

REPUBLIC OF ZAMBIA

THE LEGAL AID ACT

CHAPTER 34 OF THE LAWS OF ZAMBIA

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CHAPTER 34

30 of 1967

34 of 1972

LEGAL AID

An Act to provide for the granting of legal aid in civil and criminal matters and causes to persons whose means are inadequate to enable them to engage practitioners to represent them; and to provide for matters connected with or incidental to the foregoing.

[Sections 1-19 and 21-27-3rd *July*, 1967]

[Section 20-20th *November*, 1967]

PART I

PRELIMINARY

1. This Act may be cited as the Legal Aid Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"court" shall include any court or tribunal before which a practitioner may represent a client, but shall not include a local court established under the Local Courts Act;

Cap. 29

"Director" means a public officer appointed as Director of Legal Aid;

"legal aid" has the meaning given to the expression in section *three*;

"legal aid assistant" means a public officer appointed as a Legal Aid Assistant or Senior Legal Aid Assistant;

"legal aid committee" means a committee established in accordance with the provisions of section *seven*;

"legal aid counsel" means a public officer appointed as a Legal Aid Counsel, Assistant Senior Legal Aid Counsel or Senior Legal Aid Counsel;

"practitioner" shall have the meaning assigned to the word in the Legal Practitioners Act;

Cap. 30

The Laws of Zambia

"specified offence" means an offence of a class specified by the Minister by statutory order for the purposes of section *nine*; and

"subordinate court" means a court constituted under the Subordinate Courts Act. Cap. 28

(As amended by No. 34 of 1972)

3. (1) Legal aid shall consist, on the terms provided for in this Act, of- Scope of legal aid

(a) the assistance of a practitioner including all such assistance as is usually given by a practitioner in the steps preliminary or incidental to any proceedings or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and

(b) representation in any court.

(2) Save as otherwise provided in or under this Act-

(a) the fact that assistance or representation is by way of legal aid shall not affect the relationship between or the rights of practitioner and client or any privilege arising out of such relationship; and

(b) the rights conferred by this Act on a legally aided person shall not affect the rights or liabilities of any other parties to any proceedings or the principles on which the discretion of any court is normally exercised.

PART II

APPOINTMENTS AND POWERS

4. (1) There shall be appointed as public officers a Director of Legal Aid and such legal aid counsel and legal aid assistants as shall be necessary for the proper administration of this Act:

Appointment and functions of Director and staff

Provided that no person other than one who has attended or is attending a course of post-graduate study required by the Council of Legal Education and provided by the Law Practice Institute shall be appointed as legal aid assistant.

(2) The functions of the Director under this Act may be exercised and performed by him in person or by legal aid counsel acting in accordance with his general or special directions.

(3) Save as otherwise in this Act provided, in the exercise of the powers conferred upon him by this Act the Director shall not be subject to the direction or control of any other person or authority.

(4) Subject to the provisions of section *thirteen*, whenever the Director grants legal aid to a person under this Act he shall, unless he allocates the matter in question to a practitioner under section *six*, provide that person with such of the services included in legal aid as may be required.

(As amended by No. 34 of 1972)

5. (1) Notwithstanding that he is not a practitioner, every legal aid assistant shall, in any matter in which any services included in legal aid are provided by the Director, be entitled to appear for and represent a legally aided person-

Right of audience of legal aid assistants

- (a) in any criminal proceedings before a subordinate court;
- (b) in any civil proceedings before a subordinate court;
- (c) in any proceedings in chambers; and
- (d) for the purpose of making any application in proceedings before a subordinate court, where the Director is representing a legally aided person and is unable to attend.

(2) The right of audience conferred on legal aid assistants by this section is in addition to and not in derogation of any other written law relating to the right of audience of a person who is not a practitioner.

(As amended by No. 34 of 1972)

6. (1) The Director may, by agreement with any practitioner, retain the services of that practitioner for the purpose of providing legal aid under this Act and every such agreement shall be upon and shall set out such conditions, including the remuneration of the practitioner, as the Minister may in each case approve.

Legal practitioners

(2) The Director may allocate to any practitioner, whether or not the practitioner has been retained under subsection (1), any matter in respect of which he has granted legal aid under this Act and the practitioner shall, save as otherwise provided by agreement between the practitioner and the Director, be entitled to the appropriate prescribed fees for his services.

(3) The Director may at any time in his discretion dispense with the services of any practitioner to whom any matter in respect of which legal aid has been granted has been allocated, except where legal aid has been granted under section *thirteen*.

7. (1) There is hereby established for each District a legal aid committee which shall perform such functions and exercise such powers in relation to legal aid in civil matters and causes as are imposed or conferred on the committee by or under this Act. Legal aid committees

(2) The Minister shall appoint the members of each legal aid committee.

(3) A member of a legal aid committee who is not a public officer shall be paid such allowance as may be prescribed.

(4) Subject to this Act and any regulations made thereunder, each legal aid committee shall regulate its own practice and procedure.

