

Seychelles

Legal Aid Act

Legal Aid Rules

Statutory Instrument 22 of 1986

Legislation as at 1 December 2014

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Legal Aid Rules

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Legal Aid Act

Legal Aid Rules

Statutory Instrument 22 of 1986

Commenced on 3 March 1986

[This is the version of this document at 1 December 2014.]

[Amended by [Legal Aid \(Amendment\) Rules, 2014 \(Statutory Instrument 48 of 2014\)](#) on 14 July 2014]

[S.I. 22 of 1986; S.I. 39 of 1990; S.I. 32 of 2001; S.I. 22 of 2012; S.I. 48 of 2014]

1. Citation

These Rules may be cited as the Legal Aid Rules.

2. Exempted civil proceedings

Civil proceedings in respect of the following matters are exempted from the application of the Act—

- (a) defamation;
- (b) breach of promise of marriage.

3. Disposable capital

For the purpose of the Act, the disposable capital of a person capital means the aggregate value of the capital assets owned by him in the month preceding the month in which the application for legal aid is made, reduced by—

- (a) the value of his dwelling house and household furniture;
- (b) the value of his tools of trade; and
- (c) the value of any other assets which may be exempted by the judge in the computation of the disposable capital.

4. Disposable income

For the purposes of this Act, the disposable income of a person means the aggregate income of that person for the month preceding the month in which the application for legal aid is made, reduced by the following payments (if any) made by him in that month—

- (a) tax on income or profits;
- (b) rent;
- (c) contributions under the Social Security Act;
- (d) life insurance premiums;
- (e) repayment of capital of and interest on loans;
- (f) maintenance of dependants;
- (g) payment in respect of any court order; and
- (h) any other disbursement which may be allowed by the judge.

5. Assets and income of spouse

In computing the disposable capital or disposable income of a person, the judge may take into consideration the assets and the income of that person's spouse.

6. Financial limits

Legal aid may be refused under section 4(1) of the Act if the disposable capital of the person seeking legal aid exceeds R.1500 in value.

7. Application for legal aid

- (1) An application for legal aid may be made in writing or orally by or on behalf of the person seeking legal aid.
- (2) An application for legal aid shall contain the following particulars—
 - (a) the name and address of the person seeking legal aid;
 - (b) whether the person is single, married, a widow or a widower;
 - (c) the person's occupation;
 - (d) the income of the person and that of the person's spouse, for the month preceding the month in which the application is made;
 - (e) particulars of payments listed under rule 4;
 - (f) name, age and relationship of the person's dependents;
 - (g) list of the person's assets and those of the person's spouse and their value;
 - (h) where the person is under 18 years in age, whether the person's parents or guardian would be willing to provide or could provide the person legal aid at their expense;
 - (i) nature of the matter for which legal aid is sought;
 - (j) particulars of previous legal aid granted, if any.

8. Oral application

- (1) A person making an application for legal aid orally may do so by furnishing to the Registrar the particulars required to be contained in the application by rule 7.
- (2) Where the application is made orally, the Registrar shall record the particulars furnished under sub-rule (1) and obtain the signature of the person making the application.

9. Duties of the Registrar

- (1) The Registrar may require a person applying for legal aid to furnish documentary evidence in support of the particulars contained in his application. This may take the form of a report from the SPPF District Branch Office in the case of unemployed or self-employed applicants or a statement of wages from the applicant's employers.
- (2) Where the application conforms to rule 7 or rule 8 and after obtaining documentary evidence (if any) under sub-rule (1), the Registrar shall submit the application to a judge.

10. Powers of judge

- (1) An application for legal aid shall be considered by a judge in Chambers.

- (2) A judge may require the person seeking legal aid to appear before him and furnish such other information as he may require in connection with the application.
- (3) A judge may call for and receive any report from any person concerning the means of the person seeking legal aid:

Provided that where such report discloses matters adverse to the application, he shall give the person seeking legal aid an opportunity of contradicting such report.
- (4) Where a judge is satisfied that the person seeking legal aid is eligible for such aid under the Act he shall grant that person a certificate.
- (5) A certificate granted under sub-rule (4) shall be in the Form in the Schedule.
- (6) Where a judge is not satisfied that the person seeking legal aid is eligible for such aid under the Act, he shall refuse the application and state the reasons in writing for the refusal.
- (7) Where a certificate is granted under sub-rule (4) to any person, the judge shall, having regard to any representations made by that person, assign out of the list prepared under rule 12 a legal practitioner whose services that person shall be entitled to.
- (8) Where a certificate is granted to a person in the circumstances set out in section 4(3) of the Act, the judge shall determine the amount of contribution payable to the Fund by that person.

