

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

SPECIAL ISSUE

1219

Kenya Gazette Supplement No. 172

3rd September, 2021

(Legislative Supplement No. 75)

LEGAL NOTICE No. 187

THE LEGAL AID ACT

(No. 6 of 2016)

THE LEGAL AID (GENERAL) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

1—Citation

2—Interpretation

PART II—CRITERIA FOR ELIGIBILITY

3—Persons eligible for legal aid

4—Means test

5— Amounts to be considered in the means test

PART III—APPLICATION FOR LEGAL AID

6— Interpretation: Part III

7—Procedure for application

8—Services for which application may be made

9—Interested persons may apply for legal aid

10—Service may grant legal aid on an interim basis

11—Determination of applications for legal aid in civil matters

12—Application by or on behalf of a child

13—Application by person with mental disorder

14—Application by refugees, victims of human trafficking,
internally displaced persons or stateless persons

15—Application for legal aid in constitutional matters and matters
of public interest

16—Limitation and exclusion of legal aid in certain civil matters

17—Limitation on number of civil cases

18—Cessation and exclusion of legal aid in certain civil matters

18—Right to legal aid in certain criminal matters

19—Eligibility for legal aid in criminal matters

- 20—Application by persons in lawful custody
- 21—Applications relating to criminal appeals or reviews
- 22—Certificate of Grant
- 23—Duty to deliver and to acknowledge delivery of certificate
- 24—Refusal of application
- 25—Withdrawal of legal aid
- 26—Termination of legal aid in certain cases
- 27—Review of the decisions of the Service
- 28—Appeals against decisions of the Service
- 29—Eligibility criteria for accreditation

PART III—ACCREDITATION OF LEGAL AID PROVIDERS

- 30—Application for accreditation
- 31—Renewal of accreditation
- 32—Exemption from accreditation
- 33—Provision of legal aid by universities and tertiary institutions
- 34—Voluntary withdrawal from accreditation
- 35—Duty of legal aid provider on suspension or cancellation of accreditation
- 36—Engagement of experts or consultants by legal aid providers

PART IV—ENFORCEMENT OF CONDITIONS FOR GRANT OF LEGAL AID

- 37—Financial contribution by an aided person
- 38—Recovery of costs
- 39—Settlement where contribution is not made

PART IV—PAYMENT FOR LEGAL AID SERVICES

- 40—Fees payable to a legal aid provider
- 41—Submission of accounts and supporting documents
- 42—Limitation of time for submission accounts
- 43—Advance for disbursements
- 44—Exclusion of lien in favour of legal aid provider

SCHEDULES

First Schedule—Forms

Second Schedule—Fees

Third Schedule—Accreditation Agreement for An Accredited
Legal Aid Provider

Fourth Schedule—Limit of Fees

Fifth Schedule—Certificate of Compliance

THE LEGAL AID ACT

(No. 6 of 2016)

IN EXERCISE of the powers conferred by section 86 of the Legal Aid Act, 2016, the Attorney-General makes the following Regulations—

THE LEGAL AID (GENERAL) REGULATIONS, 2021

PART I—PRELIMINARY

1. These Regulations may be cited as the Legal Aid (General) Regulations, 2021. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.
- “asset” means—
- (a) any movable or immovable property;
 - (b) any corporeal or intellectual rights to property; or
 - (c) any item, property or money that an applicant or the applicant’s spouse receives, or is entitled to receive at a future date, from the estate of any deceased person; Cap 248.
- “costs” means the fees payable to an accredited legal aid provider, calculated by reference to scales of fees determined by the Service in consultation with relevant professional bodies in accordance with section 75 (1) of the Act, and includes— Cap 168.
- (a) advocate’s fees;
 - (b) disbursements; and
 - (c) any fees payable at an enhanced rate but does not include Value Added Tax chargeable under any written law. No. 1 of 2011.
- “dependant” means—
- (a) an applicant’s child or step-child who is under eighteen years of age;
 - (b) the applicant’s child above the age of eighteen years who is pursuing a full-time formal education or vocational training in an institution recognized in Kenya; or
 - (c) a relative or other person who permanently resides with the applicant and relies on the applicant for financial support;
- “disposable capital” means a person’s total assets after deducting the amount of any debts secured against those assets and after deducting the amount of the value of the person’s household furniture, household appliances, personal clothing and tools of trade:
- “household” means individuals who comprise a nuclear family unit and who live together in the same house;
- “intermediary” means a person who is—
- (a) aware of the facts giving rise to the legal redress being sought; and

(b) able to assist the applicant to communicate with the Service;

“person suffering from mental disorder” has the meaning assigned to it under section 2 of the Mental Health Act;

“Public Trustee” has the meaning assigned to it under section 2 of the Public Trustee Act;

“probability of success” means the likelihood that an applicant for legal aid will obtain a successful outcome at a trial or other final hearing in the proceeding to which the application relates; and

“Registrar” means a judicial officer appointed as such in accordance with the Judicial Service Act, 2011.

PART II—CRITERIA FOR ELIGIBILITY

3. Legal aid shall only be available to natural persons for advice, legal assistance or legal representation in a court, tribunal or any other dispute resolution forum to which the application for legal aid relates.

Persons eligible for legal aid.

4. (1) A person qualifies for legal aid in relation to a criminal case or civil case in which he is a party if the person—

Means test.

- (a) has a net monthly income, after deduction of income tax, not exceeding thirty thousand shillings;
- (b) has a spouse whose aggregate monthly income, after deduction of income tax, does not exceed thirty thousand shillings; or
- (c) is a member of a household whose aggregate monthly income, after deduction of income tax does not exceed thirty thousand shillings.

(2) An applicant who is not a member of a household may qualify for legal aid in relation to a civil or criminal case, if the applicant—

- (a) satisfies the requirements of sub-regulation (1);
- (b) has disposable capital of a value not exceeding thirty thousand shillings; or
- (c) is the proprietor of immovable property whose rental income or other mesne profits does not exceed thirty thousand shillings.

5. (1) In assessing the means of an applicant for legal aid—

Amounts to be considered in the means test.

- (a) any income tax paid or payable on income treated for the purpose of granting legal aid under the Act as the income of the applicant shall not be taken into account; and
- (b) fifteen thousand shillings in respect of the applicant’s living expenses and outgoings shall not be taken into account.

(2) In determining the applicant’s net monthly income for the purposes of the means test, any amount paid to an applicant under a pension scheme or a super annuity fund shall not be taken into account.

(3) In determining the applicant's net monthly income for the purposes of the means test, any amount received by an applicant on account of spousal maintenance or child support shall be taken into account.

(4) Any property, asset or investment held under a trust, settlement or other arrangement and administered by the applicant or any other person for the direct or indirect benefit of the applicant, the applicant's spouse, dependant or nominee shall be deemed to be the property of the applicant for the purpose of determining the applicant's net monthly income.

(5) In determining the applicant's net monthly income under sub-regulation (4) the percentage of the benefits accruing to the applicant under the trust, settlement or arrangement shall be taken into account.

(6) Where an application for legal aid relates to a suit against a member of the applicant's family, the applicant's net monthly income shall be assessed as if the applicant is not a member of that family.

