

STATUTORY INSTRUMENTS SUPPLEMENT
to The Uganda Gazette No. 17 Volume C dated 5th April, 2007
Printed by UPPC, Entebbe, by Order of the Government.

STATUTORY INSTRUMENTS

2007 No. 12.

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

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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 and 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 budget 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.

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;