

# THE ASSIGNED SOLICITOR'S GUIDE

To provide QUALITY LEGAL AID and  
advice to persons of limited means

# Contents

## Introduction

- a. Legal Aid Bureau and the scope of Legal Aid
  - i. The Legal Officers of the Legal Aid Bureau
  - ii. The Governing Legislation
  - iii. Scope of Legal Aid
- b. Qualifying for Legal Aid
  - i. Means Test
  - ii. Merits Test
  - iii. Who decides whether to grant legal aid?
  - iv. The Privileges of an Aided Person
- c. The Panel of Assigned Solicitors
- d. The External Assignment Unit

## Assignment of A Case to an Assigned Solicitor

## The Assigned Solicitor's Role After Receiving A Case

- a. Documents you will receive and stay of proceedings
- b. Investigating the case, gathering evidence, and preparing your legal opinion
  - i. Scope of Investigation
  - ii. Obtaining Expert Evidence
  - iii. Preparing the Legal Opinion

## After the Assigned Solicitor has submitted his Legal Opinion to the Legal Aid Board

- a. Legal Aid Granted
- b. Legal Aid Refused
- c. Legal Aid Deferred
- d. Legal Aid Cancelled

## The Assigned Solicitor's Role After Legal Aid Has Been Granted

- a. Your responsibility towards the aided person and your conduct of proceedings
- b. Circumstances when an assigned solicitor may be discharged:
  - i. Aided person applying to discharge his assigned solicitor
  - ii. Aided person applying to act in person
  - iii. Assigned solicitor applying to discharge yourself
  - iv. Cancellation of Legal Aid
- c. Protection Orders under Part VII of the Women's Charter, and Maintenance Orders under Part VIII of the Women's Charter
- d. Completion of duty towards an aided person

## The Assigned Solicitor's Role After the Completion of Proceedings

## Financial Matters To Take Note Of When Dealing With Legal Aid Cases

- a. Filing Fees
- b. Costs
- c. Moneys received on behalf of an aided person
- d. Payment for services rendered by the Assigned Solicitor

## The Assigned Solicitor's Role when the Aided Person Wishes to Appeal or Wishes to Enforce/Execute a Judgment

## The Assigned Solicitor's Role in Legal Aid Board Meetings

## INTRODUCTION

Our assigned solicitors have selflessly contributed a significant amount of time, energy and resources in assisting and acting for aided persons. The purpose of this guide is to provide a comprehensive reference manual, setting out in a convenient format, information, together with the relevant legal provisions and practical matters, that assigned solicitors would find useful when assisting and acting for aided persons.

### A) THE LEGAL AID BUREAU AND THE SCOPE OF LEGAL AID

#### *The Legal Officers of the Legal Aid Bureau ("the Bureau")*

The Bureau is headed by the Director of Legal Aid ("the Director"), who is assisted by the Deputy Directors and Assistant Directors of Legal Aid, all of whom are qualified persons as defined in s2 of the Legal Profession Act (Cap. 161).

#### *The Governing Legislation*

The law that governs the work of the Bureau is the Legal Aid and Advice Act (Cap. 160) ("the Act") and the Legal Aid and Advice Regulations (Revised Edition 1996) ("the Regulations").

#### *Scope of Legal Aid*

Under s5(1) of the Act, the Bureau may give legal aid to citizens and permanent residents of Singapore in any of the following:

- (1) Civil proceedings which are:
  - In the High Court and the Court of Appeal;
  - In the District Courts and Magistrates' Courts;
  - Before any person to whom a case is referred in whole or in part by a District Court;
  - Under the Women's Charter;
  - Before the Syariah Court and the Syariah Court Appeal Board; and
  - proceedings before the Commissioner for Labour under the Work Injury Compensation Act (Cap. 354)

- (2) Either in a court of first instance or in an appellate court.

The Bureau shall not give legal aid for the following:

- (1) Criminal proceedings; and
- (2) Civil proceedings which are:
  - In respect of defamation, breach of promise of marriage and the inducement of one spouse to leave or remain apart from the other;
  - Relator actions;
  - Any application under the Parliamentary Elections Act (Cap. 218) or the Presidential Elections Act (Cap. 240A);

- In a District Court, proceedings for or consequent on the issue of a judgment summons and, in the case of a defendant, proceedings where the only question to be brought before the Court is as to the time or mode of payment by him of a debt (including liquidated damages) and costs; and
  - Proceedings incidental to any proceedings mentioned in this paragraph.
- (e) A dwelling-house owned and exclusively used by the applicant and his family as their home, assessed at an annual value of not more than \$13,000 or a Housing and Development Board flat owned and exclusively used by the applicant and his family as their home;
  - (f) Savings of the applicant of up to \$30,000, if he is of the age of 60 years and above;

## B) QUALIFYING FOR LEGAL AID - THE MEANS TEST AND MERITS TEST

### *Means test*

In order to satisfy the Means Test under s8(2)(b) of the Act, the applicant must not possess or be entitled to disposable capital of a total value exceeding \$10,000, after excluding the following:

- (a) The subject-matter of the proceedings;
- (b) The wearing apparel of the applicant;
- (c) The tools of trade of the applicant;
- (d) Household furniture used by the applicant in his house;
- (e) A dwelling-house owned and exclusively used by the applicant and his family as their home, assessed at an annual value of not more than \$13,000 or a Housing and Development Board flat owned and exclusively used by the applicant and his family as their home;
- (f) Savings of the applicant of up to \$30,000, if he is of the age of 60 years and above;
- (g) Moneys standing to the credit of the applicant's account in the Central Provident Fund, including such moneys in the Central Provident Fund withdrawn for investments in accordance with the Central Provident Fund Act (Cap. 36) and the Central Provident Fund (Investment Schemes) Regulations (Cap. 36, Rg 9); and
- (h) The total surrender value of one or more life policies held by the applicant up to the amount of \$46,000.