11. Records of applications

The Registrar shall keep a record of—

- (a) each application for legal aid made under the Act;
- (b) the determination of the judge on that application;
- (c) the nature of the proceedings in respect of which the application is made;
- (d) the number of the certificate;
- (e) the name of the legal practitioner assigned and the fees paid to him;
- (f) any contributions recovered in respect of the certificate;
- (g) any moneys by way of costs paid to or paid out of the fund in respect of the certificate.

12. List of legal practitioners

- (1) The Registrar shall keep a list of legal practitioners who shall be requested in order of rotation to provide their services for persons seeking legal aid under the Act.
- (2) The name of any legal practitioner may be removed from the list prepared under sub-rule (1) by the direction of the Chief Justice.
- (3) The list kept under sub-rule (1) shall be available for inspection by any person to whom a certificate has been granted under this Act.

13. Fees

- (1) The fees payable out of the Fund to any legal practitioner assigned under rule 10(7) shall be—
 - (a) for steps preliminary to institution of civil proceedings—
 - (i) in the Supreme court - SCR.750.00;
 - (ii) in the Magistrates' Court - SCR.500.00;

- (b) for conduct of proceeding upon filing of claim or defence until determination of the suit including all interlocutory proceedings or post judgment proceedings in civil proceedings—
 - (i) in the Supreme Court - SCR.5000.00;
 - (ii) in the Magistrates' Court - SCR.3500.00;
- (c) For the conduct of an appeal—
 - (i) from a Magistrates Court, Tribunal or other such subordinate body - SCR5,000.00
 - (ii) from the Supreme Court - SCR7,500.00
- (d) for the defence of any person in a criminal proceedings including all interlocutory proceedings
 - (i) for a person charged with murder, piracy, or other offence(s) whose maximum punishment is life imprisonment - SCR20,000.00
 - (ii) where an attorney acts for more than one person on one indictment in (i) above he shall be entitled to an additional sum for such additional accused person or persons - SCR7,500.00
 - (iii) for a person charged with any other offence(s) before the Supreme Court - SCR7,500.00
 - (iv) for additional persons charged on the same indictment, represented by the same attorney - SCR5,000.00
 - (v) for a person charged with a criminal offence(s) before a magistrates court - SCR5,000.00
 - (vi) for additional persons charged on the same charge sheet as in (v) above before a magistrates court - SCR2,500.00
- (1A) A legal practitioner who makes displacement to Praslin in respect of legally assisted cases may claim for reimbursement of expenses necessarily and reasonably incurred in respect of representing legally assisted clients on Praslin for the following—
 - (a) transportation;
 - (b) meals; and
 - (c) any other expenses which are justified in particular circumstances.

[subrule (1A) inserted by SI 48 of 2014 with effect from 14 July 2014]
- (1B) Every claim for reimbursement of expenses incurred under subrule (1A) shall be supported by a receipt to satisfy the clerk that the expenses has been incurred.

[subrule (1B) inserted by SI 48 of 2014 with effect from 14 July 2014]
- (2) The fees payable out of the funds to any Legal Practitioner assigned shall be at the full and final determination of a civil or criminal proceedings.
- (3) In exceptional cases with the consent of the Chief Justice the trial judge or magistrate may adjust the fees to take into account such exceptional or extra ordinary circumstances compelling the adjustment of the fees. Delay, repetitive appearances, or other such similar circumstances in the conduct and disposal of the matter at hand shall not amount to exceptional circumstances.
- (4) *[subrule (4) repealed by SI 48 of 2014 with effect from 14 July 2014]*

Schedule**Legal aid certificate*****Legal Aid Act (Cap 110)*****Legal aid certificate (Rule 10(5))**

Upon considering the application made by _____ of _____ for legal aid under the Act, I certify that _____ is entitled to legal aid under the Act.

Legal aid is granted for the purpose of _____ legal practitioners is assigned to provide legal aid under this certificate.

Dated this day of 19 _____

Judge