PART III

LEGAL AID IN CRIMINAL CASES

8. (1) Whenever any court commits a person for trial before the High Court and the court considers that the accused has insufficient means to enable him to engage a practitioner to represent him, the committing court shall issue a legal aid certificate. Legal aid in the High Court

(2) If an accused person before the High Court is unrepresented by a practitioner and the Court considers that there is insufficient reason why the accused should not be granted legal aid, the Court may issue a legal aid certificate.

9. (1) Whenever-

Legal aid in subordinate courts

(a) a person is-

- (i) charged with a specified offence; or
- (ii) charged with an offence other than a specified offence and any court before which he appears considers that, having regard to all the circumstances of the case, it is desirable in the interests of justice that the accused should have legal aid;

(b) the case is not to be the subject of a preliminary inquiry; and

- (c) any court before which the accused appears considers, after inquiry, that the accused has insufficient means to enable him to engage a practitioner to represent him;

the court shall issue a legal aid certificate.

(2) If during a preliminary inquiry held under the Criminal Procedure Code the court considers that- Cap. 88

- (a) having regard to all the circumstances of the case it is desirable in the interests of justice that the accused should be represented by a practitioner at that inquiry; and
- (b) the accused has insufficient means to enable him to engage a practitioner to represent him;

the court shall recommend to the Director that the accused be granted legal aid.

(3) Whenever a subordinate court refuses to grant a legal aid certificate to a person charged with an offence who applies to the court for legal aid, the court shall advise the accused of his right to apply to the Director and, where the offence charged is a specified offence, shall also advise the Director of the reasons for such refusal.

10. (1) The Director shall grant legal aid to any person in respect of whom a legal aid certificate has been issued under this Part.

Powers and duties of
Director in criminal
cases

(2) The Director may grant legal aid to any person with respect to whom a recommendation has been made by a court under section *nine*.

(3) Any person charged with an offence may apply to the Director for legal aid, whether or not an application for legal aid has been made to or refused by any court, and if the Director considers that-

- (a) having regard to all the circumstances of the case, it is desirable in the interests of justice that the accused person should be represented by a practitioner; and
- (b) the accused has insufficient means to enable him to engage a practitioner to represent him;

the Director may grant legal aid to that person.

PART IV

LEGAL AID IN CIVIL CASES

11. Application for legal aid to be granted under this Part may be made either to the Director or to a legal aid committee and, in the case where a legal aid committee considers an applicant to be eligible for legal aid under section *twelve*, it shall recommend to the Director that legal aid be granted accordingly.

Application for legal aid in civil cases

12. (1) Subject to subsection (2), the Director may grant legal aid to any applicant who in his opinion-

Powers of Director

- (a) is in need of or would benefit from the services of a practitioner in any civil case or matter affecting him; and
- (b) has insufficient means to obtain such services.

(2) Notwithstanding the provisions of subsection (1), the Director shall not grant legal aid for the purpose of proceedings in any court unless he is satisfied that-

- (a) an applicant has reasonable grounds for taking, defending or being a party to these proceedings; and
- (b) it is in the interests of justice that the applicant should be represented in these proceedings.

(3) The Director may of his own motion invite any person to apply for legal aid if it appears to the Director that such person may-

- (a) be eligible for legal aid under this section; and
- (b) be ignorant of his right to apply for legal aid.

13. (1) A court may at any time issue a special aid certificate to any person who is a party in any civil proceedings, whether at first instance or at appeal, in which the State is also a party if the court considers that-

Legal aid in civil actions where the State is a party

- (a) the person satisfies the conditions under which legal aid may be granted to him under this Act; and
- (b) it is in the interests of justice that the person should be represented by a practitioner other than the Director.

(2) The powers of a court under subsection (1) shall be exercisable whether or not legal aid has been applied for or granted under any other provision of this Act.

(3) In granting a special aid certificate under this section, the court may specify one or more practitioners and the Director shall thereupon allocate the representation of the person concerned to the practitioner or practitioners so specified who shall represent that person to the exclusion of any other practitioner.

(4) Where a special aid certificate has been granted under this section, the court may order the legally aided person to contribute to the cost of the legal aid afforded to him to such extent as seems to the court to be just and reasonable having regard to that person's means.

(As amended by No. 34 of 1972)

PART V

LEGAL AID IN APPEALS

14. Application for legal aid may be made either to the Director or to a legal aid committee by any person who-

Applications for legal aid in appeals

- (a) intends to appeal against his conviction or sentence or against any judgment or order affecting him which was made in any criminal cause or matter;
- (b) becomes a respondent in any appeal in a criminal cause or matter,
- (c) intends to appeal against any final judgment or order of a court in any civil cause or matter; or
- (d) becomes a respondent in an appeal in a civil cause or matter;

and in the case where application is made to a legal aid committee, the committee shall, if it considers the applicant eligible to be granted legal aid under this section, recommend to the Director that legal aid be granted accordingly.

15. The Director may grant legal aid to an applicant under section *fourteen* if he satisfied that-

Director may grant legal aid for appeals

- (a) the applicant has insufficient means to enable him to obtain the services of a practitioner to represent him in the appeal to which the application relates;
- (b) the applicant has reasonable grounds for instituting, defending or being a party to the appeal; and
- (c) it is in the interests of justice that the applicant should be represented in the appeal.

