11.1 - PAGE 56**

### **4.11.1 USE OF THE REGIONAL CIVIL COURTS**

During the waiting period as imposed by paragraph 4.9.2 the applicant should be referred to family counselling services and/or court based mediation (once this is available within the area of jurisdiction of the court where the divorce is to be heard). Such services should be obtained *pro bono* as currently no budget has been made available to Legal Aid SA to fund court based mediation services for Legal Aid SA clients.

## **1.3 PARAGRAPH 4.11.5 - PAGE 57**

### **4.11.5 ENFORCEMENT OF DIVORCE ORDER RELATING TO PROPRIETARY CONSEQUENCES OF DIVORCE**

Legal aid may be granted to appoint a liquidator to enforce a divorce order where the other party refuses, fails and/or neglects to give effect to the terms of the court order and/or deed of settlement.

#### 1.4 PARAGRAPH 4.20 - PAGE 73

#### 4.20 COMMISSION OF INQUIRIES

Where funds are made available by the establishing authority of the commission, legal aid should be provided for the purpose of legal representation at commissions for persons appearing before a commission of inquiry where such person/s have been the commission has certified by the Commissioner as having proper that they have standing before the commission. ~~Where such funding is not made available, then legal aid will only be made available in exceptional circumstances such as where a person has a substantial and material interest in the outcome of the commission and which could materially influence the outcome of any potential civil claim, provided that:~~

- ~~(a) such person/s are indigent and qualify in terms of the means test;~~
- ~~(b) such person/s has/have been certified by the Commissioner that they have a proper standing before the commission;~~
- ~~(c) the prospect of hardship to the person/s if assistance is declined;~~
- ~~(d) the nature and significance of the evidence that the person/s is/are giving or appears likely to give;~~
- ~~(e) the extent to which representation is required to enable the inquiry to fulfil its purpose;~~
- ~~(f) whether the interests of a person will be advanced by any other person/association certified to appear before the commission;~~
- ~~(g) any other matter relating to the public interest.~~

~~Subject to Legal Aid South Africa being able to allocate the necessary resources/funding~~

Subject further that where such funding is made available, such funding shall be provided subject to compliance with unsolicited proposals dealt with under National Treasury Practice Note 11 of 2008/ 2009, where such persons seek to use/appoint practitioners of their own choice. Judicare tariffs as set out in Annexure F will apply where a legal practitioner in private practice is instructed

## CHAPTER 6

### 1.1 PARAGRAPH 6.1.1 - PAGE 93

#### 6.1.1(c) JCE'S DISCRETION

Until otherwise notified by *Circular* or in individual cases in writing by the ROE's, JCE's should refuse legal aid to all persons who do not strictly qualify under the *means test* or within their permitted ~~R1,000-~~ R1500, a month *discretion* as contained in 5.1.14.

## CHAPTER 8

### 1.1 PARAGRAPH 8.2C.9 - PAGE 120

A practitioner will be required to submit a valid tax clearance certificate before any work will be allocated to a practitioner. Payments for work done can only be made to a practitioner who is at all times in possession of a valid tax clearance certificate from SARS.

Notwithstanding this provision that Judicare practitioners are tax compliant at the time that payment is made, this requirement has not been implemented by National Treasury. This requirement will therefore only be implemented once a date for its implementation is fixed by National Treasury. Practitioners will be advised off the commencement of this provision by Circular.

### 1.2 PARAGRAPH 8.2E - PAGE 126

#### 8.2.E APPLICATION FOR ACCREDITATION FOR ADVOCATES ASSOCIATIONS

8.2E.1 An application by an association may be made by its chairperson for accreditation on the prescribed form. See Annexure "O5". Legal Aid SA will only accredit advocates associations provided the association meets the following requirements:

- The association must have an identifiable office and a functioning committee;
- The association must be able to issue a certificate of good standing for its members;

- The association must have a set constitution including a disciplinary code and procedure;
- The association must be able to exercise effective disciplinary control over its members;
- A code of conduct regulating its members conduct must be in place;
- Members of the association must at least contribute to the teaching of law and the administration of Justice; and
- The association must be able to have the capacity to interdict, suspend or strike off a member from the roll of advocates, in appropriate cases.

8.2E.2 The application for accreditation shall be made by completing and submitting a standard application form together with accompanying documentation. The application form will require the applicant association to furnish the following information:

- Full details of the association;
- Physical address of the administrative office;
- Telephone number and Fax number of the administrative officer;
- Email address of the administrative office;
- Constitution;
- Disciplinary code & procedure
- Code of conduct;
- Willingness to enter into *pro bono* agreement with Legal Aid SA;
- Obligation to inform Legal Aid SA of any changes about the association

## CHAPTER 10

### 1.1 PARAGRAPH 10.6.8 - PAGE 149

#### 10.6.8 SECURITY AND COSTS IN CIVIL MATTERS

(a) Legal Aid SA does not provide funds for the purpose of giving security. In matters where the sheriffs require security or an indemnity to effect a writ, and where such requests are in accordance with the rules of court and can be substantiated by the sheriffs, then the CLE and/or persons delegated by the CLE in consultation with the CEO, are authorized to provide the necessary indemnity to sheriffs.

