

Lesotho

Legal Aid Regulations, 1979

Legal Notice 32 of 1979

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Legal Aid Regulations, 1979
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Legal Aid Regulations, 1979

Legal Notice 32 of 1979

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Commenced

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In exercise of the powers conferred by section 14 of the Legal Aid Act 1978, I Gerard Pokane Ramoreboli Minister of Justice and Prisons make the following regulations—

1. Citation

These regulations may be cited as the Legal Aid Regulations 1979.

2. Legal Aid certificate and order for contribution

- (1) Every certificate and order by a magistrate under section 4 of the Act shall be in Form L.A. 1 in Schedule I.
- (2) Every certificate and order of a resident magistrate under section 5 of the Act shall be in Form L.A. 2 in Schedule 1.
- (3) Every certificate and order under this regulation shall be prepared in triplicate and a copy thereof shall be served on the person in receipt of legal aid (hereinafter referred to as the "aided person") and to the Chief Legal Aid Counsel.

3. Application for legal aid

- (1) An application for legal aid under section 4 or 5 of the Act may be made orally, and the magistrate to whom the application is made shall record the proceedings relating to the application in a separate file from the case record.
- (2) Every application for legal aid under section 6, 7 or 9 of the Act shall be in Form L.A. 3 in Schedule I.
- (3) An application for legal aid under section 9(1) (a) or (b) of the Act shall send the application together with Form L.A. 4 or 5 in Schedule I, as the case may be.

4. Contribution to legal aid

- (1) An applicant for legal aid who has assets, a salary or an income of an amount shown in the first column in Schedule II shall be deemed, in the absence of special circumstances, to have sufficient means to enable him to contribute the amount set opposite to that person's assets, salary or income in the second column.
- (2) Contribution may be ordered or required to be paid in one lump-sum or in instalments on the dates to be determined.
- (3) Every aided person shall from time to time inform the Chief Legal Aid Counsel of any alterations in the amount of his means.

5. Appeals to the Registrar from magistrate's decisions

- (1) An appeal by an aided person under section 10(3) of the Act against an order for contribution or as to the amount thereof may be made orally immediately after the making of the order or in writing within 14 days of the order or in Form L.A. 6 in Schedule I.
- (2) An appeal by the Chief Legal Aid Counsel, against the amount fixed for contribution, under section 10(3) of the Act may be made within 14 days of the date of the service of the order on him.
- (3) The magistrate, resident magistrate or other court or the Chief Legal Aid Counsel shall forthwith give notice in writing of an appeal under this regulation to the Registrar of the High Court, and shall forward to the Registrar the case record relating thereto.
- (4) Upon receipt of the notice referred to in sub-regulation (3), the Registrar of the High Court may, after such inquiry as he thinks just, dismiss or grant the appeal or issue a certificate or send the matter back with such directives as he may consider relevant.
- (5) An appeal under section 11 (1) of the Act may be made orally in court immediately after the refusal to issue a certificate or in writing within 14 days after the date of the refusal.

6. Appeal to Registrar from Chief Legal Aid Counsel's decisions

- (1) An appeal—
 - (a) under section 10 (3) of the Act against a requirement of the Chief Legal Aid Counsel for a contribution to be made or the amount thereof; and
 - (b) under section 11 (3) of the Act,may be made to the Registrar of the High Court in writing upon notice to the Chief Legal Aid Counsel in Form L.A. 6 in Schedule I within 14 days after the day on which the aided person is informed of the requirement of contribution, or on which the convicted person is informed of the refusal of the Chief Legal Aid Counsel to undertake his representation, as the case may be.
- (2) Upon receipt of the notice of appeal under sub-regulation (1) the Chief Legal Aid Counsel shall transmit the application for legal aid in respect of which the appeal lies to the Registrar of the High Court.
- (3) Upon receipt of the notice under this regulation the Registrar of the High Court may, after such inquiry as he thinks just, dismiss the appeal, alter the requirement of contribution, reduce the amount or order that legal aid be rendered.

7. Fees and contribution in criminal cases

- (1) Where the Chief Legal Aid Counsel instructs a legal practitioner under section 13 of the Act for the purpose of a criminal trial or appeal, the Chief Legal Aid Counsel may pay fees to such legal practitioner in accordance with Schedule III.
- (2) Where a legal aid counsel undertakes the representation of an aided person in a criminal trial or appeal, the amount of fees which would be payable in accordance with Schedule III to a legal practitioner in respect of the representation shall be deemed to be sums paid or payable on account of that aided person for the purposes of section 10(9) of the Act.

8. Fees, costs and contribution in civil cases

- (1) Where in any civil proceedings an aided person is ordered to pay costs of any party to the proceedings, the court may direct an inquiry as to what is a reasonable sum for the aided person to pay in the circumstances.