(7) In determining the financial means of an applicant, the net monthly income of a spouse from whom the applicant is separated shall not be taken into account.

(8) An applicant who disposes of any movable or immovable assets, whether directly or indirectly, in order to become eligible for legal aid or to reduce or avoid repayment or contribution to the Service shall be disqualified from the grant of legal aid.

(9) The Service may include the assets referred to in sub-regulation (8) when calculating the applicant's net monthly income or disposable capital for the purposes of the means test or determining the contribution payable by the applicant to the Service as a pre-condition for the grant.

(10) The movable or immovable assets referred to in sub-regulation (8) include—

- (a) any assets that the applicant has transferred to another person; or
- (b) any assets that the applicant has converted into financial resources that would be wholly or partly disregarded under the Act.

PART III—APPLICATION FOR LEGAL AID

6. In this Part, "civil matter" includes civil proceedings for the review or appeal of the court decisions arising from the civil proceedings.

Interpretation: Part III.

7. (1) An application for legal aid shall be made to the Service in Form NLAS 1 set out in the First Schedule.

Procedure for application.

(2) Where an application is made to the Service in relation to advisory or legal services, other than legal representation in judicial proceedings, the applicant shall make the application in the county in which the applicant resides or carries on business.

(3) Where an application is made for legal representation relating to civil or criminal proceedings, the applicant shall apply to the Service at its nearest office within the jurisdiction of the court in which the proceedings are to be conducted.

(4) An application for legal aid shall be accompanied by—

- (a) a list of and the estimated value of the applicant's assets, if any;
- (b) documentary evidence of the applicant's monthly income accruing from the assets;
- (c) documentary evidence of the applicant's monthly salary for the three months preceding the application; and
- (d) the applicant's tax returns for the financial year preceding the application.

(5) In the absence of the documents required under sub-regulation (4), the Director may, at his discretion, require the applicant to make a statutory declaration, under oath, of the applicant's net monthly income.

(6) In addition to the formal application made under this Part, the Director may require an applicant to attend an oral interview for the purpose of—

- (a) clarifying any information contained in the application; or
- (b) providing such additional information as may assist the Director or officer of the Service in making the decision to grant or refuse the application.

8. A person may apply for legal aid services under the Act seeking—

- (a) legal advice concerning any issue;
- (b) legal assistance in—
 - (i) the resolution of a dispute by means of alternative dispute resolution mechanisms;
 - (ii) drafting of relevant documents and effecting service incidental to any legal proceedings; and
 - (iii) reaching or giving effect to any out-of-court settlement; or
- (c) legal representation in civil or criminal proceedings.

9. A person who has an interest in any civil or criminal proceedings, including a witness, may apply for legal aid in accordance with these Regulations.

10. (1) The Service may grant legal aid on an interim basis limited to legal advice, legal assistance or other services that are necessary to protect or preserve the rights of the applicant pending determination of the formal application in accordance with these Regulations.

Services for which application may be made.

Interested persons may apply for legal aid.

Service may grant legal aid on an interim basis.

(2) Where the Service grants legal aid on an interim basis, it shall issue a provisional certificate of grant in Form NLAS 2 set out in the First Schedule.

(3) Where the Service issues a provisional certificate of grant under this regulation, civil proceedings shall not be commenced under the certificate until the Director is satisfied that it is reasonable under all the circumstances to commence, defend or continue with the proceedings.

(4) Where legal action is required to be taken immediately under any written law in order to preserve the rights of the applicant, the Director may authorise the taking of such action in the proceeding but shall not take a further action pending final determination of the application.

(5) The Service or legal aid provider, as the case may be, shall at all times keep the applicant informed and advised of the decisions and steps taken pursuant to the legal action taken under sub-regulation (4).

(6) On the final determination of the application, the Service may—

- (a) extend the term of the provisional certificate for a period not exceeding six months:

Provided that the Service shall not extend the term of the provisional certificate for a cumulative period exceeding twelve months;

- (b) cancel the provisional certificate and refuse to grant further legal aid to the applicant; or
- (c) grant legal aid, with or without conditions, and issue the applicant with a certificate of grant.

11. (1) The Service may grant legal aid to a litigant in a civil matter pursuant to section 35(2) (a) of the Act if, in the opinion of the Service—

- (a) the matter has a high probability of success;
 - (b) the Service has the necessary resources available;
 - (c) the pecuniary value or benefits of the probable outcome of the proceedings justify the estimated costs of the proceedings, having regard to the circumstances of the case; and
 - (d) the outcome, decree or consequential orders of the court are capable of enforcement.
- (2) The Service shall take appropriate steps to prevent—
- (a) default judgment against the applicant;
 - (b) the presumption of waiver of any right accruing to the applicant under any written law;
 - (c) adverse possession in relation to any property the subject matter of the claim; or

Determination of applications for legal aid in civil matters.

- (d) limitation of the action to which the application relates, to the detriment of the applicant.

(3) Where legal aid is granted to a party to civil proceedings in any court within Kenya, and evidence is to be heard on commission, the Service may extend legal aid to the hearing of such evidence outside Kenya if—

- (a) the Service has sufficient funds to meet the costs of such hearing; and
 (b) the Service is of the opinion that good reasons exist to justify extension of legal aid in that regard.

(4) The Service shall not provide legal aid to any person for the purpose of civil proceedings in any court outside Kenya.

12. (1) An application for legal aid in respect of a civil matter in which a child is a party shall be made by—

Application by or on behalf of a child.

- (a) any of the child's parents;
 (b) the child's next friend or guardian *ad litem*; or
 (c) the person for the time being having legal custody of or exercising parental responsibility over the child.

(2) If the proceedings to which the application relates are in the name of the next friend, guardian *ad litem* or other person in their representative capacity, the certificate of grant shall be issued in the name of the next friend, guardian *ad litem* or representative.

(3) Legal aid in respect of a child offender shall be provided at all stages of the criminal justice process, including arrest, trial, sentencing and appeal.

(4) A child offender shall not be subjected to the means test for purposes of determining the child's eligibility for legal aid.

13. (1) An application for legal aid in respect of a civil or criminal matter in which a person suffering from mental disorder is a party may be made on behalf of the person by the manager of the estate of that person, guardian or the Public Trustee, appointed by the court in accordance with the Mental Health Act.

Application by person with mental disorder.

Cap. 248.

(2) An application made on behalf of a person suffering from mental disorder under this regulation shall be accompanied by an order of the court issued under section 26 of the Mental Health Act for the custody, guardianship or management of the estate of that person and shall be subjected to the means test.

14. (1) An application for legal aid by a refugee, victim of human trafficking, internally displaced person or stateless person, in civil or criminal proceedings may be made by any person authorised by the applicant.

Application by refugee, victim of human trafficking, internally displaced person or stateless person.

(2) An application made under paragraph (1) shall be signed by the applicant.

(3) If for any reason the applicant is unable to personally sign the application, the person by whom the application is made shall make a written declaration disclosing the reasons why the person on whose behalf the application is made is unable to sign the application.

(4) The applicant shall be subjected to the means test.