## **ANNEXURE B**

### **1.1 CLAUSE 2.3 OF LA 2 - PAGE 271**

2.3 A practitioner will be required to submit a valid tax clearance certificate before any work will be allocated to a practitioner. Payments for work done can only be made to a practitioner who is at all times in possession of a valid tax clearance certificate from SARS. (Notwithstanding this provision that Judicare practitioners are tax compliant at the time that payment is made, this requirement has not been implemented by National Treasury. This requirement will therefore only be implemented once a date for its implementation is fixed by National Treasury.)

## **ANNEXURE O1**

### **1.1 EXPERIENCE LEVELS IN ANNEXURE O1- PAGE 319**

Experience \* - criminal

District Court: ~~No post admission experience~~

Requirement Admission as Attorney/Advocate.

Regional Court : ~~12 months~~ 3 years post admission criminal work experience with effect from 1 April 2015 and thereafter increasing to 4 and 5 years post admission criminal work experience, respectively, for the following 2 financial years;

Other courts: ~~24 months~~ 5 years post admission criminal work experience with effect from 1 April 2015

## **ANNEXURE O3**

### **1.1 PARAGRAPH 4.7 - PAGE 323**

4.7 That s/he or the firm has a valid tax clearance certificate from SARS and will forthwith notify Legal Aid SA should s/he or the firm no longer be in possession of a valid tax clearance certificate from SARS. (Notwithstanding this provision that Judicare practitioners are tax compliant at the time that payment is made, this requirement has not been implemented by National Treasury. This requirement will therefore only be implemented once a date for its implementation is fixed by National Treasury.)

## 1.2 PARAGRAPH 11A - PAGE 326

### 11A. PROTECTING THE BRAND OF LEGAL AID SA

1. All issues that may arise between the practitioner and Legal Aid SA regarding the carrying out of the practitioner's mandate shall not be addressed through the court. The practitioner shall escalate any such issues to the local Justice Centre or Regional Office and if the issues are not resolved, to the National office of Legal Aid SA.

2. Where a judicare practitioner is offered an instruction by the JC in urgent circumstances or under circumstances where the instruction is received too close to the court date, the practitioner shall, by accepting such an instruction, undertake to comply with all preliminary requirements of the court, by the due date.

3. Where the judicare practitioner is not in a position to comply with any preliminary requirements before the court hearing, he shall notify the Justice Centre Executive or High Court Unit Manager in the case of High court matters in writing of the reasons therefore and, if he feels that he is still in a position to execute the mandate, what arrangements have been made to comply with the requirements of the court.

4. Where the judicare practitioner has entered into arrangement with the prosecution with regard to the extension of the time required to comply with any preliminary requirements, such arrangement must be in writing and the JCE or HCUM should be furnished with a copy thereof.

5. An instruction to a judicare practitioner cannot be returned to the Justice Centre within a period of 14 days prior to the hearing of the matter. Where for some reason, the judicare practitioner is not in a position to execute the mandate, the practitioner shall arrange to meet the presiding officer, in the company of the relevant JC manager to explain the reason for him relinquishing the mandate, and to agree on the way the matter will be handled going forward.

## ANNEXURE O4

### 1.1 PART E1 - PAGE 327

Experience \* - criminal

District Court: No post-admission experience

Requirement Admission as Attorney/Advocate.

Regional Court : ~~12 months~~ 3 years post admission criminal work experience with effect from 1 April 2015 and thereafter increasing to 4 and 5 years post admission criminal work experience, respectively, for the following 2 financial years;

Other courts: ~~24 months~~ 5 years post admission criminal work experience with effect from 1 April 2015

**1.2 PART K - PAGE 328**

I/We further understand that Legal Aid SA will not effect payment if they are not in possession of a valid tax clearance certificate from SARS. (Notwithstanding this provision that Judicare practitioners are tax compliant at the time that payment is made, this requirement has not been implemented by National Treasury. This requirement will therefore only be implemented once a date for its implementation is fixed by National Treasury.)