- (2) Where the Chief Legal Aid Counsel undertakes work of a civil nature for an aided person which does not result in court proceedings and has required the aided person to make a contribution to the costs of such work, the aided person may, if he thinks that the costs which would be allowed on taxation would be less than the contribution required, request the costs to be taxed.
- (3) If a request is made pursuant to sub-regulation (1), the Chief Legal Aid Counsel shall submit to the Registrar of the High Court a bill of costs, and the bill shall be taxed by the Registrar of the High Court on the basis set out in paragraph (b) in Schedule III.
- (4) Where the Chief Legal Aid Counsel instructs a legal practitioner under section 13 of the Act for the purpose of any civil proceedings, the costs payable by the Government to the legal practitioner shall be as set out in paragraph (b) in Schedule III.

9. Termination of legal aid

- (1) The Chief Legal Aid Counsel may terminate legal aid—
 - (a) at any time at the request of the aided person;
 - (b) where the aided person has been required to make a contribution and any payment in respect thereof is more than 21 days in arrears;
 - (c) if he is satisfied that the proceedings in respect of which legal aid was granted have been disposed of;
 - (d) on notice to the aided person, if he is satisfied that the aided person has required the proceedings to be conducted unreasonably so as to incur unjustifiable expense to the Government or has required unreasonably that the proceedings be continued;
 - (e) on being satisfied that the aided person is dead; or
 - (f) on notice to the aided person, on being satisfied that false information was given in the application for legal aid.
- (2) At any time during the hearing of any proceedings in respect of which legal aid has been granted the court may, upon application of an interested party or the Chief Legal Aid Counsel, consider whether the aided person obtained legal aid by fraudulent means or whether the circumstances under which legal aid was granted have changed since the making, and may make such order as it thinks fit in the circumstances.
- (3) Where a grant of legal aid has been terminated the costs of the proceedings to which the grant of legal aid related incurred on behalf of the aided person shall, as soon as practicable thereafter be taxed accordingly.

Schedule I

Form L.A. 1

The Legal Aid Act 19 of 1978

Notice in terms of section 4 of Act 19 of 1978

Criminal Case No. _____ of 19 ____ in the Resident Magistrate's Court at _____

Rex versus _____ (*insert name of accused*)

To: The Chief Legal Counsel

+ I hereby certify that it appears to me that ____ of _____ (*insert name of accused and particulars*) who is charged with the offence of _____ (*insert offence*) on which charge he has been committed for trial by the High Court, has insufficient means to enable him to obtain the services of a legal practitioner, and that it is in the interests of justice that he should have legal aid at his trial.

2. + I am satisfied that the said person has sufficient means to make a contribution towards the cost of legal aid and hereby order him to make a contribution of R _____ towards the costs of legal aid payable by instalments as follows—

(or) payable as one sum before the _____ day of _____, 19 _____

3. A copy of the information regarding his means is attached.

(Resident) Magistrate
_____, 19 _____
(*insert date*)

Form L.A. 2

The Legal Aid Act 1978

Notice in terms of section 4 of Act 19 of 1978

Criminal Case No. _____ of 19 _____ in the Resident Magistrate's Court

at _____ Rex versus _____ (*insert name of accused*)

To: The Chief Legal Aid Counsel

+ I hereby certify that it appears to me that ____ of _____ (*insert name of accused and his particulars*) who is charged before me with the offence of _____ (*insert offence*) of a class specified by Notice in the *Gazette*

+
Delete if inapplicable.

+
Delete if inapplicable.

+
Delete if inapplicable.

for the purpose of section 5 of the Legal Aid Act, has insufficient means to enable him to obtain the services of a legal practitioner and it is in the interests of justice that he should have legal aid at his trial.

2. +I am satisfied that the said person has sufficient means to make a contribution towards the costs of legal aid and hereby order him to make a contribution of R _____ towards the costs of legal aid payable by instalments as follows—

(or) payable as one sum before the _____ day of _____, 19 _____

3. A copy of the information regarding his means is attached.

(Resident) Magistrate

_____, 19 _____

(insert date)

Form L.A. 3

The Legal Aid Act 1978

Application for Legal Aid in terms of sections 6, 7 and 9 of Act 19 of 1978

To. The Chief Legal Aid Counsel

I _____ of address _____ do hereby apply to you for Legal Aid in the under-mentioned matter.

The following are personal particulars in the full details of my income and capital:—

- (a) Surname: _____
- (b) First names: _____
- (c) Age: _____
- (d) Sex: _____
- (e) Marital status: _____
- (f) Dependants' full details:

+

Delete if inapplicable.