16. Where, in any appeal before the High Court or the Supreme Court, any party to the appeal is unrepresented and the court considers that a point of law of public importance is likely to arise in the appeal, the court may issue a legal aid certificate and the Director shall thereupon grant legal aid to that party for the purposes of the appeal.

Courts may direct the grant of legal aid for appeals

PART VI

FINANCIAL CONSIDERATIONS OF LEGAL AID

17. (1) Subject to subsection (2), the Director may, in granting legal aid to any person under this Act, require that person to contribute to the cost of that legal aid to an extent which seems to the Director to be just and reasonable having regard to that person's means.

Contributions towards legal aid

(2) No contribution made under subsection (1) shall exceed the appropriate sum calculated in the manner prescribed for this purpose:

Provided that different methods of calculating such sum may be prescribed for criminal and civil matters.

(3) Any sum remaining unpaid on account of the contribution required to be made under subsection (1) may be recovered as a civil debt as if the sum had been adjudged to be payable to the Republic as such by an order of a subordinate court of the first class.

(4) Where damages, costs or any property is recovered for a legally aided person, the costs incurred by the Director on behalf of the legally aided person reduced by any contribution made by such person under subsection (1) shall be the first charge in favour of the Republic upon the sum representing damages, costs or the property so recovered.

(As amended by No. 34 of 1972)

18. (1) In ascertaining the means of any person for the purpose of this Act, that person's income and his personal and real property shall be taken into account:

Ascertainment of means

Provided that no account shall be taken of his dwelling-house, his household furniture or the tools or implements of his trade.

(2) The subject-matter of any dispute in relation to which legal aid is granted shall not be taken into account in assessing a person's means.

(3) In assessing a person's means, such of his commitments as may be prescribed shall be deducted from the resources which would otherwise be his means.

19. (1) Where a court in respect of any proceedings before it awards costs to a legally aided person, the costs should be paid to the Director and only the Director shall be capable of giving good discharge for costs so payable.

Costs awarded to
legally aided persons

(2) For the purpose of receiving any costs payable to him in pursuance of subsection (1), the Director may take all such steps and pursue all such remedies as could have been taken or pursued by the legally aided person to whom costs were awarded and the costs of taking such steps or pursuing such remedies may be recovered and received by the Director.

(3) Costs paid to the Director in pursuance of this section shall be paid into and shall form part of the general revenues of the Republic:

Provided that a legally aided person may be paid out of the costs paid to the Director the amount, or such portion of the amount as the Director considers just and equitable, of any contribution made by him under section *seventeen*.

(4) Subject to this section, the costs awarded by a court to a legally aided person shall be the costs which would have been payable if the services performed under legal aid had been performed by a practitioner in private practice on the instruction of a client without benefit of legal aid, and such costs shall be taxed accordingly.

20. (1) Where any court awards costs against a legally aided person, those costs shall not, except where the court considers that there was no sufficient cause for that person to institute or defend the proceedings, exceed the contribution which that person was required to make or which the court considers he could reasonably have been required to make under section *seventeen*, whichever is the greater.

Costs awarded against
legally aided persons

(2) Costs awarded by a court against a legally aided person shall be paid out of moneys provided for the purpose by Parliament.

PART VII

MISCELLANEOUS

21. Where in any proceedings or contemplated proceedings, all the parties thereto apply for legal aid under this Act and the Director considers that the dispute is of a nature which could properly be the subject of arbitration, the Director may, as a condition of the granting of legal aid, require the parties to submit the dispute to arbitration.

Parties to submit to
arbitration in certain
cases

22. The Director may, at any time for any reason which he considers to be sufficient, terminate legal aid granted under this Act in any civil cause or matter:

Termination of legal aid

Provided that, in the case of legal aid granted under section *thirteen*, he shall do so only with the leave of the court.

23. For the purpose of the granting of legal aid under this Act, an application for legal aid which is properly made by any person on behalf of any other person shall be deemed to have been made by that other person.

Applications for legal aid on behalf of persons under disability

24. (1) Where legal aid has been granted under any of the provisions of this Act for the purpose of bringing or defending proceedings for the benefit of the estate of a deceased person or for the purpose of bringing proceedings under the Fatal Accidents Acts, 1846 to 1908, of the Parliament of the United Kingdom for the benefit of any dependant of a deceased person, and where it appears to the Director that there is no person able and willing to take probate or letters of administration, as the case may be, or to be appointed administrator under the provisions of section *thirty-six* of the Local Courts Act, then he may request the Administrator-General to apply to the court for a grant of administration for the limited purposes of bringing or defending such proceedings and, upon such application being made, it shall be lawful for the court in its discretion to appoint the Administrator-General to be an administrator for such limited purpose.

Administrator-General may be administrator ad litem in certain cases
Cap. 29

(2) The provisions of subsection (1) shall not be limited by the provisions of section *thirty-two* of the Administrator-General's Act.