Yours faithfully



Ms Vidhu Vedalankar  
Chief Executive Officer  
Legal Aid South Africa



**ANNEXURE "A"**  
**FOR INFORMATION**

Judiciary: The Chief Justice

The President of the Supreme Court of Appeal

Judges President: South Gauteng High Court  
North Gauteng High Court  
North West High Court  
Limpopo High Court  
Free State High Court  
Northern Cape High Court  
Western Cape High Court  
Eastern Cape High Court, Grahamstown  
Eastern Cape High Court, Port Elizabeth  
Eastern Cape High Court, Mthatha  
Eastern Cape High Court, Bisho  
KwaZulu-Natal High Court, Pietermaritzburg  
KwaZulu-Natal High Court, Durban  
Land Claims Court  
Labour Appeal Court  
Labour Court

The Magistrates Commission

Legal Practitioners: The Law Society of the Northern Provinces

The Law Society of the Cape  
The Law Society of the Free State  
The Law Society of KwaZulu-Natal  
The Law Society of South Africa  
National Association of Democratic Lawyers  
Black Lawyers Association  
General Council of the Bar of South Africa  
Cape Bar Council  
Eastern Cape Society of Advocates (Grahamstown)  
Eastern Cape Society of Advocates (Port Elizabeth)  
Northern Cape Society of Advocates  
Society of Advocates of the Free State  
Society of Advocates of Natal (Pietermaritzburg)  
Society of Advocates of Natal (Durban)  
Society of Advocates of Mpumalanga  
Pretoria Society of Advocates  
Society of Advocates of SA (Witwatersrand Division)  
North-West Bar Association  
Bisho Society of Advocates (Bisho City)  
Bisho Society of Advocates (East London)  
The Society of Advocates of Transkei

Thohoyandou Bar Council  
National Forum of Advocates  
Church Square Association of Advocates  
Consilium Group of Advocates  
National Bar Council of South Africa

Prosecution: The National Director of Public Prosecutions

Director of Public Prosecutions: South Gauteng  
North Gauteng  
North West  
Limpopo  
Free State  
Northern Cape  
Western Cape  
Eastern Cape, Grahamstown  
Eastern Cape, Port Elizabeth  
Eastern Cape, Mthatha  
Eastern Cape, Bhisho  
KwaZulu-Natal,  
Pietermaritzburg  
KwaZulu-Natal, Durban

Dept of Justice & Constitutional Development: Director-General

Registrars:

Constitutional Court  
Supreme Court of Appeal  
South Gauteng High Court  
North Gauteng High Court  
North West High Court  
Limpopo High Court  
Free State High Court  
Northern Cape High Court  
Western Cape High Court  
Eastern Cape HC, Grahamstown  
Eastern Cape HC, Port Elizabeth  
Eastern Cape HC, Mthatha  
Eastern Cape HC, Bhisho  
KwaZulu-Natal HC, P'mburg  
KwaZulu-Natal HC, Durban  
Land Claims Court  
Labour Appeal Court  
Labour Court

Media: De Rebus

Advocate  
Other: Human Rights Commission  
Judicial Inspectorate of Prisons  
Public Protector  
Commission on Gender Equality

LA2

# LEGAL AID SA

(Established under the Legal Aid SA Act 39 of 2014)



**Your voice. For justice.**

Legal Aid Office: Reference No:
------------------------------------

**\*X33881181101\***

## INSTRUCTION TO LEGAL AID PRACTITIONER

PARTICULARS OF LEGAL PRACTITIONER	
Name of advocate/Firm of attorneys: Name of Attorney: Postal Address: Telephone No: Docex No:	
Fax No: Vendor No:	
PARTICULARS OF APPLICANT	
Surname: First Names: Sex:	
Residential Address:	
Number Co-accused as per annexure: Marital Status:	
PARTICULARS OF INSTRUCTION	
Type of case: Criminal Court: Seat of court: Date of next court appearance:	Instruction: Case No: Court No: Charges:
<p>The applicant whose particulars appear above is referred to you on behalf of the Legal Aid for the rendering of legal aid in accordance with the provisions of the Legal Aid Guide.</p> <p>If you are unable to render the required assistance in accordance with the said provisions, please inform the applicant accordingly and return the instruction form to me.</p> <p>Your attention is also drawn to the remarks on the acceptance of instruction and undertaking PROBABILIS CAUSA page.</p> <p>Date Stamp: _____ Legal Aid SA Official _____</p>	