15. (1) In determining whether or not to grant legal aid in constitutional matters or other matters of significant public interest pursuant to section 35 (2) (d), (e) and (f) of the Act, the Service shall consider—

Application for legal aid in constitutional matters and matters of public interest

- (a) the impact of the decision not to grant the application, and whether it would be in the public interest that legal aid be granted;
- (b) the complexity of the relevant law and procedure;
- (c) the ability of the applicant to represent himself effectively in the absence of legal assistance or representation;
- (d) the financial means of the applicant;
- (e) the probability of success of the case in relation to which the application is made; and
- (f) whether the applicant is substantially disadvantaged in comparison with the other party to the proceeding.

(2) Despite paragraph (1), an applicant for legal aid in a civil or criminal matter of public interest shall not be subjected to the means test.

(3) A case is of significant public interest if the Director is satisfied that the case is appropriate for the realization of—

- (a) benefits for an identifiable class of applicants, other than members of the applicant's family or the applicant to whom legal aid may be provided in a civil matter; or
- (b) the protection of the rights of the child, the rights of persons with disabilities, minority and marginalised groups, and the advancement or enforcement of the constitutional rights of marginalised communities.

16. (1) The Service shall not grant legal aid in any civil matter where, in its view—

Limitation and exclusion of legal aid in certain civil matters.

- (a) the claim in respect of which the application relates is vexatious; or
- (b) there is no real or substantial material benefit likely to accrue to the applicant.

No. 2 of 2016.

(2) The Service shall grant only legal advice, in relation to any action or claim which falls within the pecuniary jurisdiction of the Small Claims Court in accordance with the Small Claims Court Act, 2016.

(3) Legal aid shall not be granted for the purpose of instituting or defending an action in a burial dispute.

(4) The Service may grant legal aid to an applicant who is an opposing party to a person who has been granted legal aid.

17. The Service may grant legal aid to an applicant in relation to only one civil matter at any one time, unless the Service is of the opinion that—

Limitation on number of civil cases.

- (a) there is a probability of success in respect of all the matters for which legal aid is sought;
- (b) the cost of legal aid in relation to the cases is justifiable by the anticipated benefits to the applicant; and
- (c) the grant of legal aid to an applicant in two or more cases at any one time does not, having regard to the available resources, prejudice the right of others to access legal aid.

18. (1) An accused person has the right to legal aid in a criminal matter and to have an advocate assigned to him pursuant to Article 50 (2) (h) of the Constitution if substantial injustice would otherwise result.

Right to legal aid in certain criminal matters.

(2) For the purposes of paragraph (1), it is immaterial that the applicant has been sentenced, remanded in custody or is otherwise detained or imprisoned.

19. (1) To qualify for legal aid in a criminal matter, the applicant shall show to the satisfaction of the Service that he meets the requirements of section 36 (4) of the Act.

Eligibility for legal aid in criminal matters.

(2) Without prejudice to the generality of paragraph (1), the Service shall grant legal aid under this regulation regardless of the applicant's financial means if the interest of justice so requires, taking into account—

- (a) the urgency or complexity of the case; and
- (b) the severity of the potential penalty.

(3) In determining the applicant's financial resources under this regulation, the Service shall apply the means test prescribed in regulation 4.

(4) The Service shall be satisfied on a balance of probabilities that there is a probability of success before granting legal aid in any of the following matters—

- (a) bail appeals;
- (b) reviews and revisions;
- (c) interlocutory applications to a court other than the trial court; or
- (d) applications to recall a witness or adduce further evidence in the proceedings.

20. (1) An officer-in-charge of a prison, police station, children remand home or other place of lawful custody shall, in consultation with the Service, keep and maintain a record of—

Application by persons in lawful custody.

- (a) the nearest branch of the Service;
- (b) accredited legal aid providers in the county specifying the particulars specified in section 60 (1) (a) to (c) and (e) of the Act; and
- (c) entries of referrals made to the Service and to accredited legal aid providers in favour of persons in their custody and in need of legal aid.

No. 23 of 2014

(2) On admitting a person into custody, the officer-in-charge shall—

- (a) inform the person of his basic rights, including the right to legal aid; and
- (b) inquire whether the person is in need of legal aid and record the person's response in the register maintained in accordance with section 42(1)(b) of the Act.

(3) If the person is in need of legal aid, the officer-in-charge shall, within twenty-four hours, facilitate completion of an application for legal aid and submit it to the Service and make an entry in the register stating the steps taken by the officer to facilitate access by that person to legal aid.

(4) The Service or an accredited legal aid provider shall have access to an applicant or aided person held in custody as contemplated in section 24 (3) of the Persons Deprived of Liberty Act, 2014, for the purpose of undertaking any inquiry in relation to an application, providing legal assistance or representation under the Act.

(5) Consultations between the Service or an accredited legal aid provider and an applicant or aided person pursuant to paragraph (4) shall be carried out in private.

(6) A person who contravenes the provisions of this section shall be liable, on conviction, to the penalty specified in section 85 (2).

21. (1) The Service may provide legal aid to an applicant for an intended criminal appeal if—

Applications relating to criminal appeals or reviews.

- (a) the applicant is eligible for legal aid under the Act and these Regulations;
- (b) the Service is satisfied that the intended appeal has a probability of success;
- (c) the applicant is convicted and sentenced to a term of imprisonment with an unsuspended portion of more than three months, or if given the option of a fine, that fine is unpaid for a period exceeding two weeks after the date of sentence;
- (d) an application for leave to appeal is made within the prescribed period or within a period of less than one year from the date of sentence;
- (e) the applicant is not granted leave to appeal or seek revision of any order or judgment of the court; and

(f) the Service is of the opinion that there is a probability of success in further proceeding with the appeal.

(2) Legal aid may be granted under paragraph (1) whether the services sought relate to a substantive appeal or to an application for leave to appeal.

(3) Notwithstanding paragraph (1), an accused person who is convicted of a criminal offence punishable by a term of imprisonment or the death penalty is, subject to the eligibility criteria, entitled to legal aid at all stages of the criminal justice system.

(4) A beneficiary of legal aid in a criminal trial is entitled to legal aid on appeal.

(5) Nothing in this regulation prevents a person whose application for legal aid in respect of a criminal trial was previously denied by the Service from making a fresh application for legal aid in relation to an appeal or application for leave to appeal the outcome of the trial.

22. (1) Where the Service grants legal aid, it shall issue the applicant with a certificate of grant in Form NEAS 3 set out in the First Schedule.

Certificate of grant.

(2) Where an application for legal aid is made in a representative capacity, the certificate of grant shall be issued in the name of the applicant, stating the name of the representative who made the application.

(3) The Service shall not issue a certificate of grant to the applicant or a representative of the applicant unless the applicant has given a written undertaking to pay to the Service any contribution on the condition of which legal aid is granted.

(4) A person who makes an application for legal aid in a representative capacity shall at all times be treated as an agent of the aided person.

23. (1) On granting legal aid, whether limited or unlimited, the Service shall deliver a provisional certificate of grant or certificate of grant, as the case may be, to the aided person and the legal aid provider to whom the aided person is assigned—

Duty to deliver, and to acknowledge delivery of certificate.

- (a) physically to the legal aid provider or to the registered office of the legal aid provider;
- (b) physically, to the aided person at his principal place of business or residence; or
- (c) by registered mail to the last known address of the legal aid provider and aided person.