In addition, the disposable income of the applicant together with the income (if any) of the applicant's spouse during the period of 12 months immediately preceding the date of the application must not exceed \$10,000 per annum, after deducting the following:

- (a) an amount equal to \$6,000 for the applicant;

- (b) an amount equal to \$6,000 from the income of the applicant's spouse, if such income is not disregarded under paragraph 5 of the Second Schedule of the Act;
- (c) an amount equal to the total sum contributed by the applicant and his spouse during that period towards the maintenance of each person partially or totally dependent on the applicant or the spouse, subject to a cap of \$6,000;
- (d) an amount not exceeding \$20,000 for rent;
- (e) an amount equal to the applicant's contribution to the Central Provident Fund during that period; and
- (f) an amount equal to the applicant's spouse's contributions to the Central Provident Fund during that period, if the spouse's income is not disregarded under paragraph 5 of the Second Schedule of the Act.
- In order to calculate his means, the applicant will be required to:
- (1) Make a declaration and prepare an application form before the Bureau's in-house Commissioner for Oaths (the Bureau's staff will assist him in doing this);
  - (2) Give information to the Bureau relating to his disposable capital and disposable income; and
  - (3) Submit supporting documents such as salary slips and photocopies of his bank books.
- Merits test*
- In order to satisfy the Merits Test under s8(2)(a) of the Act, the applicant must have reasonable grounds for taking, defending, continuing or being a party thereto to the proceedings for which he is seeking legal aid.
- Under s7 of the Act, the Bureau is authorised to take the following steps to verify the Merits Test:

The indicative income levels of applicants which will allow them to satisfy the Means Test and qualify for legal aid is given in Annex 1. On top of this, when evaluating the applicant's means in certain circumstances, the Director has the discretion to allow additional deductibles for the relief of hardship under paragraphs 5 to 8 of the Second Schedule of the Act.

- Require the applicant to attend personally at the Bureau for the purpose of recording statements; and
- Require the applicant to provide relevant information and supporting documents in order to show the nature of the proceedings for which he is seeking legal aid and the circumstances in which legal aid is required.

### *Who decides whether to grant legal aid?*

After the application has been investigated, the legal officer or the assigned solicitor will prepare a legal opinion of the merits, and this will be given to the Legal Aid Board (consisting of the Director as well as no fewer than 2 practising solicitors) to decide whether legal aid should be granted in accordance with s8(1) of the Act.

The Board must be satisfied that the applicant has reasonable grounds in pursuing his proceedings before approving that legal aid be granted to him. This ensures that the applicant does not waste public funds in pursuing frivolous or impractical claims.

Factors such as the prospects of success, the probability that the applicant will receive practical remedies, and whether the costs to be incurred greatly outweigh the benefits to be obtained will be considered by the Board in deciding the merits of the application.

### *The privileges of an aided person*

After legal aid has been granted, and the Grant of Aid has been issued and filed, the aided person is entitled to the following privileges under s12(4) of the Act:

- (1) He shall not be liable in respect of any proceedings to which the Grant of Aid relates for court fees or for such fees payable for the service of process or for any fees due to the Sheriff in connection with the execution of process;
- (2) He shall be entitled to be supplied free of charge with a copy of the judge's notes of evidence in any proceedings to which the Grant of Aid relates; and
- (3) He shall not, except where express provision is made in this Act, be liable for costs to any other party in any proceedings to which the Grant of Aid relates.

### **C) THE PANEL OF ASSIGNED SOLICITORS**

Under s4(1) of the Act, the Director is empowered to maintain panels of solicitors ("assigned solicitors") who are willing to:

- (a) Investigate, report and give an opinion upon application for the grant of legal aid;
- (b) Act for persons receiving legal aid; and
- (c) Give legal advice under the provisions of the Act.

The overview of the workflow of the Bureau, from the time an applicant registers for legal aid to the time the Legal Aid Board decides on the merits of the case and the case is acted upon by the legal officer/ assigned solicitor, can be found at Annex 2.

#### D) THE EXTERNAL ASSIGNMENT UNIT

The External Assignment Unit (EAU) was set up on 1 July 2009 to assist in the management of all assigned cases. It acts as a single point of contact between the assigned solicitors and the Bureau, thus facilitating communication between the assigned solicitors and the Bureau on assigned matters. The EAU also provides assistance to assigned solicitors, for example, by arranging for Commissioners for Oaths' services, conducting searches required for the conduct of assigned cases, making applications for certain reports and certificates, etc. The EAU also maintains close contact with assigned solicitors to ensure expeditious submission of legal opinions and facilitates the smooth conduct of assigned cases. The EAU may be contacted via email at **EAU@lab.gov.sg**

The next section of this guide covers, in FAQ format:

- (a) The assignment of a case to you, an assigned solicitor;
- (b) Your role after receiving a case;
- (c) What happens when you have submitted your legal opinion to the Legal Aid Board;
- (d) Your role after the Legal Aid Board has decided whether legal aid should be granted;
- (e) Your role when the proceedings for which legal aid was granted are completed;
- (f) Financial matters to take note of when dealing with legal aid cases
- (g) Your role when the aided person wishes to file an appeal after the completion of proceedings or enforce/execute a judgment; and
- (h) Your role in Legal Aid Board meetings.

# Assignment Of A Case To An Assigned Solicitor

**Q1: What kind of cases are assigned by the Bureau to assigned solicitors?**

A: Examples include:

- Cases in which both Plaintiff and Defendant have applied for legal aid, in which case there is a conflict of interest in the Bureau acting for both of them; and
- Cases involving specialised areas of the law such as the law of medical negligence and Syariah law.

**Q2: At what point in time is the decision made by the Bureau to assign a case?**

A: There are generally two situations in which the Bureau will assign a case to you:

- After an application for legal aid has been received, the Bureau may decide to assign the case to you. Under s4(1)(a) the Act, your role is to investigate the case before preparing a legal opinion for the consideration of the Legal Aid Board on whether legal aid should be granted.

- In other situations, the legal officer has submitted a legal opinion to the Board which has approved the granting of legal aid, but new facts arise subsequently which makes it necessary or practical to assign the case to you. When you receive the case, you do not need to prepare a fresh legal opinion. Instead, you should proceed to deal with the case.

**Q3: Do I get to choose which cases I get assigned?**

A: Yes, you may express your preference to the Director when you are appointed to the panel of assigned solicitors.

**Q4: Will my consent be obtained before a particular case is assigned to me?**

A: Yes, a staff member of the Bureau will call you in advance to check that you agree to accept a particular case. If you are unable to accept the case, you can decline it.



# *The Assigned Solicitor's Role After Receiving A Case*

## A) DOCUMENTS YOU WILL RECEIVE AND STAY OF COURT PROCEEDINGS

Q5: What will I receive when a case has been assigned to me?

