

## **Progress Checklist - Employees' Compensation Cases (for Applicant)**

*You are required, as an assigned solicitor, to comply with the Director of Legal Aid's (DLA) requests for information regarding the progress of proceedings to which the certificate relates. This checklist is intended to serve as a reference and to provide a timeframe on the progress of proceedings. As a reference, the checklist is not intended to be an exhaustive list of all the steps in such cases. The checklist is not intended to replace written reporting to DLA.*

*Each part is based upon a time frame during which certain steps are expected to be taken or events are expected to have taken place. If it is not possible for you to complete the steps listed in each part within the time specified or expected events have not occurred, you should provide a written explanation to DLA.*

*You should report to DLA the completion of the steps or the occurrence of events referred to in the checklist within the time period specified below.*

*The scope of legal aid certificates maybe limited in scope. Prior to undertaking any work outside the terms of the certificate, you must apply to DLA for extension of the certificate by giving all necessary information to justify the extension. The appropriate form (Form X47) can be downloaded from the Department's website [www.lad.gov.hk](http://www.lad.gov.hk).*

### **Part 1 – Pre-Action (within 1 month from the date of receipt of assignment)**

- Appointment to take instructions from aided person
- Pre-action letter to Opposite Party(ies)/Insurers
- Aided person has been advised of DLA's 1<sup>st</sup> charge\*
- Letter before action to Insurers/ECAS Board sent

### **Part 2 – Court Proceedings (within 3 months from the date of receipt of assignment)**

- Aided person has been advised to attempt mediation
- Case suitable and ready for mediation. Form X70 for engagement of a mediator sent to DLA and approval obtained. If the case is not suitable or ready for mediation, reasons reported to DLA
- Application in District Court issued and served with copy provided to DLA
- Notice to Insurers/ECAS Board served

### **(Within 6 months of issue of Application)**

- Answer filed with copy provided to DLA
- First hearing took place
- Judgment on liability entered
- Directions obtained and copy provided to DLA
- List of Documents filed and served
- All copy orders provided to DLA. DLA advised in writing of costs order against the aided person, assigned solicitors / counsel or DLA.

### **(Within 6 months of the First hearing/Direction hearing)**

- Aided person advised on progress of case and costs position\*
- Witness Statements prepared and exchanged
- Certificate/Review of Medical Assessment received – aided person wishes/does not wish to appeal under Section 18

- [ ] Consent from the opposite party or leave from court obtained to engage a joint single expert for examination or respective experts for joint examination.
- [ ] DLA's approval to engage a medical expert for preparation of a medical expert report obtained
- [ ] Aided person medically examined and medical expert report obtained with copy to DLA
- [ ] Mediation conducted and report on the outcome of the mediation together with copy of the mediator's final report provided to DLA
- [ ] DLA's approval to instruct counsel for advice/trial, if necessary, obtained
- [ ] Counsel's advice copied to DLA
- [ ] Sanctioned offer / payment accepted / rejected
- [ ] All directions complied with and all pre-trial matters completed
- [ ] Legal aid certificate extended to assessment of quantum / trial
- [ ] Application to set case down for assessment of quantum/trial

### Part 3 - Conclusion of case

*(At the conclusion of the case where compensation is recovered, the aided person must be advised of DLA's 1<sup>st</sup> charge and the estimated amount of such charge. You must also promptly advise DLA your estimate on costs so as to facilitate DLA to release interim payment (if any) to the aided person. You should also keep both DLA and the aided person informed of the progress of your recovery process of Party & Party costs with the Opposite Party(ies). Approach to the Opposite Party(ies) to agree party and party costs is expected to take place within 4 weeks after the date of the final order. You must report to DLA on reasons why costs cannot be agreed and what steps have been taken to fix a date for taxation within 2 months after the date of the final order. Where there is no order for costs against the Opposite Party(ies), you must let DLA have a narrative bill of your costs for assessment. This must be done within 8 weeks after the final order is made.)*

- [ ] Copy final order provided to DLA
- [ ] Copy acknowledgment by aided person that he/she has been advised of the operation of DLA's 1<sup>st</sup> charge provided to DLA
- [ ] Compensation , if any, remitted to DLA
- [ ] DLA's approval to engage a law costs draftsman to prepare a bill for taxation obtained
- [ ] Bill of costs for assessment or taxation provided to DLA
- [ ] Estimate of 1<sup>st</sup> charge provided to DLA together with a breakdown of :-
  - (a) Party & Party costs
  - (b) Common fund costs
  - (c) Costs against aided person
- [ ] Copy Allocatur/Certificate of Costs and completed Financial Statement of a Concluded Legally Aided Case provided to DLA
- [ ] DLA has been advised of settlement of party & party costs/outcome of taxation

\* *The aided person should be regularly advised and reminded of the operation of DLA's 1<sup>st</sup> charge and costs position.*