	Name	Age	Relationship
1.			
2.			
3.			
4.			
5.			
6.			

(g) Employer: (*Name and address*)

(i) Salary:—

less deductions per month

R _____

(ii) Net income from other sources

R _____

(iii) Value of benefits received in lieu of wage/salary _____

(vi) Cash on hand:—

Deposits/credits in hand

R _____

[Please note: numbering as in original.]

(v) Investments & Shares

R _____

(vi) Stock value of

R _____

(vii) Any other means (particulars & value

R _____

(h) Particulars of previous Legal Aid

(i) Place

(ii) Date

(iii) Matter

(iv) Application granted/refused.

- (i) I am prepared to make a contribution of R _____ towards the costs of Legal Aid.
- (j) The matter in respect of which I desire Legal Aid is as follows:—

See statement attached — Annexure 'A'.

I declare that I am aware of section 10(8), that the foregoing information furnished by me is true and correct; I am aware that costs which may become due to me in the action to be instituted must be paid to the Chief Legal Aid Counsel. Further, I undertake to advise the Chief Legal Aid Counsel should any alterations occur in the amount of my means.

Date _____

Applicant _____

Direction:

I direct that a contribution of R _____ be paid by applicant towards the costs of Legal Aid, payable in one sum before _____, or by instalments as follows: _____

Date: _____

Chief Legal Aid Counsel

Form L.A. 4

The Legal Aid Act 1978

Notice in terms of section 9(1) (a) of Act 19 of 1978

To:

- 1. The Registrar of the Court of Appeal
- 2. The Chief Legal Aid Counsel

I, _____ of address _____ having been convicted of the crime of _____ on the _____ day of _____ 19 ____ at _____ do hereby give Notice of Appeal against my conviction and/or sentence (particulars of which hereinafter appear) to the Court of Appeal on the following grounds:—

- 1. _____
- 2. _____
- 3. _____

My application for legal aid (L.A. 3) is attached herewith.

Dated _____

Signed _____

Appellant

Witness attesting mark

Signature _____

Address _____

Form L.A. 5***The legal Aid Act 1978*****Notice in terms of section 9(1) (b) of Act 19 of 1978**

To:

1. The Registrar of the Court of Appeal
2. The Chief Legal Aid Counsel

I, _____ of address _____ do hereby give notice of my intention to appeal against the judgment granted in Case No. _____ dated _____ at _____ for the following reasons:—

1. _____
2. _____
3. _____

My application for Legal Aid is attached herewith.

Dated _____

Signed _____ Applicant

Witness attesting mark

1. Signature _____
Address _____

Form L.A. 6***The Legal Aid Act 1978*****Notice in terms of sections 10(3) & 11 (3) of Act 19 of 1978**

To:

1. The Registrar of the High Court
2. The Chief Legal Aid Counsel
3. The Magistrate

Sirs

Kindly take notice that I wish to appeal against—

- (a) The order of the Magistrate granted against me on the _____ day of _____ 197 at _____
or
- (b) the decision of the Chief Legal Aid Counsel in assessing my contribution in the sum of R _____
or

(c) the refusal of the Chief Legal Aid Counsel to undertake my legal representation.

Date _____

Signed _____ Appellant

Schedule II

The income contribution shall be as set out below:—

Where the person's income per annum, or his total assets are valued at

	Contribution payable
R400 — R550	R15.00
R550 — R600	R20.00
R601 — R650	R25.00
R651 — R700	R30.00
R701 — R750	R35.00
R751 — R800	R40.00
R801 — R850	R45.00
R851 — R900	R50.00
R901 — R950	R55.00
R951 — R1.000	R60.00

Schedule III

A. Fees and disbursements payable to legal practitioner in criminal matters.

1. Preparation Fee	R10 – R30
2. 1st day of Trial	R40
3. Subsequent days per day or part thereof	R20
4. Where appearance is solely for the purpose of making an uncontested application for adjournment	R10
5. Where the case does not proceed to trial, unreasonable fee for work done. Not exceeding	R25
6. Travelling expenses at 10 cents a Km	
7. Hotel fees per day	R10

B. Fees and disbursements payable to a legal practitioner in civil matters.

1. At the conclusion of the matter, the legal practitioner will draw his bill of costs based on the tariff of costs for the High Court, and the Subordinate Courts.
2. Each account will be submitted to the Chief Legal Aid Counsel in triplicate with vouchers for each disbursement together with the file of the aided person, for settling.
3. The legal practitioner will be paid a sum equivalent to the sum awarded on taxation – less the surcharge.
4. Any disputes as to the taxation of the bills of costs so submitted will be forwarded to the Registrar for his final arbitration.