(2) Upon delivery of a provisional certificate of grant or certificate of grant under sub-regulation (1) the legal aid provider shall, within seven days, acknowledge receipt of the certificate in writing and either—

- (a) accept to render the type of legal aid to which the grant relates; or
- (b) refuse to take up the matter and issue a written notice of the refusal to the Service and to the aided person.

(3) Where the legal aid provider declines to take up the matter or fails to acknowledge receipt of the certificate within the period prescribed in paragraph (2), the certificate shall lapse.

(4) Where a provisional certificate of grant or a certificate of grant lapses under sub-regulation (3), the Service shall notify the aided person and issue a fresh certificate appointing an alternative legal aid provider.

24. (1) The Service may, pursuant to section 44 (1) (c) of the Act, refuse an application for legal aid if—

Refusal of application.

- (a) the matter in respect of which legal aid is sought is expressly excluded under the Act or these Regulations; or
- (b) the applicant does not meet the eligibility criteria prescribed in these Regulations.

(2) Where the Service refuses an application for legal aid in respect of a civil or criminal matter, the Service shall notify the applicant of its decision in writing stating—

L.N. 151/2010.

- (a) the reasons for refusal to grant legal aid;
- (b) the right to seek review of the decision of the Service and of appeal to the High Court; and
- (c) in relation to a civil matter, the applicant's right to sue as a pauper under Order 33 of the Civil Procedure Rules, 2010.

(3) Refusal of an application for legal aid in a civil matter does not defeat the applicant's right to sue as a pauper in accordance with Order 33 of the Civil Procedure Rules, 2010.

25. (1) The Service may, at any time, withdraw legal aid in respect of an aided person in accordance with section 52 (1) of the Act if the aided person—

Withdrawal of legal aid.

- (a) wilfully fails to comply with any requirement with regard to the information required to be given by the aided person;
- (b) knowingly makes a false statement in support of his application;
- (c) ceases to qualify for legal aid under the means test or other eligibility criteria;
- (d) fails to notify the Service of a change in the circumstances specified in section 46 (1) of the Act;
- (e) without reasonable cause, fails to appear in court in criminal proceedings, and a warrant for arrest is issued against him;
- (f) unreasonably refuses to submit to an alternative dispute resolution process or to accept a settlement;

- (g) fails to make a contribution specified as a condition for which legal aid is granted;
- (h) unreasonably or without lawful justification, terminates the services of the legal aid provider instructed on his behalf by the Service;
- (i) conducts himself in such a way as to frustrate or render the delivery of legal aid services impossible; or
- (j) wilfully fails to do anything reasonably required to be done by the aided person under the Act or these Regulations.

(2) In addition to the consequences of withdrawal of legal aid specified in section 53 of the Act, the aided person—

- (a) shall not be entitled to recover any contribution or portion thereof paid by him to the Service; and
- (b) shall be liable to pay to the Service the balance of any contribution outstanding at the time of withdrawal of legal aid.

(3) Sub-regulation (2) shall also apply where the aided person voluntarily withdraws from the legal aid scheme.

(4) Where the Service withdraws legal aid in accordance with section 52 of the Act, or where the aided person voluntarily withdraws from the legal aid scheme, the retainer payable to any paralegal or legal practitioner instructed by the Service on behalf of an aided person shall, except where the Director otherwise decides, immediately determine.

(5) The Service shall withdraw legal aid in relation to any matter for which legal aid ceases to be available by reason of change of national policy or legislation.

26. (1) The Service may terminate the services of a legal aid provider if—

- (a) the instructed legal aid provider withdraws legal aid services;
- (b) where the legal aid provider engages in professional misconduct;
- (c) if the legal aid provider ceases to be accredited under the Act or these Regulations;
- (d) the legal aid provider ceases to practice by reason of ill-health or other reasons that make it impossible for the legal aid provider to carry out their obligations as a legal aid provider; or
- (e) the legal aid provider fails to effectively discharge professional responsibilities in relation to the matter for which the provider was instructed.

(2) Where the Service terminates the services of a legal aid provider on any of the grounds specified in paragraph (1), the Service shall—

Termination of legal aid in certain cases.

- (a) issue a notice of termination of legal aid in Form NLAS 4 set out in the First Schedule;
- (b) appoint another legal aid provider to offer legal aid to the aided person; and
- (c) notify the aided person, in writing, of the change.

(3) In terminating the services of a legal aid provider under this regulation, the Service shall apply, with necessary modifications, the procedure set out in section 54 (2), (3), (4) and (5) of the Act.

27. (1) The Service may, of its own motion, review its decision—

Review of the decisions of the Service.

- (a) to grant legal aid;
- (b) on the conditions on which legal aid is granted;
- (c) to withdraw the grant of legal aid; or
- (d) to terminate the services of a legal aid provider.

(2) In exercise of its discretion under this regulation, the Service may—

- (a) assess the net monthly income and disposable capital of the aided person; and
- (b) if the aided person's net monthly income or disposable capital have increased, the Service may require the aided person to make a higher contribution to the Fund:

Provided that the total payment required to be made by the aided person to the Service shall not exceed the cost to the Service in respect of the matter to which the cost relates.

(3) Upon review, the Service may—

- (a) uphold its decision; or
- (b) grant legal aid on such terms and conditions as the Service may think fit.

28. An appeal made under section 55 of the Act shall be by a formal application made in accordance with the rules of procedure governing appeals, as prescribed under Order 42 of the Civil Procedure Rules, 2010.

Appeals against decisions of the Service.
L.N. 151/2010

PART III—ACCREDITATION OF LEGAL AID PROVIDERS

29. (1) A person is eligible for accreditation as a paralegal if the person—

Eligibility criteria for accreditation.

- (a) has completed a training course for paralegals that is approved by the Council of Legal Education;
- (b) is employed or supervised by an advocate or accredited legal aid provider; and
- (c) is a member of a duly registered association of paralegals.

(2) An advocate is eligible for accreditation as a legal aid provider if the advocate—

- (a) is an advocate of the High Court of Kenya; and
- (b) holds a valid annual practicing certificate.

No. 28 of 2013
No. 19 of 1990
Cap. 108

(3) A firm of advocates is eligible for accreditation as a legal aid provider if the firm is—

- (a) duly registered as a sole proprietorship or as a general or limited liability partnership; and
- (b) comprised of one or more advocates qualified for accreditation as a legal aid provider under sub-regulation (2).

No. 27 of 2012

(4) A public benefit organization, Non-Governmental Organization or faith-based organisation, is eligible for accreditation as a legal aid provider if the organization—

- (a) is duly registered as a public benefit organisation under the Public Benefit Organisations Act, 2013, a Non-Governmental Organization under the Non-Governmental Organizations Co-ordination Act, 1990, or a society under the Societies Act;
- (b) has adequate office facilities and relevant qualified personnel within the area in which it seeks to provide legal aid services; and
- (c) has in its employment at least one paralegal and one advocate qualified for accreditation as legal aid providers under these Regulations.

(5) A university or other institution is eligible for accreditation as a legal aid provider if the university or institution—

- (a) is accredited by the Council of Legal Education under the Legal Education Act, 2012 to provide legal education or training; and
- (b) has a full-time member of the law faculty who is an advocate of the High Court of at least seven years standing, in charge of the legal aid clinic.