A: You will receive:

- An assignment package consisting of documents relevant to the case for your retention;
- A letter of assignment explaining what you are supposed to do for the case;
- A sample format of the legal opinion; and
- The Provisional Grant of Aid in Form 4 of the Regulations (if there are court proceedings for that case, and if the Legal Aid Board has not yet granted legal aid); or the Grant of Aid in Form 3 of the Regulations (if the Legal Aid Board has granted legal aid)

Q6: Who can I contact if I have any queries regarding the case?

A: For all matters pertaining to the case, you may contact the External Assignment Unit, the contact details of which are also provided in the letter of assignment. If you see instructions in these FAQs to inform or seek permission of the Director for various matters, it means that you should write to Manager, External Assignment Unit, who will then liaise with the Director.

Q7: What will the letter of assignment state?

A: It will state:

- That you are to investigate the case before preparing a legal opinion to be submitted to the Legal Aid Board; or
- That the Legal Aid Board has decided to grant legal aid, and that you are to proceed with the case.

Q8: What is the legal significance of the Provisional Grant of Aid and the Grant of Aid?

A: By virtue of the Provisional Grant of Aid or the Grant of Aid, the applicant becomes an aided person, and he is entitled to all the privileges and subject to all the obligations under the Act and Regulations in relation to aided persons.

Q9: What is the difference between the Grant of Aid and Provisional Grant of Aid?

A: The Grant of Aid is issued after the Legal Aid Board has granted legal aid. The Provisional Grant of Aid is issued before the Legal Aid Board has granted legal aid, and if there are on-going court proceedings for a particular case or where court proceedings need to be commenced urgently. The Provisional Grant of Aid has a limited validity period and is meant for you to represent the aided person in court proceedings until legal aid is granted.

**Q10: What is the validity period of the Provisional Grant of Aid?**

A: Under R7(5) of the Regulations, the Provisional Grant of Aid shall remain in force for a maximum period of 3 months from the date stated on the Provisional Grant of Aid or such further period not exceeding 3 months as the Director may allow, and it shall cease to have any effect at the end of this period. This means that the person will no longer be legally aided at that point in time. Nonetheless, the Legal Aid Board may, under R7(6) of the Regulations, extend the validity of the Provisional Grant of Aid for further periods as it thinks fit.

**Q11: What happens if the Provisional Grant of Aid is about to expire and I have not completed my investigation?**

A: You should inform the Director and request for an extension of the validity of the Provisional Grant of Aid

**Q12: What am I supposed to do with the Provisional Grant of Aid and the Grant of Aid?**

A: You are supposed to file these documents in Court, and serve them on all relevant parties to the proceedings.

**Q13: Is there a stay of proceedings after an application for legal aid has been received?**

A: Under s17(1) of the Act, where court proceedings have been commenced and any party applies for legal aid, the Bureau shall, as soon as practicable after the application is made, notify the other party or each of the other parties of this fact, and file with the court in which the proceedings are pending, a notification in a prescribed form.

s17(2) of the Act states that, subject to certain restrictions, upon the filing of the notification, unless otherwise ordered by the court before which the proceedings are pending, all steps in the proceedings shall be stayed for a period of 14 days, and during that period (unless otherwise ordered by the court) time fixed by or under any law for the doing of any act or the taking of any step in the proceedings shall not run.

## **B) INVESTIGATING THE CASE, GATHERING EVIDENCE, AND PREPARING YOUR LEGAL OPINION**

### *Scope of Investigation*

**Q14: What am I supposed to do in order to prepare my legal opinion?**

A: The case may be handled in the same way as you would handle your own private cases. You should investigate the facts of the case and do the necessary legal research. You should consider whether the Merits Test is satisfied.

- It is extremely important for you to check whether the case will be time-barred by a certain date. If the time bar is approaching, you should inform the Director of this, and you should expedite the preparation of your legal opinion, so that there will be sufficient time to start proceedings against the other party if legal aid is granted.
- You will need to contact the aided person to attend at your office for an interview.
- You may require him to produce certain relevant documents such as medical reports.
- You may also require him to take certain actions in relation to his proceedings.
- If the other party to the proceedings is represented, you may need to contact and deal with the opposing solicitor.
- You will need to represent the aided person in court if necessary.
- Under R12(2) of the Regulations, you may, if necessary, apply to the Director to:
  - a) Add any further party to the proceedings;
  - b) Request for any record of any proceedings;
  - c) Lodge any interlocutory appeal;
  - d) Instruct another solicitor;
  - e) Set-up or set-off any right or claim or reply to any right or claim so set-up or so set-off by any other party.

**Q15: If I discover during my investigation that more than one cause of action is present, what should I do?**

A: Under R5(2) of the Regulations, a Grant of Aid shall not relate to more than one action, cause or matter. You should inform the Director accordingly and inform the aided person that he will have to come to the Bureau personally to make a separate application for legal aid in relation to the other cause of action.

**Q16: If I discover during my investigation that there are additional persons who should be proper parties to the case, what should I do?**

A: You should inform the person who should be a party to the case to make a separate application for legal aid and you should not assist him until he has done so.

**Q17: Am I supposed to investigate the means of the aided person?**

A: You do not have to investigate the means of the aided person. However, if you come across additional facts which suggest that he may not satisfy the Means Test, you should raise it to the attention of the Director.

Q18: If during my investigation I discover additional information showing that the aided person has not passed the Means Test, or that he has made a false statement with regard to his application what should I do?

A: You should inform the Director, who will decide what further action should be taken with regard to this matter. Under s21 of the Act, a person is guilty of an offence and may be prosecuted for it if he:

- a) Knowingly makes any false statement or representation in his application for legal aid;
- b) Fails to make full and frank disclosure of his means; or
- c) Fails to inform the Director of any changes to his means or circumstances which may render him ineligible for aid.

### *Obtaining Expert Evidence*

Q19: Can I obtain a report or opinion from an expert or require the tendering of expert evidence?

A: You may apply to the Director for authority to do this if it is necessary for the proper conduct of the proceedings: R12(4) of the Regulations.

Q20: Who is responsible for paying for the production of certain documents such as medical reports and expert opinions?

