

01 April 2013

2013-06-20

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

FOR INFORMATION

See Annexure "A"

Dear Sir/Madam

CIRCULAR NUMBER 1 OF 2013

AMENDMENTS TO THE LEGAL AID GUIDE 2012

Notice is hereby given that the Board of Legal Aid South Africa has approved the amendments to the 2012 Legal Aid Guide (12th edition). All the amendments set out below will come into operation from the 01 April 2013. The striking through of words indicates the deletion of such words and the underlining of words indicates the insertion of new text.

1. CHAPTER 1

1.1 Paragraph 1.2 (d) page 23

1.2(d) Powers of Legal Aid South Africa

The Legal Aid Act gives Legal Aid SA powers to achieve its aims. These powers include allowing Legal Aid SA to:

(d) Create new procedures for giving legal aid, including making Co-operation Agreements with other bodies and Agency Agreements with private practitioners.

Your voice. For justice.

2. CHAPTER 4

2.1 Paragraph 4.4.5 page 49

4.4.5 Out of time application for leave to appeal or appeal

If an accused was represented by a Judicare practitioner and the matter was finalized and the accused did not wish to appeal the matter, such Judicare practitioner must be instructed to prosecute such leave to appeal where the client later elects to apply for appeal. This is subject to the practitioner still being accredited with Legal Aid SA.

2.2 Paragraph 4.9.2 (b) page 55

4.9.2(b) Legal representation under conditions

Legal representation in Maintenance matters may also be provided where:

- there has been a failure by the system on to enable applicant to seek or execute the order for a period longer than 12 months, or
- there is abuse of the system by the other party which delays the granting or execution of the order for a period longer than 12 months.

2.3 Paragraph 4.12.1 (a) page 58

4.12.1(a) When non-litigious legal aid is allowed

Legal aid may only be given for non-litigious legal services, including arbitration and mediation, if the main service provider is:

- A salaried legal practitioner employed by a Justice Centre or Cooperation Partner;
- A person working under the control and supervision of a salaried legal practitioner employed by a Justice Centre or Co-operation partner; or
- An accredited Judicare practitioner who is instructed to provide mediation services on behalf of Legal Aid SA clients.

2.4 Paragraph 4.18.7(b) page 71

4.18.7(b) Administration of estates

Legal aid may be granted for administration of an estate where it is required to protect the best interests of a child and if the child qualifies for legal aid according to 4.18.2 on page 66.

Legal aid in these matters is restricted to estate matters where value of the estate does not exceed the amount determined by the Minister in terms of section 18(3) of the Administration of Estates Act of 1965, save where there is an immovable property that exceeds the said amount but is valued at less than R 500 000.

3. CHAPTER 5

5.1 Paragraph 5.4.3 page 85

5.4.3 Matters where merit report is not required

A merit report for civil legal aid is not required in the following cases:

- simple divorces;
- evictions cases, where assistance can be granted to negotiate with the owner to allow the client sometime in the property;
- uncontested divorce;
- domestic violence to protect the best interest of the child;
- administration of estates;

4. CHAPTER 6

4.1 Paragraph 6.3.1 (a) page 96

6.3.1(a) The legal aid recipient

Examples of how the legal aid recipient can cause legal aid to terminate:

*By failing to adhere to a contribution in a partially subsidized matter.

5. CHAPTER 7

5.1 Paragraph 7.3.2.1 page 107

7.3.2.1 Submission of proposals

7.3.2.1 A proposal for the rendering of Impact Legal Services shall be in writing and shall set out:

(e) the proponent's name, address, identification or registration number (if a corporation), VAT registration number and the contact details of its authorised representative;

(f) identification of any confidential or proprietary data not to be made public;

(g) the proponent's current SARS Tax Clearance Certificate and in the case where the proponent is a consortium or joint venture, a current SARS Tax Clearance Certificate for each member thereof;
(h) a declaration of interest containing the particulars set out in Standard Bid Document (SBD) 4, issued by the National Treasury;
(i) a declaration of the proponents past supply chain practices containing the particulars set out in SBD 8, issued by the National Treasury; and
(j) a declaration from the proponent to the effect that the offering of the unsolicited proposal was not as a result of any non-public information obtained from officials of the relevant institution or any other institution.

5.2 Paragraph 7.3.2.9 page 109

7.3.2.9 Submission of proposals

7.3.2.9 All the proposals for possible impact litigation services are sent to Impact Litigation Unit, which in turn assess the matter and submit the proposals to CCMC for consideration.

5.3 Paragraph 7.3.3 page 109

7.3.3. Approval of Impact Services Matters Constitution and functions of CCMC

7.3.3.1 The Constitutional Case Management Committee (CCMC) shall consist of the Chief Operations Officer, the National Operations Executive, and the Chief Legal Executive, a senior attorney employed in the Legal Development Department, the Corporate Services Executive, and a non-executive member of the Board

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 CCMC when an Impact Legal Services proposal is considered, if it is envisaged that the proposed Impact Legal Services will have a regional rather than a national impact.

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.

