

STATUTORY INSTRUMENTS SUPPLEMENT

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S T A T U T O R Y I N S T R U M E N T S 2007 No. 12.
**THE ADVOCATES (LEGAL AID TO INDIGENT PERSONS)
REGULATIONS, 2007.**

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S T A T U T O R Y I N S T R U M E N T S 2007 No. 12.

The Advocates (Legal Aid To Indigent Persons) Regulations, 2007.

(Made under section 77(1) (g) of the Advocates Act, Cap 267)

IN EXERCISE of the powers conferred on the Law Council by section 77(1) (g) of

the Advocates Act, these Regulations are made this 20th day of June, 2005.

PART I—PRELIMINARY

1. Title and commencement.

(1) These Regulations may be cited as the Advocates (Legal Aid To Indigent Persons) Regulations, 2007.

(2) These Regulations shall come into force on the date of publication except for regulations 7 and 9 which shall come into force 12 months after the date of publication.

2. Objectives.

The objectives of these Regulations are—

- (a) to regulate and monitor the quality of legal aid service delivery;
- (b) to ensure that legal aid and advice are provided in a most effective and efficient manner;
- (c) to ensure that all legal aid providers operating in Uganda have basic facilities and qualified personnel required to provide legal aid in a professional and ethical manner;
- (d) to establish clear and objective criteria to be followed by legal aid providers when reviewing applications for legal aid;
- (e) to encourage the provision of legal aid throughout the Country.

3. Application.

(1) These Regulations shall apply to persons, organisations or institutions providing legal aid to indigent persons in Uganda.

(2) These Regulations shall not apply to legal aid at the expense of the State as enshrined in article 28 (3) (e) of the Constitution (state brief system).

4. Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Advocates Act, Cap 267;

“applicant” means a person who applies to a legal aid provider for legal aid;

“calendar year” means the period from 1st January to 31st December;

“client” means a person whose application for legal aid under these Regulations has been granted;

“indigent person” means a person who satisfies the means test under regulation 24;

“legal aid” means the provision of legal advice or representation by a lawyer, an advocate or a paralegal, as the case may be, to a client at no cost or at a very minimal cost;

“legal aid provider” or “provider” means a person, an organisation or institution whose main objective is the provision of legal aid and is registered by the Law Council as a legal aid provider;

“legal personnel” means the lawyer, advocate or paralegal employed by the legal aid provider;

“paralegal” means a person who holds a qualification in law, other than a degree in law, recognized by the Law Council.

PART II—REGISTRATION OF LEGAL AID PROVIDERS

5. Powers of Law Council.

As stipulated in section 2 of the Advocates Act, the Law Council shall exercise general supervision and control over the provision of legal aid and advice to indigent persons in Uganda.

6. Registration as legal aid provider.

No person, organisation or institution shall engage in the business of providing legal aid to indigent persons unless that person, organisation or institution is registered with the Law Council as a legal aid provider.

7. Requirements to be met before registration.

Before a person, an organisation or institution is registered as a legal aid provider,

at least the following requirements must be met—

(a) the office must be well kept and must meet the following basic requirements—

(i) a suitable desk for the advocate or lawyer and for the paralegal;

(ii) a separate room for the advocate or lawyer and the paralegal, separate from that of other non legal staff;

(iii) a secretarial desk and a computer or typewriter;

(iv) a reception with chairs or benches for clients;

(v) a book shelf;

(vi) a chest of drawers or filing cabinet;

(vii) a reasonable collection of reference legal materials including a full set of the Revised Laws of Uganda;

(viii) toilet and sanitary facilities;

(ix) properly kept files;

(b) if the applicant for registration is a non governmental organisation, in addition to the requirements in paragraph (a)—

(i) it must have a certificate of registration issued by the Non Governmental Organisations Registration Board;

(ii) its constitution must state that provision of legal aid is one of its objectives;

(iii) it must have in its employment at least one person qualified as a lawyer or an advocate and one other person qualified as a paralegal.