A: The aided person is generally responsible for paying for such documents. If he claims that he

finds it impossible to do so, you should refer the matter to the Director. Subject to the Director's approval, the Bureau may assist the aided person to pay for such documents first on a case-to-case basis upon an undertaking given by the aided person to reimburse the Bureau subsequently for the sums paid. In addition, you should refer to the subsequent question.

Q21: If, in a certain case, there is a payment that the Bureau has earlier agreed to make to a third party (for example, to a doctor, for providing a medical report) on behalf of the aided person, what should I do?

A: You should inform the third party to address his invoice to the Director, and not to yourself. The Bureau will process the payment accordingly, upon receipt of the invoice.

Q22: What should I do if I am of the view that certain acts should be done for the proper conduct of the proceedings, but such acts are unusual or involve unusually large expenditures?

A: Examples of such acts include obtaining handwriting analysis reports and reports of other experts, and instructing and obtaining legal opinions of foreign solicitors in cross-border cases. Under R12(6) of the Regulations, you need to seek the Director's approval to carry out these acts.

### *Preparing the Legal Opinion*

**Q23: How much time do I have to prepare and submit my legal opinion?**

A: You have one month from the time you receive the case to prepare and submit your legal opinion. However, in unusual circumstances, if you need more than one month, you should inform the External Assignment Unit and keep us informed of the progress of the case: R12(10) of the Regulations.

**Q24: What information should be included in my legal opinion?**

A: A sample opinion will be sent to you with the letter of assignment. Generally speaking, you should:

- State the purpose of the Grant of Aid
- State the name of the parties to the proceedings, including the opposing party
- State the relevant facts of the case, the applicable law and the legal issues;
- State your views of the merits of the case, that is, whether it is reasonable to say that the aided person will succeed in the proceedings;
- State the course of action to be taken;
- Attach all relevant documents (for example, medical reports, expert opinions, court documents) with your legal opinion if necessary; and
- State your recommendation whether legal aid should be granted.

You do not need to investigate the aided person's means. Therefore, you should not raise facts relating to his means in your legal opinion. These facts should be brought to the attention of the Director separately. (Q17 & Q18 above refers.)

**Q25: Can I disclose everything that the aided person tells me in my legal opinion or in other ways to the Bureau, even things which he tells me to keep confidential from the Bureau?**

A: Under s4(4) of the Act, you shall not be precluded, by reason of any privilege arising out of the relationship between solicitor and client, from disclosing to the Director any information or from giving any opinion which may enable the Director to perform his functions under the Act. This includes any information or opinion which may be reasonably taken into account by the Director or the Legal Aid Board in determining whether to refuse or cancel legal aid to a person or an aided person. You should inform the aided person that nothing pertaining to a case may be kept confidential from the Bureau.

**Q26: Can I give the Applicant or a third party a copy of my legal opinion?**

A: Please note that the legal opinion is a confidential document meant solely for the consideration of the Legal Aid Board. It should not be given to the Applicant or any other third parties.

## *After The Assigned Solicitor Has Submitted His Legal Opinion To The Legal Aid Board ...*

**Q27: What decision may the Legal Aid Board make after considering my legal opinion?**

A: The Board may decide to grant legal aid, refuse legal aid, or defer the decision whether to grant legal aid pending further investigations in relation to the case.

**Q28: How will I know the Board's decision?**

A: The Bureau will write to you to inform you of the Board's decision.

### **A) LEGAL AID GRANTED**

**Q29: What will I receive after legal aid has been granted?**

A: You will receive:

- A letter from the Bureau informing you that the Legal Aid Board has decided to grant legal aid; and
- The Grant of Aid in Form 3 of the Regulations;

**Q30: What should I do with the Grant of Aid?**

A: You should file the document in court, usually together with the Notice of Appointment/Change of Solicitors, and serve them on all relevant parties to the proceedings. As the Grant of Aid is for a specific purpose, it cannot be used for any other course of action or in any other proceedings apart from that which is specifically stated in the document.

**Q31: Is the aided person required to pay any contribution after legal aid has been granted?**

A: By virtue of s9(1) of the Act, the Director may require an applicant for legal aid to make one or more contributions in one lump sum or by installments in respect of any matter for which an application for legal aid has been made by that applicant. The contribution payable is assessed based on the aided person's financial means, the complexity of his case, the amount of work that has or will be done for his case, and the amount of money recovered for him.

This contribution is different from the fees that you as an assigned solicitor are entitled to receive for representing the aided person. The assigned solicitor's fees will be discussed later in this guide.

**Q32: Am I involved in the assessment and collection of contribution?**

A: You do not need to be concerned with the issue of contribution. The Bureau will assess how much an aided person has to pay, write to him to inform him of the amount, collect it from him, as well as monitor whether he has paid. However, in non-urgent cases (where aided person does not need urgent representation in on-going court proceedings), the Grant of Aid will only be sent to you when the aided person pays the contribution assessed in his matter.

## B) LEGAL AID REFUSED

Q33: What happens after the Board has refused to grant legal aid?

A: The Bureau will inform you and the applicant in writing that legal aid has been refused.

Q34: What am I supposed to do after the Board has refused legal aid?

A: If there are court proceedings and the Provisional Grant of Aid has been filed, you should:

- File the notice in Form 5 of the Regulations and serve it on all the relevant parties to the proceedings.
- Close your file and let us have your bill of costs, if any, for work done.

You may send us have your bill of costs, if any, for work done.

## C) LEGAL AID DEFERRED

Q35: In what circumstances will the Board defer making the decision whether legal aid should be granted?

A: The Board may be of the opinion that it requires additional information before making a decision. The legal officer in charge of the case will write to you to inform you of the Board's opinion. Once you have conducted further investigations, and obtained the relevant additional information, you should prepare a further legal opinion within one month for the Board's consideration.

## D) LEGAL AID CANCELLED

Q36: Once legal aid is granted, can it be cancelled?

A: Under certain circumstances stipulated by the s8 of the Act, legal aid may be cancelled by the Director or the Legal Aid Board. For more information, please refer to Q47 to Q51 below

# *The Assigned Solicitor's Role After Legal Aid Has Been Granted*

## A) YOUR RESPONSIBILITY TOWARDS THE AIDED PERSON AND YOUR CONDUCT OF PROCEEDINGS

Q37: What is my responsibility towards the aided person after legal aid has been granted?