Cap. 58

(3) Nothing in this section shall be deemed-

- (a) to limit the power of the Administrator-General to apply for a grant of probate or general or other letters of administration under any other written law; or
- (b) to render the Administrator-General personally liable in any way for any act done by him in pursuance of his duties as an administrator appointed under this section.

24A. (1) Notwithstanding anything to the contrary contained in this Act-

Person may refuse or dispense with legal aid

- (a) an accused person may (should he so decide) refuse legal aid which would otherwise be granted to him in furtherance of a legal aid certificate issued or to be issued under Part III;

- (b) a court may, on the application of a legally aided person-
- (i) cancel any legal aid certificate which has been issued in respect of that person;
 - (ii) cancel any recommendation made under subsection (2) of section *nine*;
 - (iii) permit him to conduct his own case or by a practitioner of his choice without legal representation which has been arranged by the Director.

(2) Where an accused person refuses legal aid or makes application under paragraph (b) of subsection (1), the court shall record reasons put forward by the accused person for the refusal or the application, as the case may be.

(3) Where in any proceedings commenced before a court an accused person has refused legal aid or the court has cancelled a legal aid certificate or a recommendation under paragraph (b) of subsection (1), the court shall continue with and conclude such proceedings without the legal aid.

(4) The cancellation of a legal aid certificate or the recommendation under paragraph (b) of subsection (1) shall not affect the right of the Director to require an accused person to contribute to the cost of such legal aid as may have been provided before the cancellation.

(No. 34 of 1972)

25. (1) Subject to subsection (2), the Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act and, without prejudice to the generality of the foregoing, such regulations may make provision for-

Regulations

- (a) anything which is to be or which may be prescribed under this Act;
- (b) the composition, powers and functions of legal aid committees and the practice and procedure to be observed by these committees;
- (c) the form of any certificate, any application and any other document which may be required for the purposes of this Act;
- (d) the manner in which the means of any person who may be eligible for legal aid shall be computed;
- (e) the manner of payment and recovery of any contribution required under section *seventeen* to be made by a person to whom legal aid is granted; and
- (f) reports and information required by the Director for the purposes of this Act to be supplied by public officers and other persons.

(2) In the event of any conflict between regulations made under this section and any rules of court made under the Subordinate Courts Act, the High Court Act or the Supreme Court Act, the provisions of the rules of court shall prevail.

Cap. 28
Cap. 27
Cap. 25

26. This Act shall bind the Republic.

Act to bind Republic

SUBSIDIARY LEGISLATION

THE LEGAL AID (GENERAL) REGULATIONS

ARRANGEMENT OF REGULATIONS

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SCHEDULE-Prescribed forms

SECTION 25-THE LEGAL AID (GENERAL) REGULATIONS

Statutory Instrument
264 of 1967
Act No.
13 of 1994

Regulations by the Minister

1. These Regulations may be cited as the Legal Aid (General) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"appropriate legal aid committee" means the legal aid committee of the District in which the applicant for legal aid resides or the legal aid committee of an adjoining District or any legal aid committee to which an application is referred by the Director under the provisions of regulation 7;

"factories inspector" means any person appointed an inspector under the provisions of section six of the Factories Act; Cap. 417

"labour officer" means any person appointed or deemed to have been appointed as a labour officer under the provisions of section *four* of the Employment Act, and includes the Principal Labour Officer, a senior labour officer, an Administrative Officer, a senior labour assistant and a labour assistant; Cap. 268

"secretary" means the secretary of an appropriate legal aid committee;

"social welfare officer" includes any Senior Social Welfare Officer, District Social Welfare Officer, Assistant Social Welfare Officer, or any person performing the duties of an Assistant Social Welfare Officer;

"Worker's Compensation Commissioner" means the Worker's Compensation Commissioner appointed under the provisions of section *thirteen* of the Workmen's Compensation Act. Cap. 271

3. The remuneration to be paid to a practitioner under section six (2) of the Act shall be as set out in the First Schedule. Practitioners' remuneration

4. Every legal aid committee established under the Act shall consist of the District Secretary, who shall be secretary to the committee, and such other persons resident in the District, not exceeding six in number, as the Minister may, by Gazette notice, appoint. Legal aid committee

5. (1) An application for legal aid may be made to any member of an appropriate legal aid committee. Applications to legal aid committee

(2) Whenever application is made to a member of a legal aid committee under the provisions of sub-regulation (1), the member shall, where necessary, assist the applicant to complete the prescribed form and shall state whether he has good reason to believe that the statements concerning the applicant's means made therein are true.

(3) Every such application shall, where it is made to a member other than the secretary, be forwarded by the member to the secretary.

6. (1) The secretary shall forward every application made to him or received by him to the Director with a statement whether or not he recommends the application. If the secretary does not recommend the application, he shall state his reasons for such refusal.

Duties of secretary

(2) The secretary may, if he thinks fit, for the purpose of making a recommendation under the provisions of sub-regulation (1), consult with any one or more members of the committee.

7. (1) Nothing in these Regulations shall be deemed to prohibit any person, and in particular any practitioner, from recommending to the Director any applicant or prospective applicant, who appears to such person to be in need of legal aid.