8. Application for registration as legal aid provider.

(1) An application to register as a legal aid provider shall be made in Form I of the Schedule to these Regulations and shall be accompanied by a fee prescribed by the Law Council.

(2) The application shall indicate—

- (a) full name and address of the applicant;
- (b) physical location of premises of applicant;
- (c) nature of services provided;
- (d) geographical area of operation;
- (e) name and qualifications of legal personnel; and
- (f) whether the applicant meets the requirements under regulation 7.

(3) The Law Council shall process every application for registration expeditiously.

9. Issue of certificate of registration.

(1) Where the Law Council is satisfied that an applicant for registration has fulfilled all or most of the requirements specified in regulation 7, and upon payment of a prescribed fee, the Law Council shall issue the applicant with a certificate of registration which shall entitle the holder to provide legal aid to indigent persons.

(2) A certificate of registration issued under sub regulation (1) is specified in Form II of the Schedule to these Regulations.

(3) The Law Council may refuse to issue a certificate of registration to an applicant if—

- (a) the applicant for registration does not meet the requirements specified in regulation 7; or
- (b) the applicant has been convicted of an offence involving dishonesty, fraud or any other offence involving moral turpitude.

(4) Where the Law Council refuses to issue a certificate, it shall give reasons for the refusal.

(5) A certificate of registration issued by the Law Council under these Regulations shall be valid for a period of one calendar year and shall be renewable upon expiry on the same requirements and conditions as the original certificate.

(6) A certificate of registration shall not be transferable.

10. Law Council to keep register of legal aid providers.

The Law Council shall keep and maintain a register of legal aid providers.

11. Power to cancel certificate of registration.

(1) The Law Council may, at any time suspend or cancel the registration of a legal aid provider issued with a certificate of registration under these Regulations in any of the following circumstances—

- (a) if the legal aid provider is a non governmental organisation, upon cancellation of its registration as a non governmental organisation by the Non Governmental Organisations Registration Board;
- (b) if the Law Council is satisfied or has proof that the legal aid provider is conducting the business of providing legal aid in an unethical and unprofessional manner and below the standards set in these Regulations;
- (c) the legal aid provider has ceased to carry on the business for which the certificate was issued;
- (d) if the provider has been convicted of an offence involving dishonesty, fraud or any other offence involving moral turpitude; or
- (e) for any other sufficient cause.

(2) The Law Council shall not suspend or cancel the registration of a legal aid provider registered under these Regulations unless the Law Council has given the legal aid provider an opportunity to show cause why the certificate of registration should not be suspended or cancelled.

(3) Where the Law Council cancels the registration of a legal aid provider, the legal aid provider shall surrender the certificate of registration to the Law Council.

(4) Where a certificate of registration is cancelled, the Law Council shall publish the suspension or cancellation in at least one widely circulating local newspaper.

(5) A provider whose certificate of registration is cancelled may, if the provider has addressed the reasons that led to the suspension or cancellation, re-apply to the Law Council for issue of a new certificate.

12. Review of Law Council decision.

(1) A legal aid provider—

(a) whose application for a certificate of registration or renewal of
registration has been rejected;

(b) whose certificate of registration has been suspended or
cancelled,

may apply to the Law council for review of its decision.

PART III—QUALITY OF SERVICES AND CLIENT CARE

13. Maintenance of files.

(1) A legal aid provider shall open and keep a separate file for each client.

(2) A client's file shall contain the following—

(a) full particulars of the client including—

(i) statement of the problem of the client;

(ii) expectations of the client;

(iii) notes on assessment of means;

(iv) legal issues raised by the problem and an explanation by
the lawyer or advocate of the practical implications of the
matter;

(v) advice given and options available;

(b) preparations for the case which may include—

(i) consultation notes and legal research;

(ii) advice to the client on prospects of success with regards
to merits;

(iii) communication to the client on prospects of the case or
matter;

(iv) pleadings, court documents or any other supporting
documents;

(c) notes on presentation of the case and these may include—

(i) comprehensive notes of evidence;

- (ii) presentation of arguments on facts or the law applicable;
- (iii) list of witnesses or exhibits;
- (iv) proposed court submissions;
- (d) notes on any form of alternative dispute resolution and these may include—
 - (i) client instructions;
 - (ii) record of negotiations, mediation or arbitration;
 - (iii) any supporting documents.