A: A solicitor-client relationship exists between you and the aided person: s22(1) of the Act. You have the responsibility to act for the aided person as if he is your private client, until the proceedings are complete. The aided person has the same legal privileges and rights in relation to you as a private client has in relation to his solicitor: s22(1) (b) of the Act.

Q38: How often does the Bureau expect to be updated about the status of the case?

A: You should keep the Bureau informed of the progress and disposal of the case as the Director may from time to time require: R12(10) of the Regulations. You may do so by writing to the External Assignment Unit directly, or copying letters sent to aided person, other parties, other party's solicitors or the Courts, to the External Assignment Unit. Generally, if we do not hear from you for a period of three months, you will receive a reminder for a status update. You may then fill in the Status Information Form enclosed in the reminder and fax it back to Bureau. You may

also receive calls from External Assignment Unit to enquire on the status of case.

Q39: Do I need to keep the aided person updated about the status of the case?

A: The Bureau will refer all of the aided person's queries to you, so you should keep him informed of the progress of the case periodically.

Q40 : How can the Bureau assist me in the conduct of the cases?

A: The Bureau provides the services of Commissioners for Oaths (CFOs) for affirmation of affidavits of aided persons, assigned solicitors, witnesses or medical practitioners in relation to assigned matters. If you need the services of our CFOs, you may contact the External Assignment Unit to make arrangements.

The Bureau can also assist in conducting Title Searches, Bankruptcy, Company, Biznet and Lawnet Searches that are required for the conduct of assigned cases.



## B) CIRCUMSTANCES WHEN AN ASSIGNED SOLICITOR MAY BE DISCHARGED

### *Aided person applying to discharge his assigned solicitor*

Q41: Can an aided person request to discharge his assigned solicitor?

A: Under s15(1) of the Act, the aided person shall not discharge his assigned solicitor without leave of the Director. A change of assigned solicitors will usually not be encouraged once legal aid has been granted as it will slow down the completion of the proceedings and lead to an increase in the costs incurred on behalf of the aided person. However, if an aided person has good reasons for wishing to do so, he should first seek the Director's approval. The Bureau will inform you of the aided person's wishes and seek your views.

Q42: What should I do after the Director has given approval?

A:

- The aided person's new solicitor must file a Notice of Change of Solicitor in Form 139: Order 64 Rule 1 of the Rules of Court.
- After the Notice has been sent to you, and if the Grant of Aid/ Provisional Grant of Aid has been filed, file Form 5 of the Regulations and serve it on all relevant parties.
- Close your file and let us have your bill of costs, if any.

### *Aided person applying to act in person*

Q43: What should I do if the aided person wishes to act in person?

A:

- You must prepare the Notice of Intention to Act in Person in Form 140: Order 64 Rule 3 of the Rules of Court, and inform him to file it in court.
- When you receive a copy of the Notice of Intention to Act in Person, and if the Grant of Aid/ Provisional Grant of Aid has been filed, file Form 5 of the Regulations and serve it on all relevant parties.
- Close your file and let us have your bill of costs, if any.

### *Applying to discharge yourself*

Q44: Am I allowed to discharge myself from acting for the aided person?

A: In some instances you may face difficulties in acting for the aided person. For example, you may not be able to contact him despite numerous attempts, he may not attend appointments at your office, or he may not turn up in court. He may refuse to cooperate with you or comply with your instructions without good reasons. He may be rude towards you or he may behave unreasonably.

You should try to act for the aided person to the extent that you reasonably can. If, however, you are of the view that you are unable to continue acting for the aided person, you must obtain the leave of the Director before discharging yourself from acting for the aided person. You should inform the Director of the reasons and seek his leave to be discharged under s15(2) of the Act.

**Q45: For what reasons can I seek leave of the Director to discharge myself?**

A: You have the right to discharge yourself from acting for the aided person for a good reason: R12(7) of the Regulations. In particular, you may seek to discharge yourself for the following reasons:

- That the aided person has required you to conduct the proceedings in such a manner so as to incur an unjustifiable expense to the Legal Aid Fund;
- That he has unreasonably insisted on the continuance of the proceedings;
- That he has wilfully failed to provide any information required by you; or
- That he, in furnishing the information, has knowingly made a false representation.

If an aided person has been uncooperative, dishonest, unreasonable or unresponsive, you may propose that the Grant of Aid be cancelled. If you are of the view that the Grant

of Aid should be cancelled, you must submit a confidential opinion for the consideration of the Legal Aid Board, stating your reasons for proposing a cancellation of aid. For more information, please refer to Q47 to Q51 below

**Q46: What must I do after the Director has approved my request to discharge myself?**

A:

- (a) If there are no court proceedings, inform the aided person in writing that you have obtained the Director's approval to discharge yourself, before closing your file and sending us your bill of costs, if any.
- (b) If there are court proceedings, you should do the following:
  - Apply to the court for an order declaring that you have discharged yourself: Order 64, Rule 5(1) of the Rules of Court;
  - Extract the court order and serve it on all the relevant parties;
  - Where the Grant of Aid has been cancelled, you do not need to apply for an order to discharge yourself. Just file the notice in Form 5 of the Regulations and serve it on all the relevant parties to the proceedings; and
  - Close your file and send us your bill of costs, if any.

### *Cancellation of legal aid*

#### **Q47: Can the Grant of Aid be cancelled?**

A: By virtue of s10(1) of the Act, the Director may, at any time, cancel any Grant of Aid and the person to whom the Grant of Aid was issued shall, as from the date of the cancellation, cease to be an aided person. The Bureau will inform you and the aided person in writing that the Grant of Aid has been cancelled.

#### **Q48: For what reasons may the Director cancel the Grant of Aid?**

A: Under R8 of the Regulations, the Director may cancel the Grant of Aid for the following reasons:

- At the request of the aided person;
- Where the aided person has been required to make
  - (a) a contribution under s9(1) of the Act,
  - (b) a deposit in respect of out-of-pocket expenses under s13(1) of the Act; or
  - (c) a repayment of any amount expended or advanced by the Director to meet out-of-pocket expenses under s13(5) of the Act and any payment in respect thereof is more than 30 days in arrears;
- If the Director is satisfied that the proceedings to which the Grant of Aid relates have been disposed of;
- Where the Legal Aid Board is satisfied that the aided person has required the proceedings to be conducted unreasonably so as to incur an unjustifiable expenses which will be paid out of moneys in the Legal Aid Fund or has required unreasonably that the proceedings be continued;
- If the Director is satisfied that the aided person has wilfully failed to comply with the Regulations as to information to be furnished by him, or, in furnishing such information, has knowingly made a false statement or representation;
- If the Director is satisfied that that aided person has failed the Means Test;
- If the Legal Aid Board receives information that the aided person no longer has any reasonable grounds for continuing the proceedings, or that it is unreasonable for him to continue receiving legal aid;
- If the Director is satisfied that the aided person has died or has had a receiving order made against him; or
- If the Director is satisfied that the aided person has breached any terms upon which a Grant of Aid was issued to him.