**ACCEPTANCE OF INSTRUCTION AND UNDERTAKING PROBABILIS CAUSA**

1. I, the aforesaid legal practitioner accept this instruction /\* on behalf of my firm (in the case of an attorney) subject to the provision of the Legal Aid Guide.
2. I acknowledge that I am in possession of a Legal Aid Guide (and subsequent circulars amending such) and I am familiar with the content thereof. I acknowledge and confirm further that:
  - 2.1 I continue to be a member of the professional body as indicated in on the face of this LA2 and that I am still in good standing with the said professional body.
  - 2.2 I am in possession of a valid fidelity fund certificate ( if applicable).
  - 2.3 Legal Aid SA cannot effect payment for work done if I have not submitted a valid tax clearance certificate from SARS at the time when payment is to be effected.(Notwithstanding this provision that Judicare practitioners are tax compliant at the time that payment is made, this requirement has not been implemented by National Treasury. This requirement will therefore only be implemented once a date for its implementation is fixed by National Treasury.)
  - 2.4 I am not employed by a government department or a co-operation agreement partner of Legal Aid SA.
3. I undertake --
  - 3.1 to deal with this instruction in accordance with the provisions of the Legal Aid Guide;
  - 3.2 to comply with the directives regarding VAT as set out in the Legal Aid Guide;
  - 3.3 to comply with the directives regarding the submittance of accounts as set out in the Legal Aid Guide;
  - 3.4 subject to the provisions of the Legal Aid Guide, not to take any steps in a civil matter, except steps to prevent default judgement or prescription, until I have obtained the decision of the Chief Executive Officer of Legal Aid South Africa.
4. I declare that --
  - 4.1 no services in connection with this matter were rendered by me/my firm to the applicant prior to the date of this instruction and that no fees or disbursements are therefore owing by him/her;
  - Or
  - 4.2 Services to the value of R..... where rendered by me/my firm to the applicant prior to the date of this instruction and that an amount of R..... is still outstanding
5. I accept that --
  - 5.1 notwithstanding my acceptance of this instruction by my signature hereunder, no contract will come in to existence with the Legal Aid South Africa unless and until the signed original hereof is received by the Legal Aid South Africa and scanned into its database;
  - 5.2 the contract resulting from this instruction between me/my firm and the Legal Aid South Africa will come into existence in Johannesburg which is the location of the control of scanned images held by the Legal Aid South Africa and the seat of its principle place of business at the National Office;
  - 5.3 this instruction is to be performed by me personally or by my candidate attorney (in case of an attorney) ; and
  - 5.4 neither this instruction, nor any rights arising out of the execution thereof, may be ceded to any third party without the prior written consent of the Chief Executive Officer of the Legal Aid South Africa.

SIGNATURE

NAME IN PRINT

DATE



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ANNEXURE 01

ACCREDITATION CRITERIA

	ACCREDITATION CRITERIA	
	ATTORNEYS	ADVOCATES
Name not on exclusionary list	Yes	Yes
Admitted legal practitioner with right of appearance in court, (but excluding candidate attorneys) and pupil advocates whose accreditation is linked to their principals and members.	Yes	Yes
Law Offices/Chambers with infrastructure	Yes	Yes
Membership of Law Society Membership of Accredited Advocates body	Yes	
In respect of members of legal professional bodies, no pending disciplinary proceedings	Yes	Yes
Law Society /Bar Council/Professional Body certificate of good standing	Yes	Yes
Experience * - criminal District Court: Admission as Attorney/Advocate Regional Court : 3 years post admission criminal work experience High court: 5 years post admission criminal work experience	Yes	No direct civil instructions to advocates
Valid tax clearance certificate submitted	Yes	Yes
Must not be Employee of Government Department or co-operation agreement partner		



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## TERMS AND CONDITIONS OF ACCREDITATION FOR PRIVATE PRACTITIONERS

Legal Aid South Africa (hereinafter referred to as "Legal Aid SA") was established in terms of the provisions of the Legal Aid SA Act 39 of 2014

- The objects of Legal Aid SA are to render or make available legal aid to indigent persons and vulnerable groups and to provide legal representation at State expense as contemplated in the Legal Aid Act, 1969 and the Constitution of the Republic of South Africa;
- The Constitution of the Republic of South Africa, 1996 provides that everyone is equal before the law and has the right to equal protection and benefit of the law;
- Legal Aid SA has in terms of the provisions of the Legal Aid Act the power inter alia to obtain the services of Legal Practitioners for fulfilling its objectives;
- Legal Aid SA has resolved to appoint the Practitioner to the Directory of Accredited Legal Practitioners which the Board is in the process of establishing, to assist the Board in attaining the objectives hereinbefore set forth;
- By signing Annexure O2 to the Legal Aid Guide the Practitioner binds himself/herself to the terms and conditions hereinafter set out;

### 1 DEFINITIONS

- 1.1 In these terms and conditions unless the context indicates otherwise:
- 1.1.1 "Client" or "Legal Aid Applicant" means the person applying for legal aid
- 1.1.2 "Indigent" or "Indigent Person" means a natural person who qualifies for legal aid under the Legal Aid SA Means Test.
- 1.1.3 "Judicare" means a delivery system for legal aid through instructing private legal practitioners to represent individual legal aid clients.
- 1.1.4 "Justice Centre" means Legal Aid SA centres or offices for administering and providing legal aid in many parts of South Africa.
- 1.2 Headings of clauses in these terms and conditions are for reference purposes only and shall not be taken into account in construing the content thereof.
- 1.3 Unless inconsistent with the context the masculine includes the other genders and the singular includes the plural and vice versa.