(3) Clients files must be properly kept and the correspondence shall be filed in order.

(4) A legal aid provider shall put in place a file back up system.

14. Client care.

(1) A legal aid provider shall ensure that clients are provided with quality client care.

(2) In this regulation, client care means, but is not limited to—

- (a) hospitality, accessible and appropriate services;
- (b) conducive environment for confidentiality;
- (c) professional and sensitive handling of juveniles, elderly or vulnerable people;
- (d) provision of information about availability and nature of services provided and any other information;
- (e) acting on client’s instructions, or if not practical, in the best interest of the client;
- (f) means of client satisfaction surveys;
- (g) complaints procedure.

15. Supervision.

(1) A legal aid provider shall ensure that, in the performance of their work,

a paralegal in their employment is supervised by a lawyer or advocate employed by the legal aid provider.

(2) A provider shall put in place mechanisms to ensure and assess the quality of services provided and these may include—

- (a) regular monitoring of actions taken on cases;
- (b) close supervision of new or inexperienced staff;
- (c) appraisals;
- (d) continuous training of staff;
- (e) monthly reports on assignments;
- (f) in-house reports and external peer reviews;
- (g) team meetings;
- (h) staff briefings or memoranda.

PART IV—INSPECTION BY LAW COUNCIL

16 . Access to Law Council to enter premises.

(1) The Law Council or any person authorized by the Law Council in writing shall, during normal working hours, with or without prior notice to a legal aid provider, inspect the offices of the legal aid provider to carry out such inspection as the Law Council considers necessary.

(2) The Law Council shall carry out inspection at least once in a calendar year.

(3) A legal aid provider shall not deny access to or block the Law Council or a person authorized by the Law Council from entering the offices for purposes of inspection.

17. Powers of inspectors.

A member of the Law Council or a person authorized in writing by the Law Council to inspect offices of a legal aid provider may—

- (a) at any time, during normal working hours enter the offices and check whether the office possesses the basic requirements stipulated in

- regulation 7(a);
- (b) give such directions as the inspecting officer may think necessary to ensure that the legal aid provider complies with the standards set out in these Regulations;
- (c) require the production of books or records required to be kept under these Regulations;
- (d) examine books or records; or
- (e) carry out any other inspections as the Law Council may deem fit.

18. Books and records.

Every legal aid provider shall keep proper and accurate records of all the cases or matters handled.

19. Keeping of separate accounts.

A legal aid provider shall ensure that office accounts and client accounts are kept separate.

PART V—RULES GOVERNING THE PROVISION OF LEGAL AID

20. Compliance with rules.

In order to provide legal aid in an orderly and efficient manner, legal aid providers shall, as far as practicable, comply with the rules laid down in this Part of these Regulations.

21. Nature of legal aid.

(1) Legal aid provided by a legal aid provider includes the doing of anything that may properly be done by an advocate for or in the interests of his or her client.

(2) Without prejudice to the generality of sub regulation (1), legal aid shall include—

- (a) legal advice;
- (b) representation in court or tribunal in civil, constitutional or criminal matters;
- (c) mediation, negotiation or arbitration;

(d) legal education or awareness.

(3) The nature of legal aid provided to a person in any particular case shall be the discretion of the legal aid provider, taking into account the needs of the person concerned and the resources available to the legal aid provider.

22. Application for legal aid.

(1) Any person may apply to a legal aid provider for legal aid.

(2) An application for legal aid shall be made on Form III specified in the Schedule to these Regulations.

(3) Where the application for legal aid is made orally, the legal personnel shall assist the applicant to fill the application form using the information provided by the applicant.