(6) A State agency is eligible for accreditation as a legal aid provider if the agency has in its employment one or more paralegals or advocates eligible for accreditation as legal aid providers under these Regulations.

30. (1) A person who is eligible for accreditation as a legal aid provider under regulation 29 may apply to the Service for accreditation in Form NLAS 5 set out in the First Schedule.

Application for
accreditation.

(2) An application under paragraph (1) may be submitted to the Service at the branch of the Service nearest to the area in which the applicant is employed or has an established practice or place of business.

(3) An application for accreditation made by an advocate or paralegal under this regulation shall be accompanied by—

- (a) a written undertaking by the applicant to comply with these Regulations or other administrative procedures prescribed by the Service;
- (b) a valid tax compliance certificate;
- (c) an up-to-date curriculum vitae containing contact details of at least two character referees;
- (d) in the case of an advocate—
 - (i) a valid practising certificate; and
 - (ii) a certificate of good standing issued by the Law Society of Kenya;
- (e) in the case of a paralegal, proof of membership of a duly registered association of paralegals; and
- (f) the fees set out in the Second Schedule.

(4) An application for accreditation made by a public benefit organisation, faith-based organisation, university or State agency under this regulation shall be accompanied by—

- (a) a duly authenticated certificate of registration or instrument under which the applicant is established;
- (b) a written undertaking by the applicant to comply with these Regulations and any other administrative procedures prescribed by the Service;
- (c) a valid tax compliance certificate or certificate of exemption, as the case may be;
- (d) the applicant's profile containing—
 - (i) an outline of its governance structure; and
 - (ii) a brief biographical data of the paralegals, advocates or other qualified personnel who shall provide legal aid once the legal aid provider is accredited; and
- (e) the prescribed fee set out in the Second Schedule.

(5) On receipt of the application, the Service shall—

- (a) reject the application and notify the applicant of its decision in that regard stating—
 - (i) the grounds for rejection of the application;
 - (ii) the right to review pursuant to section 49 of the Act; and
 - (iii) the right of appeal pursuant to section 55 of the Act; or
- (b) grant the application and accredit the applicant as a legal aid provider whereupon the Service shall—

- (i) enter the particulars of the legal aid provider in the register of accredited legal aid providers; and
- (ii) issue the applicant with a Certificate of Accreditation.

(6) The accreditation of a legal aid provider shall take effect on the date on which the legal aid provider and the Service execute the accreditation agreement set out in the Third Schedule.

31. (1) A legal aid provider may apply to the Service for renewal of accreditation at least one month before the accreditation expires in Form NLAS 5 set out in the First Schedule.

Renewal of accreditation.

(2) On receipt of an application for renewal of accreditation, the Service shall—

- (a) assess whether the legal aid provider is able to offer legal aid in a proper manner; and
- (b) either renew the accreditation for a further period of one year or notify the legal aid provider, in writing, that his application is rejected.

32. (1) The Director may, in writing, request an advocate who is not registered as an accredited legal aid provider to provide legal aid in a matter that requires expertise that is not possessed by any of the accredited legal aid providers.

Exemption from accreditation.

(2) Upon receiving a request to provide legal aid under paragraph (1), the advocate shall, within forty-eight hours, inform the Director in writing of his acceptance or refusal of the request, as the case may be.

33. (1) Subject to regulation 29 (5), the Service shall provide the necessary technical assistance for the establishment and supervision of the operations of legal aid clinics in universities and institutions.

Provision of legal aid by universities and tertiary institutions.

(2) A law student in the final year of study may render legal aid in a legal aid clinic under the supervision of a qualified faculty member of the university or institution, provided that all legal documents shall bear the name and signature of the supervisor.

(3) The faculty member under whose supervision a law student offers legal aid shall bear personal professional responsibility for any act or omission of the student in the provision of legal aid.

34. (1) A legal aid provider may withdraw from the legal aid scheme by issuing a notice in writing to the Service.

Voluntary withdrawal from accreditation.

(2) On receipt of the notice of withdrawal under sub-regulation (1), the Service and the legal aid provider shall settle accounts in respect of fees and expenses due and payable to, or recoverable from, the legal aid provider as at the date of the notice.

(3) Upon withdrawal from the legal aid scheme, the legal aid provider shall, within seven days of withdrawal—

- (a) deliver the legal aid file in his possession to the Service; and
- (b) submit to the Director a report on the status of all incomplete work assigned to the legal aid provider.

(4) Upon withdrawal from the legal aid scheme under this regulation, the Service shall strike out the name of the legal aid provider from the register of accredited legal aid providers.

35. (1) Where the Service suspends the accreditation of a legal aid provider on any of the grounds specified in section 66 (1) of the Act, the legal aid provider shall, within seven days of receipt of the notice of suspension issued under section 66 (2) of the Act—

Duty of legal aid provider on suspension or cancellation of accreditation.

- (a) deliver any legal aid file in their possession to the Service when required so to do;
- (b) report to the Director on the status of all incomplete work assigned to the legal aid provider; and
- (c) render an account for the fees and disbursements, if any, paid to or by the legal aid provider on account of the matters assigned to them.

(2) Where the Service suspends the accreditation of a legal aid provider, it shall make an entry in the register of accredited legal aid providers stating—

- (a) the date of suspension;
- (b) the period for which the accreditation of the legal aid provider shall remain suspended;
- (c) the conditions, if any, to be met by the legal aid provider before reinstatement to the register of accredited legal aid providers; and
- (d) any other relevant matter relating to the suspension.

(3) The provisions of paragraph (1) shall apply, with necessary modifications, where the Service cancels the accreditation of a legal aid provider under section 67 of the Act.

(4) Where the Service cancels the accreditation of a legal aid provider, the Service shall, subject to a decision made on review pursuant to section 67 (4) of the Act, strike out the name of the legal aid provider from the register of accredited legal aid providers.

36. (1) A legal aid provider may, with the written approval of the Director, employ the services of an expert, private investigator or consultant, whose services are required for the effective discharge of legal aid services for which the legal aid provider is tasked.

Engagement of experts or consultants by legal aid providers.

(2) A request by a legal aid provider to employ the services of an expert, private investigator or consultant shall be made to the Director in writing and shall state—

- (a) the name, contact address and other particulars of the expert, private investigator or consultant;
- (b) the nature of the services required;
- (c) the estimated maximum cost of the service; and

(d) the reason for requiring the service.

(3) The expenses incurred in retaining the services of an expert, private investigator or under sub-regulation (1) shall be paid out of the Legal Aid Fund.

PART IV—ENFORCEMENT OF CONDITIONS FOR GRANT OF LEGAL AID

37. (1) Where the Service grants legal aid on condition that the aided person shall make a financial contribution to the Fund pursuant to sections 69 (1) (b) and 79 (2) (b) of the Act, the aided person shall pay into the Fund such amounts as are agreed and stated in the certificate of grant, subject to the limit set out in the Fourth Schedule.

Financial contribution by an aided person.

(2) An aided person shall not be granted legal aid unless he complies with the condition specified in paragraph (1).