### 2 APPOINTMENT OF PRACTITIONER

- 2.1 Legal Aid SA hereby appoints the Practitioner to serve on its panel of Accredited Legal Practitioners with effect from the date of the signing of Annexure O2 to the Legal Aid Guide, but subject to the terms and conditions hereinafter set forth.
- 2.2 The Practitioner acknowledges that the appointment is a personal appointment and subject to the terms and conditions herein shall continue for so long as the Practitioner is accredited by Legal Aid SA and continues to practise as an Attorney/Advocate, either for his/her own account as an Advocate, or for his/her own account, or in partnership with other Attorneys or in incorporated practice with other Attorneys or employed as a professional assistant in an attorneys' practice. In the event that the Practitioner is an Attorney in partnership at the time of this appointment and should the partnership dissolve thereafter, the appointment of the Practitioner will remain a personal appointment of the Practitioner, provided however that should he/she thereafter enter a new partnership, he/she as the representative partner of the new practice will sign a new copy of Annexure O2 on behalf of the new partnership, and provided further that such agreement shall reflect the Practitioner's new *domicilium citandi et executandi*.

### **3 OBJECTS OF THE ACCREDITATION SCHEME**

Legal Aid SA and the Practitioner acknowledge:

- 3.1 the need for the development of a strong sense of national and social responsibility with regard to their respective roles in the provision of legal services to the poor and vulnerable.
- 3.2 the need to provide legal services in the most efficient and economic manners at their disposal.
- 3.3 the need to ensure that quality legal services are provided to clients
- 3.4 the need, as far as possible to match appointed Practitioners' qualifications, skills, experience and expertise with the types and complexity of the cases for which such Practitioner is appointed.

### **4 WARRANTIES**

The Practitioner warrants to Legal Aid SA:

- 4.1 He/She is duly admitted to practise in terms of the provisions of the law of the Republic of South Africa.
- 4.2 He/She will have and will maintain Law Offices or Chambers within the Magisterial District or Division of the High Court where he is appointed to perform Judicare work and which he/she selects as his/her main place of practice.
- 4.3 To accept appointment only where the matter in question falls within the special field of expertise of the Practitioner.
- 4.4 That once appointed in a particular matter the Practitioner will be available to deal with the matter expeditiously without having to seek unnecessary postponements thereof.
- 4.5 That s/he is a member of good standing in terms of the profession s/he is affiliated to and will forthwith advise legal Aid SA of any changes in his/her professional affiliation or good standing status.
- 4.6 That the practitioner is in possession of a valid fidelity fund certificate and will forthwith notify Legal Aid SA should s/he no longer be in possession of a valid fidelity fund certificate
- 4.7 That s/he or the firm has a valid tax clearance certificate from SARS and will forthwith notify Legal Aid SA should s/he or the firm no longer be in possession of a valid tax clearance certificate from SARS. (Notwithstanding this provision that Judicare practitioners are tax compliant at the time that payment is made, this requirement has not been implemented by National Treasury. This requirement will therefore only be implemented once a date for its implementation is fixed by National Treasury).

### **5 INFRASTRUCTURE**

The Practitioner undertakes to ensure that within the Law Offices or Chambers:

- 5.1 There will be adequate secretarial/reception facilities available to ensure telephonic contact during office hours.
- 5.2 Fax facilities will be available.
- 5.3 There are internet services and an email system that can receive all Legal Aid SA documentation including instructions
- 5.4 Provision will be made for typed accounts and reports.
- 5.5 There will be reasonable and ready access for clients and provision will exist for consultations and meetings.
- 5.6 That a proper file management system is in place combined with an efficient diary system, which will enable files to be dealt with expeditiously and without unreasonable delay.
- 5.7 That option of legal aid instructions, sent by SMS will be responded to by SMS within the deadline specified in the SMS enquiring about the practitioner's availability.

### **6 UNDERTAKING TO COMPLY WITH LEGAL AID SA'S REQUIREMENTS**

The Practitioner undertakes and agrees to comply fully with the terms and conditions of the Legal Aid Guide or any substitution or amendment thereof, including amendments and additions contained in Circulars issued by Legal Aid SA from time to time, to the extent that such Legal Aid Guide is applicable to the relationship between the Board and the Practitioner. In particular, the Practitioner undertakes and agrees:

- 6.1 at an early stage, to advise private clients who may qualify, of the availability of legal aid.
- 6.2 in the event of a decision to not finally accept a legal aid instruction (LA2), to immediately return the legal aid instruction to the issuing Justice Centre, or if the instruction is accepted to without delay and in any event within five (5) working days of having received an instruction to sign and return the acceptance of the instruction to the issuing Justice Centre.