(4) subject to these Regulations, a legal aid provider shall, on receipt of an application for legal aid consider the application and—

(a) grant the application and provide the legal aid to the applicant, if the legal aid provider is satisfied that—

(i) the applicant meets the eligibility test under regulation 23; and

(ii) the legal aid provider has, at that material time, sufficient resources to provide the legal aid required; or

(b) if the legal aid provider is not satisfied that the applicant is eligible for legal aid, reject the application.

(5) Where an application for legal aid is rejected, the provider may refer the applicant to another legal aid provider or institution.

(6) A legal aid provider shall without undue delay, notify an applicant of its decision.

(7) Before granting legal aid to an applicant, the legal aid provider may require the applicant—

(a) to furnish such additional information as the legal aid provider considers necessary for the purposes of verifying any matter alleged in the application or for ascertaining the applicant's means;

(b) to appear personally before the legal aid provider to answer any questions which the provider may put to him or her in connection with the application or in regard to the assessment of the applicant's

means.

(8) A legal aid provider may at any time reconsider any decision made under subregulation (4) concerning the eligibility of any person to receive legal aid.

23. Eligibility for legal aid.

(1) A person is eligible for legal aid under these Regulations if, in the opinion of the legal aid provider—

- (a) the applicant has insufficient means to afford the services of an advocate on his or her own account;
- (b) the applicant has reasonable grounds for initiating, carrying on, or defending the matter for which he or she applies for legal aid, or the matter is of public interest;
- (c) if it is a civil matter, there is reasonable prospect of success or recovery in the matter; and
- (d) the applicant is in need of or would benefit from the legal aid.

(2) A provider may grant legal aid to an applicant for any other sufficient reason.

24. Assessment of means.

(1) In assessing the means of any person for the purposes of determining whether that person qualifies for legal aid, a legal aid provider shall take into account the income and assets of the applicant, but these shall exclude—

- (a) dwelling house of the applicant;
- (b) beds and clothing of the applicant;
- (c) furniture and household utensils of the applicant; and
- (d) tools and implements necessarily used by the applicant in his or her trade or occupation.

25. Matters to be given priority.

When considering an application for legal aid under these Regulations, a legal aid provider shall consider the following—

- (a) the elderly, widows, orphans, children, people with disabilities, internally displaced persons, people living with HIV/AIDS, prisoners on remand or refugees shall be given priority over other persons;
- (b) land disputes, inheritance and succession disputes, domestic

violence, child maintenance and custody, torture and other forms of human rights abuse shall be given priority over other matters.

26. Assignment of advocate.

(1) Where a legal aid provider is of the opinion—

- (a) that a particular matter of a civil nature before a legal aid provider can best be resolved by taking it to court;
- (b) that there are high prospects of the matter succeeding; and
- (c) it is in the interests of justice for the services of an advocate in private practice to be engaged,

the provider may engage an advocate in private practice to act in the matter.

(2) Subject to the Advocates Act, the engagement of an advocate under sub regulation (1) shall be upon such terms as may be mutually agreed between the provider and the advocate.

(3) Any fees and expenses payable under this regulation may be paid out of the damages or costs awarded to a client or any other source.

27. Termination of legal aid.

(1) A legal aid provider may at any time, terminate legal aid granted under these Regulations for any or all of the following reasons—

- (a) where a client shows lack of co-operation with the provider;
- (b) where a client fails to appear, without reasonable cause when called upon to do so by the legal aid provider or by the court;
- (c) where a client gives false information to the provider;
- (d) where the legal aid provider has proof that a client has taken the matter to either another legal aid provider or to an advocate in private practice;
- (e) where a client ceases to be indigent; or
- (f) for any other sufficient reason.

(2) A legal aid provider shall not terminate legal aid granted to a client under these Regulations unless the provider has given thirty days notice to the client and has given an opportunity to that client to show cause why the legal aid

should not be terminated.

(3) Where a matter is in court or tribunal, a provider shall notify the court or tribunal of the termination.

28. Client may dispense with legal aid.

Notwithstanding anything to the contrary under these Regulations, a client may at any time dispense with legal aid granted to him or her.