(3) If legal aid is granted on condition that the aided person makes a financial contribution to the Fund, the amount stated in the grant may be paid in equal monthly instalments in advance and on such terms as the Service directs, until—

- (a) the amount of contribution is paid in full;
- (b) the termination of the trial or other proceeding; or
- (c) in a criminal case, the accused is convicted and sentenced to a term of imprisonment in consequence of which no further payment shall become due and payable.

(4) Where legal aid is granted for a maximum amount stated in the certificate of grant, the aided person shall be liable to the Service for any costs incurred in excess of the stated amount.

38. Where the aided person is awarded costs in civil proceedings, the legal aid provider shall—

Recovery of costs.

- (a) notify the aided person of the award;
- (b) deliver to the Service the certificate of costs issued under the hand and seal of the Registrar; and
- (c) deliver to the party from whom such costs are recoverable, or to his advocate, the certificate of costs referred to in paragraph (b).

39. Where an aided person is entitled to recover pecuniary damages or other property under a judgment, decree, order or settlement, the legal aid provider shall, unless the aided person has paid into the Fund the contribution specified in sections 69 (1) (b) and 79 (2) (b) of the Act—

Settlement where contribution is not made.

- (a) before payment to the aided person of any money recovered for the aided person, pay to the Fund an amount not exceeding the contribution due and payable by the aided person under the grant; or
- (b) before delivery to the aided person of any property or the title relating to the property, other than money recovered for the aided person, and subject to the approval of the Director—

- (i) ensure that the aided person charges the property in favour of the Service for the costs incurred in the proceedings or contribution due and payable by the aided person under the grant; and
- (ii) register the instrument of charge in the Register of Charges and submit the duplicate with notations of registration to the Director.

PART IV—PAYMENT FOR LEGAL AID SERVICES

40. (1) The fees payable to a legal aid provider shall be limited to those specified in the scale of fees prescribed by the Service in consultation with relevant professional bodies pursuant to section 75 (1) of the Act.

Fees payable to a legal aid provider.

(2) A legal aid provider shall not receive or accept a fee, gratuity or other compensation with respect to legal aid that exceeds the fees provided by the Service in accordance with paragraph (1).

(3) The fees and disbursements payable to a legal aid provider in a civil matter shall not exceed the amount awarded under a Certificate of Costs, if any, on account of party-to-party costs in favour of a successful aided person, or of the opposing party.

41. (1) A legal aid provider who completes the work assigned to the provider by the Service, or who ceases to act shall submit to the Director—

Submission of accounts and supporting documents.

- (a) an account of the fees and disbursements, in duplicate, showing the date upon which, each item of service was performed and certified in accordance with the certificate set out in the Fifth Schedule;
- (b) a copy of the certificate of grant issued by the Service to the aided person;
- (c) a written authorization to engage an expert, consultant or private investigator, if any, or of other relevant disbursements;
- (d) the accounts of an expert, consultant or private investigator, if any, engaged in the matter, and certified in accordance with the certificate of compliance set out in the Fifth Schedule;
- (e) a certified copy of the judgment, order or administrative decision given in determination of the matter in which the legal aid provider was engaged;
- (f) where, before the issue of the certificate of grant, the legal aid provider was engaged by the aided person to perform services with respect to the same matter—
 - (i) a detailed statement of the services rendered by the legal aid provider;
 - (ii) an account of disbursements made by the legal aid provider before the issue of the certificate of grant;

(iii) a statement of payments, if any, made by the aided person to the legal aid provider on account of their fees and disbursements; and

(g) other supporting documents that may be required by the Director.

(2) An account submitted under paragraph (1) shall set out in reasonable detail the services rendered and, where appropriate, detail the time actually spent, together with the fees and disbursements sought in accordance with the appropriate schedules of fees and disbursements, for each item of work.

(3) The disbursements referred to in paragraph (2) shall be limited to—

(a) court disbursements, including filing fees on account of pleadings, applications or other court process;

(b) out-of-pocket expenses incurred on account of day-to-day attendances and services, including transport expenses, postage and courier charges, reasonably incurred;

(c) fees and expenses incurred on account of expert opinion or evidence with the prior approval, in writing, of the Service;

(d) witness expenses incurred with prior approval, in writing, of the Service;

(e) fees payable for transcription of evidence by a third party engaged by the legal aid provider in accordance with regulation 36 with the prior approval, in writing, of the Service;

(f) court fees on account of the proceedings supplied by the Registrar to the legal aid provider; and

(g) any other fees or out-of-pocket expenses properly and reasonably incurred with the written approval of the Director in furtherance of the proceedings or matter in which the legal aid provider is engaged.

(4) Nothing in this regulation prevents a legal aid provider from incurring out-of-pocket expenses on account of any matter or proceeding without prior approval of the Director in emergency cases.

42. (1) A legal aid provider shall submit an account to the Director pursuant to regulation 41 within six calendar months of completion of the services to which the account relates.

Limitation of time for submission accounts.

(2) The Service shall not be liable for an account that is submitted after the time specified in paragraph (1) and the account shall not be taxed but shall be returned to the legal aid provider.

(3) Notwithstanding paragraph (2), the Director may, for good cause, extend, in writing, the time within which a legal aid provider may submit an account under regulation 41.

43. (1) A legal aid provider who incurs out-of-pocket disbursements in excess of ten thousand shillings may apply to the

Advance for disbursements.

Director for reimbursement in Form NLAS 6 set out in the First Schedule, before the submission of an account under regulation 41.

(2) The application under paragraph (1) shall set out the details of the disbursements for which reimbursement is sought.

(3) The Director shall reimburse the amount claimed by the legal aid provider under sub-regulation (1) if satisfied that—

- (a) the disbursements were paid by the legal aid provider;
- (b) the disbursements were necessary and proper; and
- (c) the legal aid provider has not received any reimbursement for the disbursements.

44. (1) A legal aid provider has no right of lien for his fees, charges or expenses on account of legal aid upon the property or legal documents in his possession belonging to an aided person.

Exclusion of lien in favour of legal aid provider.

(2) Nothing in these Regulations shall be considered to deprive a legal aid provider of his lien on the property or legal documents in his possession for the fees, charges and expenses that the aided person was liable to pay to him for professional services rendered before the issuing of a certificate of grant and not covered in the certificate of grant.

**FIRST SCHEDULE
FORMS**

Form NLAS 1

r. 7(1)

APPLICATION FOR LEGAL AID

Section 1: Applicants Personal Information

County

Date:.....

Name: Ref:

Sex: Female Male

ID.NO.....

Age:..... Date of Birth.....Email Address.....

Postal Address:..... Telephone

Residence:.....Other No.....

Level of Education: Primary Secondary Certificate Diploma Degree

Language: English Kiswahili Local

Proficiency level: Written Spoken

Employment Status: Casual Permanent Contract Unemployed

Occupation.....

Applicant's income per month: Kshs.....

Applicant's income Per day Kshs.....

Marital Status: Single Married Divorced. Widowed Separated

Vulnerability: Orphaned Divorced Child Woman Disability

Household income per month: Kshs.....

Household income Per day Kshs.....

