

COMMENTS BY THE LAW SOCIETY OF SOUTH AFRICA (LSSA)
ON THE ACCREDITATION NORMS AND STANDARDS FOR MEDIATORS

The Law Society of South Africa (LSSA) wishes to comment as follows on the Accreditation Norms and Standards for Mediators, published in Government Gazette 37883:

Clause 1(1)(a)

Clause 1(1)(a)(vi) is duplicated in Clause 1(1)(a)(xi).

Clause 1(c)

We are concerned that this clause will allow for any organization to offer mediation training and accredit mediators accordingly. It is therefore imperative that institutions offering mediation training should themselves be subject to accreditation by the Minister.

Furthermore, *accreditation* and *affiliation* are two different concepts. "Accreditation" should apply to the training body and not the individual, while "affiliation" should apply to the individual. Therefore, we believe that a distinction should be made between training (where the institution offering mediation training should be *accredited*) and *affiliation* to a recognized professional body (which has the power to sanction its members) or an accredited institution. We strongly suggest that it should be sufficient for an applicant to prove that he / she belongs (is affiliated) to a professional body that can sanction him / her, even if the training was done by another accredited institution.

Clause (2)

It is suggested that provision be made for the exemption of applicants on the grounds of prior learning. It should be sufficient to submit proof of other relevant training and/or experience that can be regarded as adequate prior learning. Such exemption application should be submitted to the same body that deals with the panel of mediators in Clause 4.

Clause 8.12

Mediators do not need to peruse "all documents pertaining to the matter". This is the function of a court, not the mediator. The essence of mediation is to mediate a dispute and not to pass judgment. Therefore, if the mediator is confronted by documentation, he / she might take a view and tender legal advice, which is not the mediator's function. A mediator should simply be perusing documentation necessary to enable him / her to conduct the mediation.