Application made other than through legal aid committee

(2) Where a recommendation in terms of sub-regulation (1) or an application for legal aid is made, other than through a legal aid committee, the Director may, if he thinks fit, refer the recommendation or application to an appropriate legal aid committee for such advice or information as he deems necessary.

8. (1) Every application for legal aid shall be in writing, and shall contain such information, and be accompanied by such documents as may be requisite to enable the appropriate legal aid committee-

How application is to be made

(a) to assess the means of the applicant; and

(b) to make recommendation to the Director for the grant or refusal of legal aid.

(2) The information referred to in sub-regulation (1) shall be sufficiently detailed to enable the Director to determine-

(a) the nature of the proceedings, claim or matter in relation to which legal aid is sought;

(b) the circumstances in which legal aid is sought;

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- (c) the question whether legal aid ought to be granted or not;
- (d) the applicant's means and contribution to be made by him, if any.

(3) The Director or the secretary of an appropriate legal aid committee may require any applicant to attend an oral interview for the purpose of-

- (a) clarifying information already submitted; or
- (b) providing further information.

(4) Where, in the opinion of the Director, compliance with the provisions of this regulation would cause difficulty, inconvenience or delay, the Director may accept an application presented in any form he deems sufficient in the circumstances.

9. No member of a legal aid committee shall be entitled to be remunerated for his services as such member; but a member who is not a public officer and who would otherwise not be entitled to a refund of expenses incurred in the discharge of his functions under these Regulations shall be reimbursed such expenses.

Remuneration to members of legal aid committee

10. (1) Where the Director terminates legal aid under section *twenty-two* of the Act, he may invite the party affected to make a fresh application on such altered conditions as the Director deems appropriate.

Alteration of conditions under which legal aid was granted

(2) Whenever the circumstances of any legally aided person have altered so that his means have, since the date on which he was granted legal aid, increased, he shall forthwith inform the Director of such alteration in his circumstances.

11. (1) Where legal aid is terminated, the person granted legal aid shall, as from the date of the termination, cease to be entitled to any further assistance in the cause or matter in respect of which legal aid was granted.

Effect of termination of legal aid

(2) Where legal aid is terminated because the person granted legal aid has-

- (a) wilfully failed to comply with any requirement as to the information to be given by him; or
- (b) knowingly made a false statement or representation in giving any information; or

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- (c) wilfully failed to do anything reasonably required to be done by him under the provisions of the Act or these Regulations;

he shall not be entitled to recover any contribution or portion thereof paid by him; and, further, he shall remain liable to pay to the Director the balance of any contribution still outstanding.

(3) Where legal aid is terminated in the circumstances mentioned in sub-regulation (2), the retainer to any practitioner instructed on behalf of a person granted legal aid shall, except where the Director otherwise decides, cease and determine.

12. In assessing the means of an applicant for legal aid-

Ascertainment of means

- (a) there shall be left out of account any income tax or personal tax paid or payable on income treated for the purpose of granting legal aid under the provisions of the Act or these Regulations as the income of the applicant;
- (b) there shall be allowed-
- (i) K400 in respect of the applicant's living expenses;
 - (ii) K100 in respect of any wife or child of his maintained by him;
 - (iii) K50 in respect of any other person maintained by him.

13. (1) Contributions to legal aid shall not exceed-

Contributions to legal aid

- (a) in a civil cause or matter-
- (i) the taxed costs in the proceedings to which the application relates, except that the Director may assess such contribution to approximate as nearly as possible to the costs that might be recovered on taxation; or
 - (ii) one-third of what remains of the income of the applicant after the deductions and allowances referred to in regulation 12 have been made;
- whichever is the lesser amount;
- (b) in any criminal cause or matter, the fees prescribed under regulation 3.

(2) Any contribution made in terms of paragraph (b) of sub-regulation (1) shall be paid into and shall form part of the general revenues of the Republic.

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(3) When a contribution under section *seventeen* of the Act is to be made, that contribution shall be paid within thirty days from the date on which the order for contribution was made, unless the Director specifies a longer period.

(4) Subject to the provisions of this regulation, contributions may be paid by such instalments as the Director may in each case determine.

14. (1) The Director shall maintain a clients' account at the Bank of Zambia, or such other bank as the Minister may specify. Clients' account

(2) The following moneys shall be paid into the clients' account:

- (a) all contributions made in civil cases; and
- (b) the proceeds of any judgment, order or compromise recovered on behalf of any person to whom legal aid is granted.

(3) There shall, on the instructions of the Director, be paid out of the clients' account-

- (a) such cash disbursements as might be necessary for the prosecution of the proceedings to which the account relates;
- (b) the proceeds of any judgment, order or compromise which are properly payable to the person granted legal aid;
- (c) any portion of a person's contribution which is refunded to him.

(4) Any unexpended sum remaining to the credit of a client's account on the termination of legal aid shall be paid into and shall form part of the general revenues of the Republic.