7.3.3.4 The NOE shall chair the CCMC.

7.3.3.5 Unless varied by this policy, meetings and proceedings of the CCMC will be governed by generally accepted rules.

7.3.3.6 Meetings of the CCMC will be held as the NOE deems appropriate. Meetings should be organised so that attendance is maximised.

7.3.3.7 The notice of each meeting of the CCMC, 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 CCMC not less than 7 working days before the date of the meeting.

7.3.3.8 The quorum for decisions of the CCMC shall be any 3 members present and voting on the matter for decision.

7.3.3.9 The Chairperson, at his/her discretion, may invite such executives and senior management as appropriate, to attend and be heard at meetings of the CCMC.

7.3.3.10 Based on the functions performed by the non-executive Board member of the CCMC, in addition to his/her functions as a member of the Board, the member of the CCMC, who is a non-executive Board member, may be paid remuneration for his/her appointment as fixed by the Board.

5.4 Paragraph 7.3.4 page 110

7.3.4 Approval of Impact services matters

7.3.4.1 The CCMC must approve all impact legal services matters irrespective of the expenditure authority of any officials of Legal Aid SA.

7.3.4.2 The NOE and CLE jointly may approved 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 CCMC at its next meeting.

7.3.4.3 All Impact Legal services matters approved by the CCMC shall be reported to the Board at its next meeting.

7.3.4.4 All impact matters should be approved in accordance with the requirements of Legal Aid SA Supply Chain Management Policy and where the proposals for possible Impact Litigation exceed R500 000, 00 the proposal shall be referred with a recommendation from CCMC to BAC for approval.

5.5 Paragraph 7.3.4 page 110

7.3.4 7.3.5 Appeal Against Decision of the CCMC

A proposer has the right of appeal to the CEO against the refusal of the CCMC to grant legal aid for a proposed impact matter.

5.6 Paragraph 7.3.5 page 110

7.3.5 7.3.6 Tariff or fees payable by Legal Aid SA

6. CHAPTER 9

6.1 Paragraph 9.2.2 page 133

9.2.2 Policy on co-operation agreements

9.2.2.8 Where the proposer submits an unsolicited bid, then the following additional information must be submitted with the proposal:

- (a) the proponent's name, address, identification or registration number (if a corporation), VAT registration number and the contact details of its authorized representative;
- (b) identification of any confidential or proprietary data not to be made public;
- (c) the proponent's current SARS Tax Clearance Certificate and in the case where the proponent is a consortium or joint venture, a current SARS Tax Clearance Certificate for each member thereof;
- (d) a declaration of interest containing the particulars set out in Standard Bid Document (SBD) 4, issued by the National Treasury;
- (e) a declaration of the proponents past supply chain practices containing the particulars set out in SBD 8, issued by the National Treasury; and
- (f) a declaration from the proponent to the effect that the offering of the unsolicited proposal was not as a result of any non-public information obtained from officials of the relevant institution or any other institution.

6.2 Paragraph 9.2.6 page 134

9.2.6 Approval of Co-operation agreements

9.2.6.1 All co-operation agreements should be approved in accordance with the requirements of Legal Aid SA Supply Chain Management Policy and where the proposals for co-operation agreements exceed R500 000, 00 the

proposal shall be referred with a recommendation from LSTC to BAC for approval.

9.2.6.2 Where it is impractical for LSTC to invite competitive bids, a request to deviate from the competitive bid must be sought from the CEO.

7. CHAPTER 14

7.1 Paragraph 14.1.2(c) page 208

14.1.2(c) Screening of unsolicited proposals

In addition to the requirements of this policy, unsolicited co-operation agreement proposals must provide the following information:

- (a) the product or service presents a new and cost-effective method of service delivery;
- (b) a concise title and abstract (approximately 200 words) of the proposed product or service;
- (c) a statement of the objectives, approach and scope of the proposed product or service;
- (d) a statement describing how the proposal is demonstrably innovative and supported by evidence that the proponent is the sole provider of the innovation;
- (e) a statement of the anticipated benefits or cost advantages to the institution including the proposed price or total estimated cost for providing the product or service in sufficient detail to allow a meaningful evaluation by the institution;
- (f) a statement showing how the proposed project supports the institution's strategic growth and development plan and its other objectives; and
- (g) the period of time for which the proposal is valid for consideration, which may not be less than six months.

8. TARIFF OF FEES AND DISBURSEMENTS

- 8.1 Annexure E and F to the 2012 Legal Aid Guide are replaced by Annexures E and F hereto with effect from 1 April 2013. The permitted fees and disbursements set out in these annexures have been increased by an average of 5, 3% with the permitted fee/disbursement being rounded to the nearest Rand.

8.2 Clause 7 of Annexure E Page 281

Annexure E is amended by adding the following new Clause 7:

Agency Agreement Global Fees

7.1 An all-inclusive global fee per finalized matter shall be paid as follows:

District Court – R 1 340.00

Regional Court – R 3 165.00

8.3 Current Clause 7 of Annexure E Page 281

The whole of current clause 7 is re-numbered as clause 8.

Yours faithfully



Ms Vidhu Vedalankar
Chief Executive Officer
Legal Aid South Africa