PART VI—FINANCIAL PROVISIONS

29. Contributions towards legal aid.

A legal aid provider may, in granting legal aid to any person under these Regulations, require the client to contribute to the cost of that legal aid to an extent which, in the opinion of the provider, is just and reasonable having regard to the means of the person concerned.

30. Deductions from awards

A legal aid provider shall, for the purpose of meeting any costs and expenses necessarily incurred in the provision of legal aid, deduct from—

(a) any damages awarded to a client by a court; or

(b) any amounts payable to a client pursuant to a settlement negotiated with assistance provided under these Regulations, an amount not exceeding 10% of the damages or the amounts paid pursuant to a settlement as the case may be.

31. Costs awarded to clients.

(1) Where a court awards costs to a client, the costs shall, subject to sub regulation (3), accrue to the legal aid provider.

(2) For the purpose of receiving any costs payable under sub regulation (1), a legal aid provider may take all such steps and pursue all such remedies as would have been taken by the client to whom such costs were awarded, and any expenses incurred in taking such steps or pursuing such remedies shall be recovered by the legal aid provider.

(3) Where a court awards costs to a client, the legal aid provider shall refund to the client any contributions made by the client under regulation 29.

PART VII—GENERAL

32. Where all parties to a matter apply for legal aid.

(1) In civil matters, where both the plaintiff/applicant and defendant/respondent in a matter apply for legal aid to the same legal aid provider, the provider shall grant legal aid to the first of the parties to apply, taking into consideration all the conditions for grant of legal aid specified in these Regulations.

(2) Where two applicants for legal aid are parties to a dispute, a provider may, with their consent mediate the dispute.

(3) Where the mediation under sub regulation (2) fails, the provider shall refer the parties to any other provider and shall disqualify himself or herself from representing either of the parties in respect of that dispute.

33. Functions of legal personnel.

The legal personnel shall perform the following functions in relation to the provision of legal aid—

- (a) assist applicants who cannot read or write to fill application forms for legal aid;
- (b) determine whether the applicant is eligible for legal aid;
- (c) assess the merits and prospects of success of the case, where a matter is to be forwarded to the courts;
- (d) inform the applicant or clients of the regulations governing legal aid including such matters as contributions by clients towards costs of legal aid, deductions from court awards, costs;
- (e) provide legal advice to clients;
 - (f) represent clients in court, where one is qualified to appear in court;
 - (g) where he or she cannot represent a client in court due to reasons that the legal personnel shall provide, and with the consent of the legal aid provider, refer the matter to an advocate;
- (h) assist clients in negotiation or mediation of conflicts;
- (i) sensitise, educate and create awareness.

34. Offences and penalties.

A person who—

- (a) operates as a legal aid provider without a certificate of registration granted by the Law Council;
- (b) operates as a provider while the certificate of registration is suspended; or
- (c) obstructs an inspecting officer from accessing the legal aid provider’s premises;
- (d) obstructs an inspecting officer from carrying out his or her duties under these Regulations,

commits an offence and is liable on conviction to a fine not exceeding three thousand shillings or imprisonment not exceeding three months.

35. Application of Advocates (Professional Conduct) Regulations.

The Advocates (Professional Conduct) Regulations shall apply to an advocate providing legal aid under these Regulations as they do apply to an advocate in private legal practice.

36. Law Council to issue guidelines.

The Law Council may, from time to time, in writing, issue guidelines in addition to these Regulations for the better control, supervision and regulation of the provision of legal aid.

SCHEDULE

Form I

Regulation 8

THE ADVOCATES (LEGAL AID TO INDIGENT PERSONS)
REGULATIONS, 2007

APPLICATION FOR REGISTRATION AS A LEGAL AID PROVIDER

Date

- 1. Name of applicant.....
- 2. Address

	<i>Name</i>	<i>Qualifications</i>	<i>Experience</i>

3. Physical location of premises

4. Geographical area of operation
5. Name and qualifications of legal personnel employed
6. Nature of services provided.....

