# THE LEGAL AID BILL, 2021

#### MEMORANDUM

The objects of this Bill are to provide for—

- (a) provide for the granting of legal aid in civil and criminal cases to persons whose means are insufficient to enable them to pay for legal services;
- (b) provide for the regulation of law clinics in the provision of legal aid;
- (c) continue the existence of the Legal Aid Board and provide for its functions;
- (d) re-constitute the Board of the Legal Aid Board and redefine its functions;
- (e) provide for the registration of practitioners, legal assistants paralegals and legal aid service providers;
- (f) continue the existence of the Legal Aid Fund and provide for its administration and management;
- (g) repeal and replace the Legal Aid Act, 1967; and
- (h) provide for matters connected with, or incidental to, the foregoing.

A. Mwansa, Solicitor-General

# THE LEGAL AID BILL, 2021

### ARRANGEMENT OF SECTIONS

# PART I

#### **PRELIMINARY**

## Section

- 1. Short title and commencement
- 2. Interpretation
- 3. Application

## PART II

### THE LEGAL AID BOARD

- 4. Continuation of Legal Aid Board
- 5. Function of Legal Aid Board
- 6. Scope of legal aid
- 7. Autonomy of Legal Aid Board
- 8. Constitution of Board
- 9. Functions of Board
- 10. Director and other staff
- 11. Rights of audience of Legal Aid Assistant

### PART III

PRACTITIONER, LEGAL ASSISTANTS, PARALEGALS AND LEGAL AID SERVICE PROVIDERS

# A. Legal Practitioners under Judicare

- 12. Application for registration of practitioners under judicare
- 13. Remuneration of practitioner under judicare
- 14. Payment of costs to private practitioner for judicare

# **B.** Legal Assistants

- 15. Application for registration for legal assistant
- 16. Qualifications of legal assistant
- 17. Scope of services of legal assistant

# C. Paralegals

- 18. Application for registration of paralegal
- 19. Qualifications of paralegal
- 20. Scope of practice of paralegal

### D. Legal Aid Service Providers

- 21. Application for registration as legal aid service provider
- 22. Qualifications of legal staff of legal aid service provider
- 23. Scope of practice

#### PART IV

PROVISIONS APPLICABLE TO LEGAL PRACTITIONERS, LEGAL
ASSISTANTS AND PARALEGAL

- 24. Prohibition of providing legal aid without registration
- 25. Grant or rejection of application
- 26. Change of particulars
- 27. Suspension and cancellation of registration and certificate of registration
- 28. Re-registration
- 29. Display of certificate of registration
- 30. Renewal of certificate of registration
- 31. Prohibition of transfer of certificate of registration
- 32. Duplicate certificate of registration
- 33. Offences relating to registration

### PART V

Provisions Legal Aid Granted by Legal Aid Board

- 34. Application for legal aid
- 35. Grant of legal aid
- 36. Effect of legal aid certificate
- 37. Alternative dispute resolution
- 38. Appeal against refusal of Director to grant legal aid
- 39. Termination of legal aid

#### PART VI

### LEGAL AID FUND

- 40. Continuation of Fund
- 41. Applications of monies of Fund
- 42. Administration of Fund and accounts

#### PART VII

#### LEGAL AID GRANTED BY COURT

#### A. Criminal Cases

- 43. Application for legal aid in court
- 44. Legal aid granted at initiative of court

#### B. Civil Cases

- 45. Legal aid in civil cases where State is party
- 46. Cases involving point of law of public importance
- 47. Grant of legal aid granted in civil matter
- 48. Person may refuse or dispense with legal aid
- 49. Categories of civil cases for which legal aid may not be granted

#### PART VIII

### CONTRIBUTIONS AND COSTS OF LEGAL AID

- 50. Consultation fees for legal aid
- 51. Legal aid contributions
- 52. Ascertainment of means
- 53. Costs awarded to legally aided persons
- 54. Deductions from awards to legally aided persons
- 55. Costs
- 56. Registry

#### PART IX

# GENERAL PROVISIONS

- 57. Appeals
- 58. Information on right to legal aid by judges, magistrates, correctional facility and police officers, prosecutors and any other law enforcement officers
- 59. General offences
- 60. Administrator-General may be administrator *ad litem* in certain cases
- 61. Regulations
- 62. Repeal of Act No. 30 of 1967
- 63. Act to bind Republic
- 64. Savings and transitional provisions

# **SCHEDULES**