- 6.3 that such signed acceptance of an instruction:
- 6.3.1 shall be deemed to be an acceptance of the instruction, in the case of an attorney on behalf of the firm, subject to the provisions of the current Legal Aid Guide and subsequent circulars amending such and shall be deemed to constitute an undertaking to deal with the instruction in accordance with the provisions of the Legal Aid Guide, including directives set out in the Legal Aid Guide regarding VAT, tax clearance certificates and submission of accounts and the provision not to take any steps in a civil matter, except steps to prevent default judgment or prescription, until the decision of the Justice Centre Executive is obtained;
- 6.3.2 shall be deemed to include a declaration that no services were rendered by the practitioner or the firm to the applicant prior to the date of the legal aid instruction (LA2) and that no fees are therefore owing by him/her, or alternatively be deemed to be an undertaking to within five (5) working days inform the Legal Aid South Africa if such services were rendered and of the amount of fees and disbursements owing by the client, failing which it may be assumed that no such services were rendered and that no payments by the client are owing;
- 6.3.3 shall be deemed to include acknowledgement that neither the instruction, nor any rights arising out of execution thereof may be ceded to any third party without the prior written consent of the National Operations Executive of the Legal Aid SA.
- 6.4 should the matter require appointment of a correspondent, to obtain the prior approval of the Justice Centre Executive who issued the instruction to appoint an accredited practitioner and firm as correspondent.
- 6.5 to include prayers for payment of costs in civil summonses including divorce actions.
- 6.6 to submit timely and regular reports to Legal Aid SA and undertakes to:
- 6.6.1 if the case number does not appear on the Board's instruction, advise the Board of the case number at the earliest opportunity.
- 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.
- 6.6.3 advise on the merits of the matter with special attention being given to merits in civil matters and criminal appeals.
- 6.6.4 advise on the pre-trial procedure and any pre-trial conference, which may be held, in which event such conference must be held timely prior to the trial of the matter to enable Legal Aid SA to consider the result of such conference and any possible settlement, which may arise there from.
- 6.6.5 upon withdrawal as the Attorney of Record to furnish proper and adequate reasons for withdrawal and to notify the client in writing or in open court.
- 6.6.6 to inform Legal Aid SA immediately he/she becomes aware of the fact that the opposing litigant has been accorded legal aid.
- 6.6.7 furnish Legal Aid SA with the outcome of the matter including Judgments together with copies of Orders of Court and Settlements as soon as the same become available.
- 6.6.8 investigate on a regular basis the qualification of the client in terms of the means test and inform Legal Aid SA in the event that a client no longer qualifies for legal aid.
- 6.6.9 comply fully with the provisions of the Legal Aid Guide concerning the cession, recovery and waiver of costs.
- 6.6.10 inform Legal Aid SA in appropriate circumstances of any abuse by Applicants to obtain legal aid by fraudulent or other means.
- 6.6.11 seek instructions from Legal Aid SA if the Practitioner's fees and disbursements are likely to exceed R 50 000.00 in any Regional Court matter or the anticipated cost of any High Court or Regional Court Commercial Crimes Court instruction is more than R100,000.00
- 6.6.12 seek instructions from Legal Aid SA if the anticipated duration of any Regional Court matter is more than 20 trial days or the anticipated duration of any High Court or Regional Court Commercial Crimes Court instruction is more than 40 trial days.
- 6.6.13 ensure that in the event of a partnership dissolving Legal Aid SA is informed immediately of the party to whom payment of any outstanding costs is to be made
- 6.7 to ensure that proper references are placed on correspondence and accounts and that accounts, copies of charge sheets in criminal matters and reports are submitted immediately upon completion of cases to the Justice Centre that issued the relevant instructions.
- 6.8 to ensure that the Practitioner's mandate is not exceeded without the prior consent of Legal Aid SA.
- 6.9 to ensure the protection of Legal Aid SA's rights to recover costs.
- 6.10 to ensure that tenders, settlements and payments into Court are done in accordance with the

## Legal Aid Guide.

- 6.11 to ensure compliance with Section 8(A) of the Legal Aid Act 22 of 1969, as amended, and to ensure that other litigants receive notice that the Client has been granted legal aid.
- 6.12 to ensure the use of the prescribed Legal Aid SA documentation as contained in the Legal Aid Guide, as applicable.
- 6.13 to confirm in writing any approval or authorisation given verbally to the Practitioner in the course and conduct of any matter.
- 6.14 to agree to represent a co-accused in a criminal matter where there is no conflict of interest in accordance with the applicable legal aid tariff.
- 6.15 to ensure that any applications for leave to appeal are filed timeously and prosecuted in accordance with the time limits applicable to the matter in question.
- 6.16 to ensure the protection of the Client's rights to prevent prescription or default judgment.
- 6.17 to notify Legal Aid SA of any changes in the structure or details of the practitioner's firm, especially changes that affect the Black Economic Empowerment credentials of the firm, or if the practitioner changes firms.
- 6.18 not to give any information regarding any legal aid matter to any media representative, including the legal professional media without the prior written approval of the Justice Centre Executive of the Justice Centre that issued the relevant legal aid instruction.
- 6.19 in the first instance to take up any criticism of Legal Aid SA and its legal aid scheme with the applicable Regional Operations Executive of the Board before publishing such criticism in any manner.
- 6.20 To personally, or through the personally supervised services of an articled clerk, with appropriate rights of appearance and articled to the practitioner himself/herself perform legal aid instructions issued to the practitioner.
- 6.21 To personally attend the annual accreditation meeting called by the JCE.
- 6.22 To render an account in accordance with the provisions of the Legal Aid Guide within four months of the finalisation of any matter, failing which the right to payment prescribes
- 6.23 If the practitioner disputes the correctness of any taxation by Legal Aid SA, to commence arbitration proceedings by the declaration of a dispute within three months of being notified by Legal Aid SA of the taxation, failing which the right to dispute the taxation prescribes