Q49: What should I do after being informed of the Director's decision to cancel aid?

A: You should:

- File the notice in Form 5 of the Regulations, and serve it on all relevant parties to the proceedings; and
- Close your file and send us your bill of costs, if any
- You should also inform the applicant that he is no longer legally aided and he will be personally responsible for conducting his proceedings as well as for payment of costs.

Q50: What is the legal effect after the Grant of Aid has been cancelled?

A: Under s10(3) of the Act, all proceedings in the litigation shall be stayed for a period of 14 days and, during such period, time fixed by or under any law for the doing of any act or the taking of any step in the proceedings shall not run. Under R9(2) of the Regulations, the retainer of the assigned solicitor shall forthwith determine.

#### C) PROTECTION ORDERS UNDER PART VII OF THE WOMEN'S CHARTER, AND MAINTENANCE ORDERS UNDER PART VIII OF THE WOMEN'S CHARTER

Q51: What requirements should I be aware of when dealing with these cases?

A: Protection Order cases and Maintenance Order cases under the Women's Charter (Cap. 353) are governed by the Criminal Procedure Code, and not by the Rules of Court: s79(1) of the Women's Charter.

If the Grant of aid is issued for these cases, you should file the Grant of Aid after receiving it. This is because if the Grant of Aid is not filed, the court may order the applicant to pay costs at the end of the proceedings.

If the Grant of Aid is cancelled, file Form 5 of the Regulations and serve it on all relevant parties to the proceedings.

#### D) COMPLETION OF DUTY TOWARDS AN AIDED PERSON

Q52: At which point in time will I complete my duty towards the aided person?

A: Your duty ends after the court proceedings have been completed. This may be after the court has made an order, or when the parties have settled the matter out of court, or have withdrawn or discontinued the court proceedings. If there are no court proceedings, your duty will be completed when parties reach an agreement or settlement, or if the aided person or the other party, as the case may be, decides not to pursue the matter any further.

# *The Assigned Solicitor's Role After The Completion Of Proceedings*

Q53: What should I do after the completion of proceedings?

A: Once the proceedings are completed, you should immediately inform the aided person of the outcome of the cases, of his right to appeal should he be unsatisfied with the outcome, and the timelines for appealing. You should also send a set of cause papers and a written update of how the proceedings were concluded and on what terms, together with your bill of costs, to the Bureau. You should not hand over any documents, including orders of court, relating to the proceedings to the aided person without the Bureau's permission. However, you may serve orders of court on the other party and any other relevant authority (e.g. Central Provident Fund Board, Housing & Development Board etc.)

# Financial Matters To Take Note Of When Dealing With Legal Aid Cases

## A) FILING FEES

**Q54 : Do I have to pay filing fees?**

A: Court filing fees for all legal aid matters are waived. In order to qualify for the waiver, you should :

- Indicate “LEGAL AID” on the top right hand corner of the first page of every document that you file in Court;
- File the Provisional Grant of Aid/ Grant of Aid issued by Bureau. This is usually filed together with the Notice of Appointment/Change of Solicitors at the beginning of the proceedings when you are assigned to act for an Applicant in an on-going matter;
- When e-filing the court documents, select “Full Waiver” and reason for waiver as “Legally-Aided Person” when calculating fees towards the end of the submission;

*All documents which are filed in compliance with the above will qualify for full waiver of court filing fees.*

## B) PARTY & PARTY COSTS

**Q55: Is the aided person entitled to receive costs?**

A: Under s16(1) of the Act:

- The court shall make, in favour of the aided person, an order for costs (except against another aided person) as it would have made in favour of him had he not been an aided person; and

- In proceedings in which costs follow the event the aided person shall (except against another aided person) be entitled to costs in the like manner as if he were not an aided person, notwithstanding that no amount is or will be payable by the aided person, or that the costs are in excess of the amount which is or will be payable by the aided person.

**Q56: To whom should costs in favour of the aided person be made payable**

A: All such costs orders must be made payable to the Director. All costs that you receive must also be sent to the Bureau.

**Q57: Is the aided person liable to pay costs?**

A: In usual circumstances, the aided person is not liable to pay costs. However, under s14(1) of the Act, where it appears to the court that a Grant of Aid has been obtained by fraud or misrepresentation, it may order him to pay the costs of the Director or of the assigned solicitor or the costs of the other party, or the costs of both the Director the assigned solicitor or the other party.

Under s14(3) of the Act, where it appears to a court that an aided person has acted improperly in bringing or defending any legal proceedings or in the conduct of them, it may order the him to pay the costs of the Director or of the assigned solicitor or the costs of the other party, or the costs of both the Director or the assigned solicitor and the other party.

### **C) MONEYS RECEIVED ON BEHALF OF AN AIDED PERSON**

**Q58:** How should I deal with moneys received on behalf of an aided person?

**A:** Under R14(1) of the Regulations, all moneys payable to an aided person:

- By virtue of any order or agreement made in connection with the action, cause or matter to which the Grant of Aid relates, whether the agreement be made before or after proceedings are actually begun;
- Being moneys paid into court by any party and which are due or accruing to due to him in any proceedings to which the Grant of Aid relates

shall be paid or repaid to the Director, and no other person shall be capable of giving a good discharge for moneys so payable.

Therefore, if any party is supposed to pay money to an aided person as a result of a settlement or court order, then you must ask the party to make out a cheque in favour of the "Director of Legal Aid", and the send the cheque to the Bureau when you receive it. If you yourself receive moneys on behalf of an aided person, you should send these moneys to the Director.