Section 2: Nature of case:

Abuse of office (Administrative)	Criminal	Civil
<input type="checkbox"/> Intimidation <input type="checkbox"/> Threats, <input type="checkbox"/> Disappearance. <input type="checkbox"/> Wrongful detention <input type="checkbox"/> Corruption by formal government authorities <input type="checkbox"/> Access to legal documents. <input type="checkbox"/> Appeals of judicial	<input type="checkbox"/> Robbery with violence <input type="checkbox"/> Theft <input type="checkbox"/> Assault <input type="checkbox"/> Domestic violence. Sexual offences:	<input type="checkbox"/> Child abandonment/neglect <input type="checkbox"/> Wife neglect <input type="checkbox"/> Maintenance <input type="checkbox"/> Marital problems <input type="checkbox"/> Child custody/access <input type="checkbox"/> Divorce

review nature <i>Others (specify)</i>	<input type="checkbox"/> rape, <input type="checkbox"/> sexual harassment <input type="checkbox"/> defilement <i>Others (specify)</i>	<input type="checkbox"/> Succession <input type="checkbox"/> Burial dispute <input type="checkbox"/> Employment <input type="checkbox"/> Unpaid wages <input type="checkbox"/> Breach of contract <input type="checkbox"/> Debt <input type="checkbox"/> Housing <input type="checkbox"/> Land/property disputes <input type="checkbox"/> Eviction <input type="checkbox"/> Accident claims <input type="checkbox"/> Migrant (IDPs) <i>Others(specify)</i>
--	--	--

Has legal aid been sought on the same matter:(If, yes), state the number and the institution from which it was sought and the understanding of the client on the nature of assistance given

.....
 ...

If a case was filed,

- (a) When case was filed.....
- (b) In which court..... Case Number.....
- (c) Status: Part-heard Fresh . Finalized Don't know
- (d) Number of times applicant attended court
- (e) Representation: pro se pro bono paid-up advocate
- (f) Results: Judgment Stood Over Generally
 Dismissed Acquittal Don't know

SUMMARY OF CASE:

Tell us about your legal problem and include, for example:

- (a)What the legal problem is
- (b)Who is involved and how they are involved
- (c)How and when the legal problem started
- (d)What has happened since then
- (e)Financial details (Whether you have any income)
- (f) Any special circumstances that apply to your situation

.....

Section 3: Declaration

Are you making this application for yourself? Yes No

What authority do you have to make this application for someone else? (e.g. power of attorney, parent, guardian)

.....

I acknowledge it is an offence to:

- (a) make a false or misleading statement when applying for legal aid;
- (b) give a false or misleading statement when applying for legal aid; or
- (c) refuse to give information requested by the legal aid provider with the intent to deceive or mislead the legal aid provider.

I declare that all the information I have given is true and correct.

Applicant's or authorized person's signature.....

Date

Section 4: For Official Use Only

Application approved without conditions

.....

Application approved with conditions

.....

Application not approved

.....
.....
.....
.....
.....

Name of authorising officer Signature.....
Date.....

Form NLAS 2

r. 10(2)

CERTIFICATE OF PROVISIONAL GRANT OF LEGAL AID

Date:

To:

This is to notify you that your application for legal aid has been provisionally approved by the National Legal Aid Service and is subject to you fulfilling the conditions for eligibility for grant of legal aid under Part II and III of the Legal Aid (Application and Accreditation) Regulations, 2019.

Legal aid shall be granted by _____ (Name of legal aid provider) in relation to Civil/Criminal case number _____ filed at _____.

The legal aid shall include (give details of nature of legal aid)

This certificate is valid for a period of six (6) months from the date of issue.

Note that the Legal Aid Provider reserves the right to terminate provision of legal aid to you upon notice.

Authorised officer.....Signature.....
Date.....

Form NLAS 3

r. 22(1)

CERTIFICATE OF GRANT OF LEGAL AID

To:

This is to notify you that your application for legal aid has been approved by the National Legal Aid Service.

Legal aid shall be granted by _____ (name of legal aid provider) in relation to Civil/Criminal case number _____ filed at _____.

The legal aid shall include (give details of nature of legal aid)

Note: The legal aid provider reserves the right to terminate provision of legal aid to you upon notice.

Authorised officer.....Signature.....

Date.....

Form NLAS 4

r. 26(2)(a)

NOTICE OF TERMINATION OF LEGAL AID

To:

This is to notify you that the National Legal Aid Service has terminated provision of legal aid services to you in relation to Civil/Criminal case number _____ filed at _____.

The legal aid has been terminated due to (give details)

Authorised officer.....Signature.....

Date.....

Form NLAS 5

r. 30(1), 31(1)

APPLICATION FOR ACCREDITATION OF LEGAL AID SERVICE PROVIDERS

Section 1: Applicant's Registration Data

Name of Organisation

Date of Registration

Registration Certificate Number (attach Registration Certificate)

Nature of Business of the Organisation

Tax Registration Status (attach tax compliance certificate)

Section 2: Applicant's Contacts

Physical Address

Postal Address

Telephone

Email

Section 3: Applicant's Personnel

Number of Employees

Number of Advocates (attach current practicing certificates of all Advocates)

Number of paralegals (attach academic certificates of all paralegals)

Section 5: Declaration

Authorised person

--

I acknowledge it is an offence to:

- (a) make a false or misleading statement when applying for accreditation to provide legal aid services;
- (b) give a false or misleading statement when applying for accreditation to provide legal aid services; and
- (c) refuse to give information requested by the legal aid service with the intent to deceive or mislead the legal aid service.

I declare that all the information I have given is true and correct.

Authorised person's signature

--

Date

day/month/year

Section 6: For Official Use Only

Application approved without conditions

--

Application approved with conditions

--

Application not approved

--

Name and signature of authorising officer

--

Date

day/month/year

Form NLAS 6

r. 43(1)

CLAIM FORM FOR REIMBURSEMENT INCURRED BY ACCREDITED LEGAL AID SERVICE PROVIDERS

Section 1: Details of legal aid provider

Physical Address

Postal Address

Telephone

Email

Section 2: Period of Claim

From:

To:

Section 3: Itemised Legal Aid Matters Handled and Completed/Terminated

Date of completion/ Terminated	Case Number	Parties	Outcome

Add further details to support the claim

Section 6: Declaration

Authorised person

--

I acknowledge it is an offence to:

- (a) make a false or misleading statement when making claims to the Legal Aid Service;
- (b) give a false or misleading statement when making claims to the legal aid service ;
or
- (c) refuse to give information requested by the Legal Aid Service with the intent to deceive or mislead the Legal Aid Service.

I declare that all the information I have given is true and correct.