## **7 MONITORING, QUALITY CONTROL AND FEEDBACK**

The Practitioner agrees:

- 7.1 that where applicable his/her services will be monitored by a legal professional body and at the request of Legal Aid SA, such body may report on the quality of the services rendered by such Practitioner.
- 7.2 that any Judicial Officer may, at the request of Legal Aid SA, report on the quality of the services rendered by such Practitioner.
- 7.3 that the quality of the services rendered by the Practitioner may be evaluated by the staff of Legal Aid SA from time to time and to that end to permit such staff access to Judicare client files.
- 7.4 that clients represented by the Practitioner shall be entitled to report to Legal Aid SA on the quality of service rendered to them.

## **8 QUALITY CONTROL**

- 8.1 In every matter in which Legal Aid SA instructs the Practitioner, the client has irrevocably authorised Legal Aid SA to act as his/her attorney in addition to any legal practitioner who may be appointed to act on his/her behalf.
- 8.2 Legal Aid SA is entitled to inspect, copy and carry out quality control tests in respect of the file of any legal practitioner appointed by Legal Aid SA 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 SA.
- 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 SA to act on his/her behalf.
- 8.4 This authorisation will only be utilised for quality control purposes and then only after all evidence in any case has been heard or the mandate of the Practitioner has been terminated.
- 8.5 Legal Aid SA undertakes to safeguard attorney/client privilege in respect of any information acquired by it in the course of any quality control tests.
- 8.6 The Practitioner undertakes to co-operate and assist with Legal Aid SA in the performance of the quality control tests and to make any closed file available to Legal Aid SA for inspection

and/or copying within ten business days of such a request.

**9 REMOVAL OF PRACTITIONER'S NAME FROM DIRECTORY OF ACCREDITED PRACTITIONERS**

The Practitioner acknowledges having acquainted himself with the provisions of the Legal Aid Guide and acknowledges that Legal Aid SA shall be entitled to remove the Practitioner's name from the Directory of Accredited Practitioners in appropriate circumstances in accordance with the procedure set out in the Legal Aid Guide.

**10 DAMAGES CLAIMS AGAINST PRACTITIONERS**

The Practitioner warrants that he/she is acquainted with the provisions of the Legal Aid Guide as amended by circulars from time to time and agrees to be bound by the terms and provisions thereof. Failure to comply with the provisions of the Legal Aid Guide may render the Practitioner liable to Legal Aid SA for damages in addition to any other remedy Legal Aid SA may enjoy in law.

**11 EXCELLENCE**

In as much as it is the objective of Legal Aid SA to achieve excellence in the provision of legal services to the indigent and the poor, the parties agree and undertake with each other to promote and foster such objectives with a view to improving the quality of services rendered to legally aided clients, to promote the overall efficiency of the judicial system and to extend the provision of services to previously disadvantaged communities to the best of their ability.

**11A PROTECTING THE BRAND OF LEGAL AID SA**

11A.1 All issues that may arise between the practitioner and Legal Aid SA regarding the carrying out of the practitioner's mandate shall not be addressed through the courts.

11A.2 Where a Judicare practitioner is offered an instruction by the Justice Centre in urgent circumstances or under circumstances where the instruction is received too close to the court date, the practitioner shall, by accepting such instruction, undertake to comply with all preliminary requirements of the court, by the due date.

11A.3 Where the judicare practitioner is not in a position to comply with any preliminary requirements before the court hearing, he shall notify the Justice Centre Executive or High Court Unit Manager in the case of High court matters in writing of the reasons therefore and, if he feels that he is still in a position to execute the mandate, what arrangements have been made to comply with the requirements of the court.

11A.4 Where the Judicare practitioner has entered into arrangement with the prosecution with regard to the extension of the time required to comply with any preliminary requirements, such arrangement must be in writing and the JCE or HCUM should be furnished with a copy thereof.

11A.5 An instruction to a Judicare practitioner cannot be returned to the Justice Centre within a period of 14 days prior to the hearing of the matter. Where for some reason, the Judicare practitioner is not in a position to execute the mandate, the practitioner shall arrange to meet the presiding officer, in the company of the relevant JC manager to explain the reason for him relinquishing the mandate, and to agree on the way the matter will be handled going forward.

**12 DOMICILIUM**

In the event of either party wishing to declare a dispute, the parties hereto choose as their *domicilium citandi et executandi* the addresses set out in respect of each party in the most recent signed Annexure O2, at which addresses all notices, documents and processes shall be delivered. No notices, documents or process on or after the declaration of a dispute shall be delivered at any other addresses. Any communication addressed to any of the parties by registered post shall be deemed to have been received by the party concerned, by not later than the 5<sup>th</sup> business day following upon the posting thereof. Any document delivered by hand at such address shall be deemed to have been delivered on the day of delivery thereof.