### **D) PAYMENT FOR SERVICES RENDERED BY THE ASSIGNED SOLICITOR**

**Q59:** Can I receive any fee or reward from the aided person?

**A:** Under s12(5) of the Act, subject to sections 9 and 13, you shall not take or agree to take or seek from an aided person any fee, profit or reward (pecuniary or otherwise) in return for acting for him.

**Q60 :** How do I get paid for the services that I have rendered to the Bureau?

**A:** You may send your invoice to "The Director of Legal Aid" with a brief summary of the work done in relation to the case assigned to you. You are also required to lodge the invoice electronically via <https://www.vendors.gov.sg>. For further queries on e-invoicing, please refer to the Accountant-General department's (AGD) website or contact them directly.

### Q61: Do I have to tax my bill?

A: Under R15(1) of the Regulations, the sums allowed to an assigned solicitor in connection with proceedings in the Court of Appeal, High Court and Subordinate Courts shall be the full amount allowed on taxation of the costs on account of disbursements and 50% of the amount allowed on account of solicitor and client costs. If the costs claimed (including disbursements) do not exceed \$1000, the Director may approve the payment of these costs without taxation.

Therefore, if your bill is \$1000 and below, you will have to prepare an invoice with a bill number and send it to the Bureau. If your bill is above \$1000, you will have to prepare a draft bill of costs to be taxed and send it to the Bureau.

### Q62: What happens after the Bureau receives my bill?

A: The Bureau will check the bill, and if necessary, negotiate with you for a reduction of the bill.

#### Non-taxed bills

For non-taxed bills, if the bill is approved by the Director, then the Bureau's finance department will make payment to you. If the Bureau has requested for a reduction of the bill,

and you agree to reduce the bill, you will have to submit an amended bill. The Director's approval will be sought for the payment of the amended bill. Once approval has been obtained, the Bureau's finance department will make payment to you.

#### Taxed bills

For taxed bills, if the draft bill is approved by the Director, we will write to you to proceed to tax the bill, and generally to mention the matter on behalf of the Bureau at the taxation hearing. After the Registrar's Certificate has been issued, you should send this to the Bureau, which will then arrange for the bill to be paid. You should also lodge the bill electronically via [www.vendors.gov.sg](http://www.vendors.gov.sg). Please note that according to R15(2) of the Regulations, costs shall be taxed according to the ordinary rules applicable on a taxation as between solicitor and client except that no question shall be raised as to the propriety of an act for which prior approval was obtained under these Regulations.

The Bureau may write to you to request for a reduction of the amounts stated in the draft bill, and if you agree to reduce the bill, you will have to file the bill with the reduced amounts and mention the matter on behalf of the Bureau at the taxation hearing. The rest of the steps are the same as set out in the above paragraph.



## *The Assigned Solicitor's Role When The Aided Person Wishes To Appeal Or Wishes To Enforce/ Execute A Judgement*

**Q63: If the aided person wishes to file an appeal against a court decision am I allowed to continue acting for him?**

A: Subject to the matters covered in Q65 and Q66 below, you are not allowed to continue acting for him. s18(1) of the Act states that where a Grant of Aid has been filed in any court, and the proceedings to which the Grant of Aid relates have been heard in that court, the aided person must make a fresh application for legal aid to the Director in respect of that matter if he desires to prosecute any appeal therefrom. The usual conditions for the issue of a Grant of Aid as set out in s8 of the Act will apply.

### **You should inform him that:**

- You cannot act for him, and that he should personally make a new application for legal aid in relation to his appeal.
- If time is short, he should file the Notice of Appeal himself before making a new application for legal aid. You may assist him to file the Notice of Appeal if you are of the view that there are merits to the Appeal.
- A Grant of Aid will be issued to him if the Legal Aid Board decides that he meets the requirements of the Merits Test.

- For an appeal to the High Court from a decision of a District Court or Magistrate's Court in any suit or action for the recovery of immovable property or in any civil cause or matter where the amount in dispute or the value of the subject-matter is less than \$50,000, he needs to apply to the District Court, a Magistrate's Court or the High Court himself for leave to appeal.

**Q64: What happens after the aided person has applied for legal aid in relation to his appeal?**

A: The matter is assigned to a second assigned solicitor for investigation, for the purpose of giving a legal opinion on whether legal aid is recommended for the appeal. The second assigned solicitor will submit his legal opinion to the Legal Aid Board for a decision.

**Q65: What happens if the Legal Aid Board decides that legal aid should be granted?**

A: The Bureau will inform you and the aided person in writing that legal aid has been granted for the appeal. If you agree to continue to act for the aided person, you must file the Grant of Aid in court and represent the aided person in his appeal. You should note that the aided person does not come have any obligation to pay security for costs in respect of his appeal.

**Q66: What happens if the Legal Aid Board decides that legal aid should not be granted?**

A: The Bureau will inform you and the applicant in writing that legal aid has been refused. You should:

- Inform the applicant that he is not an aided person for the purpose of the appeal, and he will be fully and personally responsible for the conduct of the appeal.
- Inform the applicant that, not being legally aided, he will be liable to provide security for costs.
- File Form 5 of the Regulations and serve it on all relevant parties to the proceedings, and
- Inform the applicant that if he wishes to act in person he can notify the court of his intention of doing so by filing Form 140 of the Rules of Court: Order 64 Rule 3.

**Q67: What requirements should I be aware of for Maintenance of Parents Tribunal appeal matters?**

A: Appeals to the Maintenance of Parents Tribunal are governed by Order 55C of the Rules of Court. However, there are no provisions stating that the rest of the Rules of Court will also apply to these appeals.

If legal aid is granted for these appeals you should file the Grant of Aid after receiving it. This is because if the Grant of Aid is not filed, the court may order the applicant to pay costs at the end of the proceedings.

If the Grant of Aid is cancelled, you will need to file Form 5 of the Regulations and serve it on all relevant parties to the proceedings.

**Q68: What should I do if the aided person wishes to enforce/ execute a court judgment/ order?**

A: You should not act for him. Instead, you should inform him to make a fresh application for legal aid. Please note that under s12(4) of the Act, if legal aid is granted to an applicant to enforce/ execute a court judgment/ order, he shall not be liable for court fees or for such fees payable for the service of process or for any fees due to the Sheriff in connection with the execution of process. However, please inform him that he may be liable for other fees or disbursements incurred during the enforcement/ execution process, for example, auctioneers' fees.

