



Legal Aid
South Africa

National Office

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2017

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1 August 2012

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 3 OF 2012

1. AMENDMENTS TO THE LEGAL AID GUIDE 2012

Notice is hereby given that the Board of Legal Aid South Africa has approved the amendment of Chapter 8 and relevant annexures to the 2012 Legal Aid Guide (12th edition). The attached amended Chapter 8 and the annexures, which replaces the current Chapter 8 in total, comes into effect from 1 August 2012.

A detailed document on the various individual amendments to Chapter 8 and relevant annexures is available on the Legal Aid SA web page.

2. NOTIFICATION TO JUDICARE PRACTITIONERS

An e-mail notification has been sent to Judicare Practitioners on Legal Aid SA database to comply with the SARS tax clearance certificate requirements of the circular on or before 31 July 2012. The Law Society of South Africa has also published an article in its monthly newsletter informing all practitioners about the tax clearance certificate requirements of this revised policy.

Yours faithfully

Ms Vidhu Vedalankar
Chief Executive Officer
Legal Aid South Africa

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LA2

LEGAL AID SA

(Established under the Legal Aid Act No 22 of 1969)

Legal Aid SA Office: Reference No:

**Legal Aid**
South Africa**Your voice. For justice.*****X33881181101*****INSTRUCTION TO LEGAL AID PRACTITIONER**

PARTICULARS OF LEGAL PRACTITIONER	
Name of advocate/Firm of attorneys: Name of Attorney: Postal Address: Telephone No: Professional Membership:	Fax No: Vendor No:
PARTICULARS OF APPLICANT	
Surname: First Names: Sex: Number Co-accused as per annexure: Marital Status:	Residential Address:
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.
 - 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

Annexure K3

PRACTITIONER'S CHECKLIST WHEN SUBMITTING ACCOUNTS



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A CLEARLY INDICATE

- Your firm's vendor code;
- The applicant's surname and full names *as they are spelt on the LA2 instruction form*;
- The Board's reference number as quoted on the LA2; and
- Your practice's VAT registration number, if any or advise if your firm is not registered for VAT.

B CHECK

- That all details on the LA2 are correct (especially the date of instruction and your firm's name and address);
- That the original signed LA2 is attached to your account, or a copy of the LA2 if the original was sent earlier;
- That the LA2 is signed by the practitioner whose name appears on the form for criminal cases and who performed the instruction, or, for civil cases, a partner or director of the firm/company;
- That the statement of account reflects all the activity dates, times, descriptions including pages perused/drafted and amounts claimed;
- That all the work claimed falls after the issue date of the instruction;
- That the original vouchers for disbursements, if applicable, are attached to your accounts;
- That your correspondent's account and specialist witnesses' accounts, if applicable, are attached to your account;
- With claims for motor vehicle travel, that you have specified the point from and the point to which you travelled and the distance in one direction, multiplied by two, eg. "X to Y and back: 50 kms x 2 = 100 kms";
- That your report on the outcome of the case is included in the account or in a separate letter/report (Criminal: Guilty and sentence / Acquitted / Practitioner withdrew and reason / State withdrew / Postponed and date to which postponed / Application/Petition for leave to appeal granted or refused. Civil: Copy of Court Order and / or settlement agreement, as applicable, together with your report on the recoverability of capital and costs, if applicable);
- For all criminal trials, that your account is submitted on the prescribed form;
- For High Court criminal trials, that the Judge's Clerk certificate confirming the dates and times or appearances is properly completed and signed;
- For interim accounts, that the account is numbered (Interim account # 1, etc);
- That any relevant authorisation letters for increased fees, additional preparation time, travel is attached to the account.;
- That Annexure H (Confirmation of client's election relating to leave to appeal) duly signed by the client and legal representative is submitted; and
- For all criminal trials, that a copy of the charge sheet/indictment and relevant annexures are submitted with the account.

C NOTE TO CRIMINAL ACCOUNTS

- The provisions of these paragraphs of the Legal Aid Guide –
 1. 10.6.5 and 12.4.4 on prior approval for the use of medico-legal and other expert witnesses;
 2. 6.3 on a practitioner's withdrawal
 3. 13.2 on interim accounts and disbursements;
 4. 10.8.3 and 13.2 on accounts and amounts accruing to the Board;
- That interim accounts for practitioners' fees are paid only by agreement or, in High Court criminal cases when the claim is for 5 or more appearances during a month, or if the case was postponed for more than 3 months, and
- That by including fax copies/photocopies of your LA2 instruction with all correspondence/accounts you assist to expedite the handling of the correspondence/accounts and reduce the chance of queries arising from reference errors or misspelt names.
- This account will not be paid unless you have supplied Legal Aid SA with a valid and current tax clearance certificate from SARS

Annexure K3

PRACTITIONER'S CHECKLIST WHEN SUBMITTING ACCOUNTS



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D GUIDELINES FOR THE COMPILATION OF CIVIL ACCOUNTS

Service Provided

- Taking of instructions** - steps necessary to gather necessary data to proceed with the matter. All inclusive fee only, depending on the level of the practitioner
- Merit report**
- Pre litis contestatio** - Drafting and perusal of all pleadings and notices. **Number of words and time spent must be specified**
- Pre trial preparation** - Consultation and preparation for trial.
- Postponements** - Matter postponed without any evidence led or arguments heard
- Trial** - Days on which evidence was heard or argument handed down
- Necessary correspondence.** All correspondence between Legal Aid SA and Practitioners to secure legal representation is expressly excluded.
- Approved disbursements;
written proof of consent must be attached

Reference

- Taking of instructions** – No. 1.3.(a) on page 266
Levels -No. 2 on p 268-9 of the Guide.
- 1.1(a) p264, 1.5 p267, 4.4.2 p 275,
- 1.1(a) 264 subject to the requirements of 4.2 and 4.4.1 and 4.4.2 on p 275 and 4.5.1 and 4.5.2 on p 275 as well as 4.11 on p 277 and 4.14 on p 278.
- Subject to limitations in 4.2 on p 275
(Time limit of 10 hours per trial day)
- 1.4 on p 267 **(Time must be specified)**
- 1.2(b) and 4.1 on p 274 **(Time must be specified)**
- 13.5.1 on p 187 and 1.3(b) on p 266
written (specify number of words),
received (specify number of letters)
- 3 on p 269-270 as well as 6-7 on p 278-279

All references to paragraphs and page numbers in the above guidelines are references to sections in **Legal Aid Guide**.

E NOTES ON CIVIL ACCOUNTS

- Tax Clearance Certificate



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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 mentors.	Yes	Yes
Law Offices/Chambers with infrastructure	Yes	Yes
Membership of Law Society or a Bar Council affiliated to the General Council of the Bar, or a professional body of Advocates that exercises effective disciplinary control over its members including the National Forum of Advocates of South Africa, or the Independent Association of Advocates of South Africa, or the Church Square Association of Advocates, as applicable	Yes	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: No post admission experience requirement. Regional Court : 12 months post admission criminal work experience Other courts: 24 months post admission criminal work experience	Yes	Yes
Experience * - General civil: Minimum experience as required in terms of the civil tariff of fees (Annexure F to the Legal Aid Guide	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	Yes	Yes

See paragraph 8.2C.11 and 8.2C.12, Chapter 8 of the Legal Aid Guide.