15. (1) Subject to the provisions of the Act and of these Regulations, an application for legal aid in respect of an infant or other person under disability shall be made on his behalf by a person of full age and capacity, and, where the application relates to proceedings which are required by rules of court to be brought or defended by a next friend or guardian *ad litem*, that person shall be the next friend or guardian *ad litem*, or, where the application relates to proceedings and they have not actually begun or to any claim, a person who, subject to any contrary order of the court, intends to act in either capacity when the proceedings begin or if the question of taking them were to arise.

Applications on behalf of infants or other persons under disability

(2) The person by whom the infant or person under disability applies for legal aid shall, for all purposes, be treated as an agent of the infant or person under disability and such person shall be deemed to have assumed all the obligations for which the infant or person under disability is liable under the Act and these Regulations:

Provided that the Director may in his discretion waive any obligation.

16. The Director may, in granting legal aid in any civil cause or matter, limit the grant to advice only or to any one or more steps to assert or dispute a claim; and, unless otherwise stated, the grant shall not be deemed to extend to any appeal (other than an interlocutory appeal) arising out of the proceedings in respect of which legal aid was granted. Grant of legal aid

17. (1) Whenever-

Reports and
information to be
furnished to Director

(a) any labour officer or factory inspector is acting in any matter in connection with which an employee may have a right to civil redress under any written law; or

(b) any social welfare officer is acting in any matter in connection with which any person may have a right to civil redress or a right enforceable by summary proceedings in any court; or

(c) the Workers' Compensation Commissioner is acting in any matter under and by virtue of the Workers' Compensation Act in connection with which an employee or worker may have a right to civil redress independently of a claim under the Workers' Compensation Act;

Cap. 271

such labour officer, factory inspector, social welfare officer or the Workers' Compensation Commissioner, as the case may be, may make a report to the Director setting out the circumstances in which such right has arisen.

(2) Without prejudice to the generality of the foregoing, the Workers' Compensation Commissioner shall report to the Director under sub-regulation (1)-

(a) all claims involving death or permanent disability;

(b) all claims which are not remediable under the Worker's Compensation Act;

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(c) any claim in which the owner or driver of a motor vehicle is involved.

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18. In any matter not provided for by these Regulations, the Director may adopt such course as appears best calculated to achieve or promote the objects of the Act. Saving as regards matters not provided for

19. The forms in the Schedule shall be used wherever applicable with such variation as circumstances may require. Prescribed forms

SCHEDULE

(Regulation 19)

PRESCRIBED FORMS

THE LEGAL AID ACT
(Section 8 (1))
DEFENCE CERTIFICATE

Criminal Cause No
IN THE SUBORDINATE COURT of the class for the
..... District, holden at

THE PEOPLE
versus

To: The Director of Legal Aid.
I certify that
.....
(insert name of person charged)
of and whose address is
.....
(village or town)
..... being a person
.....
(postal address)
who is committed by me for trial by the High Court for the offence of
has been examined by me as to his means and it appears that he has insufficient means to afford the services of a
practitioner.

I have this day granted him this legal aid certificate.

The prisoner is remanded on bail/in custody at the
..... prison.

Dated the day of, 19.....
.....
(Senior/Resident Magistrate)

THE LEGAL AID ACT
(Section 8 (2))
DEFENCE CERTIFICATE

Criminal Cause No

IN THE HIGH COURT FOR ZAMBIA
THE PEOPLE
versus

To: The Director of Legal Aid.

..... of
(insert full name of person charged)

..... who is remanded on bail/
in custody at prison and who has been
committed for trial before this Court for the offence of
..... is unrepresented. It appears to the Court that
there is insufficient reason why a defence certificate should not be granted to the person charged. I, a Judge of the High
Court, hereby grant this legal aid certificate.

Dated the day of, 19.....

.....
Judge

THE LEGAL AID ACT
(Section 9 (1) (a) (i))
DEFENCE CERTIFICATE

Criminal Cause No
IN THE SUBORDINATE COURT of the class for the
..... District holden at

THE PEOPLE
versus

To: The Director of Legal Aid.

I certify that
(full name of person charged)
of being a person charged
(town or village)
before this court with the specified offence of
..... has been examined by me as to his means and it
appears that he has insufficient means to obtain the services of a legal practitioner to represent him at his trial.

I have this day granted him this legal aid certificate.

The person charged is remanded on bail/in custody at the
..... prison.

Dated the day of, 19.....
(Senior/Resident Magistrate)

THE LEGAL AID ACT
(Section 9 (1) (a) (ii))
DEFENCE CERTIFICATE

Criminal Cause No
IN THE SUBORDINATE COURT of the class for the
..... District, holden at

THE PEOPLE
versus

To: The Director of Legal Aid.

.....
I certify that of
(full name of person charged)
.....
(town or village)

..... being a person charged
before this court with the offence of
..... has been examined by me as to his
means and it appears that he has insufficient means to enable him to obtain the services of a legal practitioner to
represent him at his trial;

AND, further, having regard to all the circumstances of the case, it is desirable in the interests of justice that the accused
should have legal aid.

I have this day granted him this legal aid certificate.

Dated the day of, 19.....
.....
(Senior/Resident Magistrate)

THE LEGAL AID ACT
(Section 9 (2))
DEFENCE CERTIFICATE

Criminal Cause No
IN THE SUBORDINATE COURT of theclass for the
..... District, holden at

THE PEOPLE
versus

To: The Director of Legal Aid.