**13 WHOLE AGREEMENT, NON WAIVER**

13.1 These terms and conditions read together with the applicable signed Annexure O2 constitute the whole Agreement between the parties relating to the subject matter hereof.

13.2 No amendment or consensual cancellation of this Agreement or any provision or term thereof

or any Agreement or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement or of any Agreement or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by the parties. Any such extension, waiver, or relaxation or suspension, which is so given or made, shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.

13.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any Agreement or other document issued or executed pursuant to or in terms of this Agreement shall operate as an estoppel against any party in respect of its rights under this Agreement nor shall it operate so as to preclude such party thereafter from exercising its rights strictly in accordance with this Agreement.

13.4 This agreement will come into existence at Johannesburg when signed by the National Operations Executive or his nominee on behalf of the Legal Aid South Africa.

# ANNEXURE O 4



APPLICATION FOR ACCREDITATION BY LEGAL PRACTITIONER

Your voice. For justice.

## A. PARTICULARS OF APPLICANT

NAME  SURNAME

ID NO.  GENDER  MALE  FEMALE

DISTRICT WHERE MAINLY PRACTISING

PRACTITIONER CELL

PRACTITIONER EMAIL

## B. PRACTITIONER DETAILS

PRACTITIONER TYPE  Advocate  Attorney

PROFESSIONAL BODY

RIGHT OF APPEARANCE IN HIGH COURT  Y/N DATE OF ADMISSION

LANGUAGES other than English

## C. AREAS WILLING TO UNDERTAKE WORK (list additional courts in annexure)

COURT	Require Travel Reimbursement?	COURT	Require Travel Reimbursement?
<input type="text"/>	<input type="checkbox"/> Y/N	<input type="text"/>	<input type="checkbox"/> Y/N
<input type="text"/>	<input type="checkbox"/> Y/N	<input type="text"/>	<input type="checkbox"/> Y/N

## D. SUPPORTING DOCUMENTATION

Signed Accreditation Agreement  Copy of ID  Tax clearance

Certificate of admission  Certificate of good standing  High Court appearance certificate

## E1. CRIMINAL COURT TYPE AND EXPERIENCE

(Tick only if willing to do the particular type of work)

	POST ADMISSION EXPERIENCE		
	1 to 3 years	3 to 5 years	more than 5 years
1. DISTRICT COURT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. REGIONAL COURT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. HIGH COURT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## E2. CIVIL WORK EXPERIENCE

< 1 year (Level 1)  1-2 years (Level 2)  3-5 years (Level 3)  5-10 years (Level 4)  10 years + (Level 5)

Magistrate Court  High Courts

Labour Courts  All Courts

## E3. PRO-BONO WORK Are you willing to do Pro-Bono work for Legal Aid SA Clients?

Y/N

## VENDOR DETAILS OF LEGAL FIRM OR ADVOCATE

Your voice. For justice.

### F. PARTICULARS OF APPLICANT FIRM / ADVOCATE'S PRACTICE

PRACTICE NAME

TYPE OF LEGAL ENTITY  PARTNERSHIP  SOLE PRACTITIONER  INCORPORATED COMPANY  ADVOCATE

MAIN PRACTICE POSTAL ADDRESS

Vendor Telephone Number:

Vendor Fax:

Vendor Email:

Docex No:

VAT Registration No:

### G. BLACK ECONOMIC EMPOWERMENT CREDENTIALS (BEE)

OWNERSHIP DETAILS. Number(s) of practitioners who are partners or directors in the firm:

African  Indian  Coloured  White

EMPLOYMENT EQUITY. Number(s) of qualified practitioners (excluding Article Clerks) *applying for accreditation*

African  Indian  Coloured  White

TOTAL PRACTITIONERS: Total number of qualified practitioners *including those not applying for accreditation*

Total number of practitioners in employ of Vendor

### H. ELECTRONIC FUNDS TRANSFER DETAILS

BANK

BRANCH NAME

BRANCH CODE

ACCOUNT NUMBER

ACCOUNT TYPE

CHEQUE  SAVINGS  TRANSMISSION (Mark account type)

### I. SIGNATURE AND DATE

I hereby instruct and authorise Legal Aid SA to pay amounts which may accrue to me/us to the credit of the above mentioned bank account or any other bank or branch to which I/we may transfer my/our account. I/We understand that the credit transfers hereby authorised will be processed through a computerised system provided by the South African banks and I/we also understand that details of each payment will be printed on my/our bank statement or an accompanying voucher. (This does not apply where it is not customary for banks to furnish bank statements, e.g. Savings or transmission accounts).

SIGNED AT \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

SIGNATURE \_\_\_\_\_ I UNDERTAKE TO IMMEDIATELY INFORM LEGAL AID SA OF ALL CHANGES TO THE ABOVE DETAILS.