7. Indicate (by ticking) whether you meet the basic requirements specified below—

- q suitable desk for the advocate or lawyer
- q suitable desk for the paralegal;
- q a separate room for the advocate or lawyer and the paralegal, separate from that of other non legal staff;
- q a secretarial desk and a computer or typewriter;
- q a reception with chairs or benches for clients;
- q a book shelf;
- q a chest of drawers or filing cabinet;
- q a reasonable collection of reference legal materials including a full set of the Revised Laws of Uganda; q toilet and sanitary facilities; q properly kept files.

8. Do you have any branches?
9. If yes, where are they located?
10. Do the branches meet the basic requirements specified in paragraph 7?

Signature of applicant

Checked by.....
Law Council

THE ADvOCATES (LEGAL AID TO INDIGENT PERSONS)
REGULATIONS, 2007

Form II

CERTIFICATE OF REGISTRATION

This is to certify that (*name of provider*) of P.O Box
is entitled to provide legal aid to indigent persons until the 31st day of December
20...

Dated this day of January 20

Law Council

THE ADVOCATES (LEGAL AID TO INDIGENT PERSONS)
REGULATIONS, 2007

Form III

APPLICATION FOR LEGAL AID

Please complete all questions correctly and honestly.

A. Particulars of Applicant

1. Names
2. Sex
3. Date of birth
4. Residential address, (L.C, Zone, etc)
5. Telephone contact
6. Marital status (please tick)
 - Married
 - Married but separated
 - Single
 - Divorced
 - Cohabiting
 - Widow
 - Widower
7. Education level
8. What language(s) do you speak?
9. Number of people financially dependent on you (Dependants)

B. Means Assessment

10. Name of Parent/Guardian (If applicant is a minor)

11. Are you employed?
 q Yes..... When did you last do paid work?
 q No

12. What work do you usually do?

13. Are you—
 q Self employed q A partner in business q A director in a company

14. Do you have any other income? q Yes
 q No
 If yes, give details (e.g amount you receive monthly, annually)

15. Do you own any assets of commercial value? q Yes q No
 If yes, give details

16. Do you have an account with a bank or micro finance in Uganda or else where?
 q Yes q No
 If yes, give details.....

17. What sort of housing payments do you make, or are made on your

<i>Expense</i>	<i>Amount paid per month</i>
Child maintenance (provide proof)	
Spouse maintenance/ Alimony	
Loans (provide proof)	
Other debts (specify)	

q Rent
 q Others (specify)
 q Do not pay any housing costs
 (Give details)

18 Do you pay any of the following?

behalf?

C. Subject Matter

19. For what type of problem do you need legal aid (please tick)

- Family
- Criminal
- Civil
- Land
- Administration of
- Accident claim
- Constitutional
- Other (please specify)

20. Briefly explain your problem

21. Who referred you to.....(name of provider)

22. Are there current court proceedings?

Yes: No

If yes—

Which court or tribunal do you have to appear in?

(for example High Court, magistrate's court, family court, tribunal)
Where is the court/Tribunal located? Town, District, etc

When is next court date?.....

23. Are you applying for legal aid against a decision of a court or tribunal?
q Yes q No

If yes—

Which Court or tribunal made the decision?

Where is the court (location).....

What was the date of the last decision?

Declaration by Applicant

I

of (address)

acknowledge that my application for legal aid will be prejudiced if I

- 1 Fail to provide information required of me and which is relevant to my application for legal aid. 1 Provide a document in connection with this application which is false.
- 1 Make a false or misleading statement either orally or in writing in relation to this application for legal aid.

I therefore declare that all the information I have given is true and correct to the best of my knowledge.

Applicant's signature

Date / /

Advocate's certification

(Applicable only where the application is filled by an advocate /lawyer on behalf of an applicant who cannot read or write.)

I (name of advocate/lawyer
Certify that I have assisted the applicant to fill this application form. Prior to the applicant appending his/her signature, I read over and explained all the contents of the application to the applicant.

Signature of Advocate/Lawyer

Date//.....

Legal aid provider's assessment notes

Cross Reference

The Advocates (Professional Conduct) Regulations, S.I 267-2

JUSTICE J.W.N TSEKOOKO,
Chairperson, Law Council.