.....
I certify thatof
(insert full name of person charged)
..... and whose address is
(village or town)
..... being a person
(postal address)

charged with the offence of.....
into which charge a preliminary inquiry is being held has been examined by me as to his means which appear insufficient
to enable him to engage a practitioner to represent him;

AND, further, having regard to all the circumstances of the case, it appears desirable in the interests of justice that the
accused should be represented by a practitioner at the inquiry.

I hereby recommend that the accused be granted legal aid.

The person charged is remanded on bail/in custody at the
..... prison.

Dated theday of, 19.....
.....
(Senior/Resident Magistrate)

THE LEGAL AID ACT
(Section 10 (3))
APPLICATION FOR LEGAL AID

To: The Director of Legal Aid.

I of
(full name of applicant)
having been charged with the offence of.....
and being now a prisoner at
/remanded on bail* hereby apply for legal aid.

I declare that I am employed at/unemployed/was at the time of my arrest (but no longer) employed
at*

I am/was* in receipt of wages/salary* at the rate of
per month.

I own property to the value of

I have not applied to any court for legal aid/I have been refused a defence certificate by the Senior/Resident
Magistrate.*

.....
(Applicant)

(FOR DEPARTMENTAL USE)

Legal aid granted/refused* subject to a contribution of fee units
Contribution of fee units paid/agreed* to be paid on
No. of official receipt
Signature of receiving officer

* Delete whichever is inapplicable.

(As amended by Act No. 13 of 1994)

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FORM 7 (CIVIL) L.A.

THE LEGAL AID ACT

(*Section 11*)

APPLICATION FOR LEGAL AID

(CIVIL FORM)

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NOTE.-If you have difficulty in filling in this form, ask any member of a legal aid committee in your District or your friend to help you.

To: The Director of Legal Aid.

(a) Full name
Address (in BLOCK CAPITALS)
(b) If the same write "as above"

(1) (a) I Mr./Mrs./Miss
of
(whose permanent address is) (b).....
born on the day of
....., 19.....
Occupation
Apply for legal aid under the provisions
of the Legal Aid Act, as follows:
(c)

(c) State the kind of legal aid you require. If court proceedings have begun or an appeal is involved make this quite clear.

(2) My opponent(s) is/are:
Name Address Occupation
(if known)
.....
.....
.....
.....

(d) Here write down the documents you enclose. If you have witnesses' statements, letters and papers relating to the matter, and if court proceedings have begun, all court papers in your possession and also names of witnesses must be included.

(3) I send herewith the following documents (N.B.-Read sidenote (d) before completing this.)
.....
.....
.....
.....

(4) (a) Have you previously applied for legal aid in any other matter?
(b) Have you previously applied for legal aid in this matter?
(c) Are you covered by insurance in respect of this matter? If so, give details.
(d) Has any attempt been made to settle the matter? If so, give details and enclose correspondence, especially if there has been correspondence with an Insurance Company.

(5) I understand that if legal aid is granted I may be required to make a contribution towards my costs.

(6) I undertake to supply any further information needed by the Director of Legal Aid in connection with my case, and to attend at any office of the Directorate of Legal Aid if and when required and to supply such evidence of my means as may be required.

(7) Further, I undertake to inform the Director of Legal Aid should the circumstances of my means alter for the better during the course of the proceedings for which I was granted legal aid.

(8) I understand that when a court awards costs in proceedings for which legal aid was granted, such costs shall be paid to the Director of Legal Aid who shall give good discharge for costs so payable.

(9) I authorise the Director of Legal Aid to take any step deemed necessary to procure an adjournment of proceedings or any forbearance on the part of any opponent to enable this application to be dealt with, but I understand that unless I am expressly informed to the contrary, my case (if proceedings have begun) will continue in accordance with any notice as to hearing or otherwise that I may have received.

(10) I declare that the information set out above and the statement of my case that follows are, to the best of my knowledge, information and belief, true. And I further declare that I am employed at/unemployed* and that my salary/wages* are per week/per month*. I possess real and personal property to the value of K excepting my dwelling-house, household furniture and effects and the tools and implements of my trade, as stated hereunder:

- 1.
- 2.
- 3.
- 4.

(Usual signature or thumbprint)

(Witness)

Date

* Delete words not applicable.

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FULL STATEMENT OF MY CASE

(Give details where possible. If personal injuries are involved give full details of the accident and of the injuries suffered and enclose Police Report where applicable.)

(Usual signature or thumbprint)

Date

(Continue, if necessary, on next page, signing and dating the page)

(Usual signature or thumbprint)

Date

(Continue, if necessary, on next page, signing and dating the page)

THE LEGAL AID ACT

(Section 14 (a) and (b))

APPLICATION FOR LEGAL AID

To: The Director of Legal Aid.

I
(full name of applicant)

of having been convicted of the offence of and sentenced to on the day of , 19..... by the subordinate court/High Court* sitting at and being now a prisoner at prison/on bail* hereby apply for legal aid to prosecute my appeal against conviction/sentence/conviction and sentence*.

