

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Case No: 11187/16

In the matter between:

ANTHONY BRINK Applicant

and

THEMBILE MTATI N.O.

DEPUTY INFORMATION OFFICER

LEGAL AID SOUTH AFRICA First Respondent

THE INFORMATION OFFICER

LEGAL AID SOUTH AFRICA Second Respondent

AMENDED NOTICE OF MOTION

TAKE NOTICE that the applicant intends applying to this court for orders in the following terms:

1. Reviewing and setting aside the first respondent's refusal on 26 September 2016 to allow the applicant access to Legal Aid South Africa's public records specified in requests for these made under the Promotion of Access to

Information Act 2 of 2000 ('PAIA' or 'the Act') on 1 August 2016, as amended on 16 September 2016.

2. Declaring the first respondent's denial of access to the said requested records to have unlawfully contravened section 11(1) of PAIA and to have violated the applicant's fundamental right to information held by the state, entrenched by section 32(1)(a) of the Bill of Rights in Chapter 2 of the Constitution.
3. Directing the second respondent within sixty days of this order to furnish the applicant with copies of all the records he specified in his said requests, as amended; or, where any do not exist or cannot be found, to declare this in an affidavit conforming to the detailed information requirements of section 23 of the Act, and distinguishing unambiguously between extant records that cannot be found and those that do not exist.
4. Directing the second respondent within twenty days:
 - 4.1 to publish this order once in a national weekly newspaper; and,
 - 4.2 to post the full judgment in this case on Legal Aid South Africa's internet website for a period of one year, with a prominent direct hyperlink to it placed on its homepage.
5. Directing, if this application is opposed, that the first respondent pay both the applicant's costs and all costs incurred by Legal Aid South Africa as between attorney and own client, de bonis propriis; provided that the first respondent may within twenty days of this order file an affidavit identifying

other officer(s), if any, who instructed him to refuse the applicant's said record requests or who participated in the decision to do so, and/or who instructed him to oppose this application or who participated in the decision to do so, whereupon he or the applicant may set the matter down again on reasonable notice to the other party, and to all thus implicated officers, affording them twenty days within which to file affidavits on the costs liability question, for this court's determination of an equitable apportionment between the first respondent and such others officers of personal liability for the said costs.

6. Directing the second respondent within five days to convey the judgment and orders made in this case to the first respondent, no longer employed by Legal Aid South Africa, so that he can deal with the costs question treated in paragraph 5 above.
7. Directing the second respondent within ten days to refer the full judgment in this case to the Minister of Justice and Correctional Services; to the Chairperson of the Portfolio Committee on Justice and Correctional Services in the National Assembly; and to the Chairperson of the South African Human Rights Commission, and within five days of that to file proof of having done so both with the registrar of this court and with the applicant.
8. Further and/or alternative relief.

TAKE NOTICE FURTHER that the affidavit of the applicant Anthony Brink and the documents annexed thereto, referred to in rule 3(3)(a) of the 'Rules of Procedure

for Application to Court in Terms of the Promotion of Access to Information Act 2 of 2000', will be used in support of this application.

TAKE NOTICE FURTHER that the applicant has appointed 23 Baker Road, Prestbury, Pietermaritzburg as his local address at which he will accept notice and service of all documents in these proceedings.

TAKE NOTICE FURTHER that:

(i) Notice of intention to oppose this application must be given within 15 days after receipt hereof and must contain an address within eight kilometres of the court to which the application has been brought, where notice and service of documents will be accepted.

(ii) Answering affidavits, if any, must be filed within 15 days after service of the notice of intention to oppose the application.

(iii) In default of your complying with rule 3(5) of the Promotion of Access to Information Rules, the applicant may request the clerk of court to place the application before the court for an order in terms of section 82(b) of the Act.

(iv) In default of your delivering a notice of intention to oppose, the matter will, without further notice, be placed on the roll for hearing after the expiry of the period mentioned in paragraph (i) above, on a date fixed by the Registrar.

Signed at Eshowe on 26 August 2019.

A handwritten signature in black ink, appearing to be 'Anthony Brink', written in a cursive style with several loops and a long horizontal stroke at the end.

ANTHONY BRINK
APPLICANT

ANTHONY BRINK

36 Pearson Street

Eshowe 3815

anthonybrink.sa@gmail.com

083 779 4174

SERVICE ADDRESS:

23 Baker Road

Prestbury, Pietermaritzburg

083 676 0884

TO:

The Registrar

High Court of South Africa

KwaZulu-Natal Division, Pietermaritzburg

301 Church Street, Pietermaritzburg

AND TO:

The Information Officer

Legal Aid South Africa

c/o Pietermaritzburg Justice Centre

183 Church St, Pietermaritzburg

Notice of Motion as prescribed by the Promotion of Access to Information Rules, No. R. 965, promulgated on 9 October 2009 in the Government Gazette, No 32622.

For easy quotation/copying, this notice and the applicant's founding and replying affidavits are available in MS Word in a Dropbox folder at <https://goo.gl/Ut9eH5>.