# *The Assigned Solicitor's Role In Legal Aid Board Meetings*

**Q69: What is the composition of the Legal Aid Board?**

A: The Board comprises the Director as well as not fewer than 2 solicitors whose names are on the panel of assigned solicitors: s8(1) of the Act.

**Q70: What is the reason for having this composition?**

A: It ensures that there is objective and careful consideration of the merits of each case before the Board.

**Q71: How often are Board meetings held?**

A: Board meetings are generally held once every fortnight.

**Q72: How can I be a member of the Board?**

A: The Director will invite you to be a member of the Board from time to time. If you are invited to be a member and you have agreed to attend, you should do so.

**Q73: How should I prepare myself for the Board meeting?**

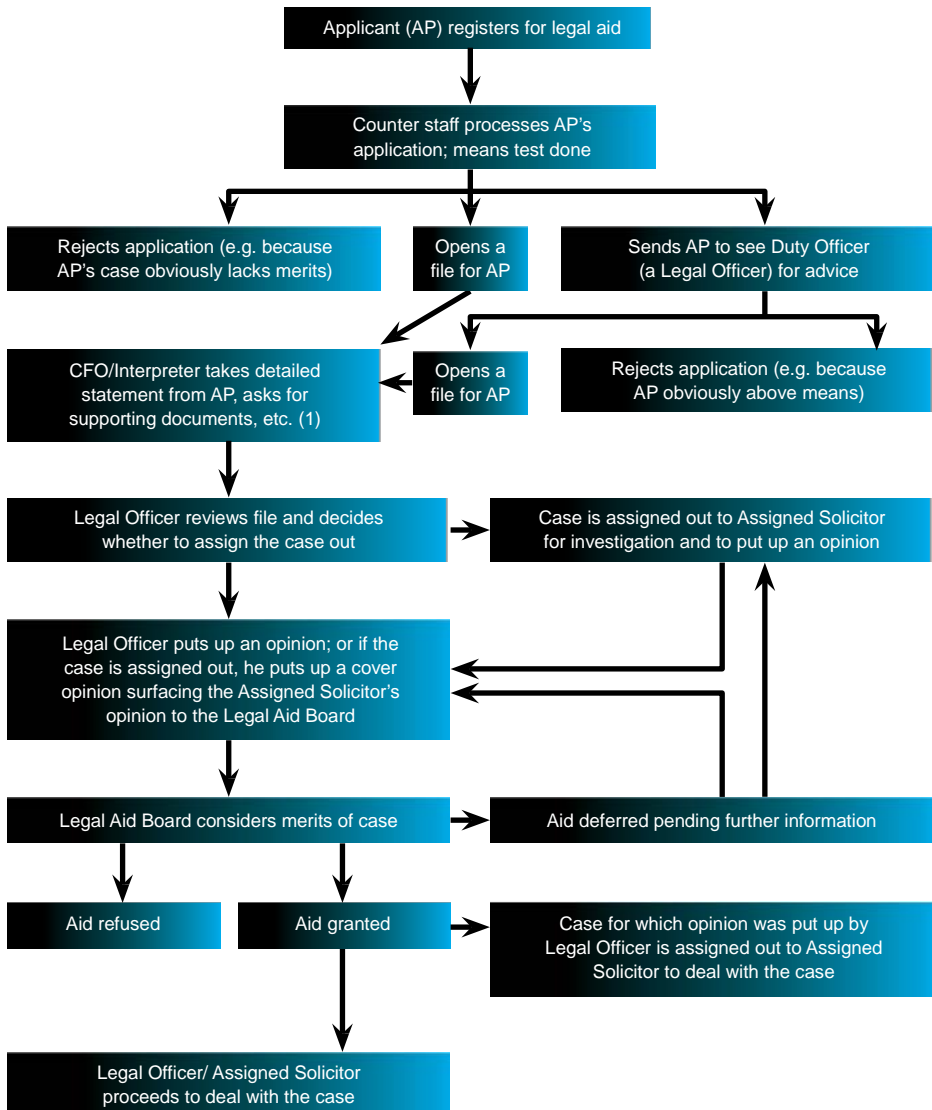
A: All the legal opinions to be discussed during the meeting will be given to you by hand a week before the meeting. You will have to go through these carefully before the meeting. You should also consider whether you agree with the recommendations in the legal opinions, and if you disagree, what your reasons are.

The information provided in this guide is correct as of (date of print). The information given in this guide is not meant to be exhaustive. In cases of doubt, please refer your queries to the Bureau.

THE MEANS TEST REVISION 2013

1ST TIER MEANS TEST (12 MONTHS INCOME MEANS TEST)  
INDICATIVE INCOME LEVELS OF PERSONS WHO COULD QUALIFY FOR LEGAL AID  
(without Deduction for Rental)

| Means Test                 | Applicant with<br>No Dependant (\$) | Applicant with<br>1 Dependant (\$) | Applicant with<br>2 Dependants (\$) | Applicant with<br>3 Dependants (\$) | Applicant with<br>4 Dependants (\$) |
|----------------------------|-------------------------------------|------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Gross Income<br>per annum  | 20,000.00                           | 27,500.00                          | 35,000.00                           | 42,500.00                           | 50,000.00                           |
| Less                       |                                     |                                    |                                     |                                     |                                     |
| CPF (20%)                  | 4,000.00                            | 5,500.00                           | 7,000.00                            | 8,500.00                            | 10,000.00                           |
| Personal Relief            | 6,000.00                            | 6,000.00                           | 6,000.00                            | 6,000.00                            | 6,000.00                            |
| Rental                     | 0.00                                | 0.00                               | 0.00                                | 0.00                                | 0.00                                |
| Deduction for<br>Dependant | 0.00                                | 6,000.00                           | 12,000.00                           | 18,000.00                           | 24,000.00                           |
| Disposable<br>Income       | 10,000.00                           | 10,000.00                          | 10,000.00                           | 10,000.00                           | 10,000.00                           |
| Gross Income<br>per Month  | 1,666.67                            | 2,291.67                           | 2,916.67                            | 3,541.67                            | 4,166.67                            |



(1) If AP is discovered to be above means at this stage, his file will be closed.







45 Maxwell Road, #08-12, The URA Centre East Wing, Singapore 069118  
Tel: 1800-325 1424 • Fax: 6325-1402 • Website: <http://www.lab.gov.sg>

ISBN: 978-981-08-0317-9