I declare that I am employed at/unemployed/was at the time of my arrest (but no longer) employed at*

I am/was* in receipt of wages/salary* at the rate of per month.

I own property to the value of

(Applicant)

(FOR DEPARTMENTAL USE)

Legal aid granted/refused* subject to a contribution of* fee units

Contribution of fee units paid/agreed to be paid on

No. of official receipt

Signature of receiving officer

* Delete words not applicable.

(As amended by Act No. 13 of 1994)

THE LEGAL AID ACT
(Sections 11 and 14)
APPLICATION FOR LEGAL AID

(for completion by Legal Aid Committee)

To: The Director of Legal Aid.

I have seen the application for legal aid dated the day
of , 19..... by Mr./Mrs./Miss*
..... which is attached hereto.

I have good reason to believe that the statements made therein concerning the applicant's means are true (or as the
case may be).

Dated at on this day of , 19.....

.....
*Member of Legal Aid Committee for the
District of*

We hereby recommend/do not recommend* the application for the following reasons:

Dated at on this day of , 19.....

.....
*Secretary of Legal Aid Committee for
the District of*

* Delete words not applicable.

If the member has reason to believe that any statement made is not true, particulars must be given.

SECTION 25-THE HIGH COURT (LEGAL AID) (PRACTICE AND PROCEDURE) REGULATIONS

Statutory Instrument
379 of 1967

Regulations by the Minister

- 1.** These Regulations may be cited as the High Court (Legal Aid) (Practice and Procedure) Regulations. Title
- 2.** In these Regulations, unless the context otherwise requires-
- "Director" means the Director of Legal Aid;
- "legally aided person" means a person granted legal aid under the provisions of the Act.
- 3.** The Director or any practitioner instructed on behalf of any legally aided person shall, when he commences to act on behalf of such person in any civil proceedings in the Court, file a notice to that effect in Form 1 in the Schedule and shall serve a copy of the notice to every party to the proceedings. Notice of termination of legal aid
- 4.** Where proceedings are pending before any court in which any of the parties are legally aided and legal aid has been terminated under the provisions of section *twenty-two* of the Act, the Director shall file a notice of the termination of legal aid in Form 3 in the Schedule and serve a copy thereof on every party to the proceedings. Notice of termination of legal aid
- 5.** (1) The Director or any practitioner acting on behalf of a legally aided person shall before trial file a certificate of the assessment by the Director of the means of a legally aided person, together with an affidavit sworn by the legally aided person setting out his income from all sources and other facts relevant to the determination of his means for the purposes of the Act, and a certificate of the contribution required by the Director under section *seventeen* of the Act. A copy of any document so filed shall be served on every party to the proceedings. Certificate of assessment of means
- (2) Where the scope or conditions under which legal aid was granted has been altered under the provisions of regulation 10(1) of the Legal Aid (General) Regulations, no termination of legal aid need be filed by the Director or the practitioner acting on behalf of a legally aided person, but there shall be filed a notice in Form 2 in the Schedule setting out such altered scope or conditions, and a copy of such notice shall be served on every party to the proceedings.
- 6.** Every document filed or exhibited in any court under the provisions of these Regulations shall be part of the record of the court. Documents filed or exhibited

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7. Save as is otherwise provided for by or under the Act or by these Regulations, in any proceedings in any court to which a legally aided person is a party the court shall make such order as to any matter of practice or procedure as it thinks just. Savings as regards matters not provided for

8. The forms in the Schedule or forms to the like effect may be used for the purpose of giving any notice under these Regulations. Prescribed forms

SCHEDULE

(Regulation 8)

PRESCRIBED FORMS

THE LEGAL AID ACT
NOTICE OF GRANT OF LEGAL AID

IN THE HIGH COURT FOR ZAMBIA (At the District Registry)
BETWEEN

and

Plaintiff

or

Defendant

In the matter of

TAKE NOTICE that legal aid under the provisions of the above mentioned Act has been granted to in connection with the following proceedings:

TAKE FURTHER NOTICE that in consequence thereof the in these proceedings has been from the day of 19, a legally aided person under and by virtue of the aforesaid Act and the Regulations made thereunder.

Dated the day of, 19

.....
Director of Legal Aid
(or legal practitioner for the
.....)

THE LEGAL AID (GENERAL) REGULATIONS
NOTICE OF ALTERATION OF SCOPE
OR
CONDITIONS OF LEGAL AID
(General Title)

TAKE NOTICE that the scope and conditions of the grant of legal aid to
..... the above named
has been altered under the provisions of regulation 10 (1) of the Legal Aid (General) Regulations as follows

Dated the day of, 19
.....
Director of Legal Aid

THE LEGAL AID ACT
NOTICE OF TERMINATION OF LEGAL AID
(General Title)

TAKE NOTICE that the above named*
has from the day of , 19..... , ceased to be
a legally aided person in respect of the above mentioned matters/ proceedings.

Dated the day of , 19.....
.....
Director of Legal Aid

*Insert-Plaintiff, Defendant, Respondent, etc., as the case may require.