Authorised person's signature

--

Date

day/month/year

Section 6: For Official Use Only

Claim approved without conditions

--

Claim not approved

--

Name and signature of authorising officer

--

Date

Day/Month/Year

SECOND SCHEDULE

FEES

r.30(3) (f), (4)(d))

<i>Provider</i>	<i>Accreditation</i>	<i>Renewal</i>
Advocate		
0-3 years	1,000	1,000
3-5 years	3,000	1,500
5-10 years	5,000	2,000
Above 10 years	7,000	2,500
Law Firm	10,000	5,000
Paralegal Organisation	10,000	5,000
Civil Society or Public Benefit Organisation	10,000	5,000
University or other institution operating legal aid clinics	10,000	5,000
Government Agency	10,000	5,000

THIRD SCHEDULE

r. 30(6)

ACCREDITATION AGREEMENT FOR AN ACCREDITED LEGAL AID PROVIDER

Entered into between

(The accredited legal aid provider)

and

The National Legal Aid Service

Whereas:

A. the National Legal Aid Service has appointed the accredited legal aid provider to its register of accredited legal aid providers; and

B. the National Legal Aid Service is willing to instruct the accredited legal aid provider to render legal services on behalf of a successful applicant for legal aid;

Now therefore the parties agree that the following terms and conditions will apply to the relationship between the accredited legal aid provider and the National Legal Aid Service:

1. OBJECTS OF THE ACCREDITATION

The parties acknowledge:

- (a) the need to exercise a high sense of responsibility with regard to their respective roles.

- (b) the need to provide legal services in the most efficient and economic manner.
- (c) the need to ensure that quality legal services are provided to aided persons.
- (d) the need, as far as possible, to match appointed legal aid provider's qualifications, skills, experience and expertise with the types and complexity of the cases for which such provider is appointed.

2. WARRANTIES

The accredited legal aid provider warrants:

- (a) to accept appointment by the Service only where the matter in question falls within the special field of expertise of the legal aid provider;
- (b) that once appointed in a particular matter the legal aid provider will deal with the matter expeditiously;
- (c) that the legal aid provider is a member of a professional body; and
- (d) that the legal aid provider has a valid tax clearance certificate from the Kenya Revenue Authority.

3. INFRASTRUCTURE

The Legal Aid provider undertakes to ensure that:

- (a) there is adequate secretarial or reception facilities available to ensure telephone contact during office hours;
- (b) fax facilities are available;
- (c) there is internet services and an email system that can receive all documentation including instructions from the National Legal Aid Service;
- (d) provision will be made for typed accounts and reports;
- (e) there is reasonable and ready access for clients and provision exists for consultations and meetings;
- (f) a proper file management system is in place combined with an efficient diary system, which will enable files to be dealt with expeditiously and without unreasonable delay;
- (g) legal aid instructions sent by Short Message Service (SMS) will be responded to by SMS within the deadline specified in the SMS enquiring about the legal aid provider's availability.

4. UNDERTAKING TO COMPLY WITH THE NATIONAL LEGAL AID SERVICE REQUIREMENTS

The legal aid provider undertakes and agrees to comply with the Legal Aid Act and any regulations made thereunder, and Circulars issued by the National Legal Aid Service from time to time. In particular, the legal aid provider undertakes and agrees:

- (a) that in the event of a decision not to accept legal aid instruction or if the instruction is accepted the legal aid provider shall without delay sign and return the acceptance or rejection of the instruction to the National legal aid Service;
- (b) to submit timely and regular reports to the National Legal Aid Service;
- (c) that upon withdrawal of legal aid, the legal aid provider shall furnish proper and adequate reasons for withdrawal and to notify the client in writing;

- (d) to furnish the National legal aid Service with the outcome of the matter including Judgments together with copies of Orders of Court and Settlements as soon as the same become available;
- (e) to investigate on a regular basis the qualification of the client in terms of the means test and inform the Service in the event that a client no longer qualifies for legal aid;
- (f) to inform the service of any abuse by applicants to obtain legal aid by fraudulent or other means;
- (g) to ensure that the legal aid provider's mandate is not exceeded without the prior consent of the service;
- (h) to ensure the use of the prescribed Legal Aid Service documentation as contained in the Regulations, as applicable;
- (i) to ensure the protection of the client's rights and to prevent default judgment;
- (j) not to give any information regarding any legal aid matter to any media representative, without the written approval of the Service; and
- (k) to render an account in accordance with the provisions of the Regulations of the finalization of any matter, failing which the right to payment prescribes.

5. MONITORING, QUALITY CONTROL AND FEEDBACK

The legal aid provider agrees that:

- (a) where applicable, the provider's services will be monitored by a legal professional body and at the request of the service and the body may report on the quality of the services rendered by the legal aid provider;
- (b) the quality of the services rendered by the legal aid provider may be evaluated by the staff of the Service from time to time and that the legal aid provider shall permit such staff access to the files of aided persons;
- (c) an aided person represented by the legal aid provider shall be entitled to report to the Service on the quality of service rendered to him.

6. REMOVAL OF A LEGAL AID PROVIDER'S NAME FROM THE REGISTER OF ACCREDITED LEGAL AID PROVIDERS

The legal aid provider acknowledges that he has read the Legal Aid (General) Regulations and acknowledges that the National Legal Aid Service shall be entitled to remove his name from the register of accredited legal aid providers in appropriate circumstances in accordance with the procedure set out in the Regulations.

7. DAMAGES CLAIMS AGAINST ACCREDITED LEGAL AID PROVIDERS

- (a) The legal aid provider warrants that:
 - (i) he has read the Legal Aid (General) Regulations and agrees to be bound by the terms and provisions thereof; and
 - (ii) failure to comply with the Regulations may render the legal aid provider liable for damages in addition to any other remedy the service may enjoy in law.

- (b) the provisions of the Legal Aid Act and the regulations made thereunder shall apply to every legal aid instruction received by the accredited legal aid provider and all rights and obligations and any disputes arising there from;
- (c) in case of any dispute between the National Legal Aid Service and the accredited legal aid provider, the parties shall consider arbitration as a dispute resolution mechanism; and
- (d) the National Legal Aid Service will not effect payment of any account unless the accredited legal aid provider is in possession of and provides the National Legal Aid Service with a valid tax clearance certificate from the Kenya Revenue Authority.

SIGNED BY THE ACCREDITED LEGAL AID PROVIDER

NAME/NAME OF AUTHORISED OFFICER _____ SIGNATURE _____

DATE _____

WITNESSED BY:

1. NAME _____ SIGNATURE _____

DATE _____

2. NAME _____ SIGNATURE _____

DATE _____

SIGNED BY THE NATIONAL LEGAL AID SERVICE

NAME OF AUTHORISED OFFICER _____ SIGNATURE _____

DATE _____

WITNESSED BY:

1. NAME _____ SIGNATURE _____

DATE _____

2. NAME _____ SIGNATURE _____

DATE _____

FOURTH SCHEDULE

LIMIT OF CONTRIBUTION

r. 37 (1)

1. If the applicant's disposable income is Kshs. 300,000 per annum or less, the maximum income contribution payable to the Fund is Kshs. 5,000.
2. If the applicant's disposable income exceeds Kshs. 300,000 per annum, but does not exceed Kshs. 360,000 per annum, the maximum contribution payable to the Fund is Kshs. 12,000.
3. If the applicant's capital resources exceed Kshs 250,000, the contribution payable to the Fund is Kshs 10,000 plus ten per cent of the amount in excess of Kshs 250,000

FIFTH SCHEDULE

r. 41 (1) (a), (d)

CERTIFICATE OF COMPLIANCE

I certify that the disbursements set out in the accounts annexed hereto have been paid and that they were necessary and proper, and I have not received a reimbursement for any of them.

Signed by

Accredited legal aid provider

Made on the 20th August, 2021.

P. KIHARA KARIUKI,
Attorney-General.



