[Chap0401]CHAPTER 4:01

LEGAL AID

ARRANGEMENT OF SECTIONS

SECTION

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8 of 1964(N)
52 of 1966
G.N. 263/1969

An Act to make provision for the granting of Legal Aid to Poor Persons and matters connected therewith and incidental thereto

[14TH FEBRUARY 1964]

[Ch0401s1]1. Short title

This Act may be cited as the Legal Aid Act.

[Ch0401s2]2. Interpretation

In this Act, unless the context otherwise requires—

"Legal Aid Advocate" means a Legal Aid Advocate appointed under section 3, and includes the Principal Legal Aid Advocate so appointed;

"labour officer" shall have the same meaning as is assigned to it by the Labour Legislation (Miscellaneous Provisions) Act. Cap. 56:01

[Ch0401s3]3. Legal Aid Advocate

(1) There shall be appointed a Principal Legal Aid Advocate for Malawi, and so many Legal Aid Advocates as may from time to time in the opinion of the Minister be required for the purposes of this Act.

(2) Every Legal Aid Advocate shall be a public officer.

(3) The Principal Legal Aid Advocate shall, subject to the powers vested in the Minister, be responsible for the provision of legal aid to poor persons under this Act.

(4) The Principal Legal Aid Advocate shall be assisted in the provision of legal aid under this Act by such Legal Aid Advocates as may be appointed under subsection (1), and subject to the directions of the Principal Legal Aid Advocate every such Legal Aid Advocate shall undertake such legal aid as may be from time to time assigned to him by the Principal Legal Aid Advocate.

[Ch0401s4]4. Legal aid in criminal cases in the High Court

(1) Whenever a person is committed for trial by the High Court and, after inquiry, it appears to the magistrate who has committed such person that—

(a) it is in the interests of justice that such person should have legal aid at his trial; and

(b) such person has insufficient means to enable him to obtain the services of a legal practitioner to represent him at his trial,

the magistrate shall certify to the Principal Legal Aid Advocate that it is so in the interests of justice and that such person's means are so insufficient, and the Principal Legal Aid Advocate shall thereupon undertake the defence of such person as if he were a legal practitioner instructed by him.

(2) If, in the course of his inquiry regarding the means of the person committed for trial, it appears to the magistrate that such person has sufficient means to enable him reasonably to make a contribution towards the costs of the subsequent proceedings in the matter, he shall order such person to make a contribution in accordance with section 10.

(3) An order under this section for a contribution to be made shall be enforceable as if it were a judgment for the payment to the Principal Legal Aid Advocate of a civil debt.

[Ch0401s5]5. Legal aid in criminal cases in Magistrates' Courts

(1) Whenever a person is charged with an offence of a class which has been specified by the Minister by notice published in the Gazette for the purposes of this section and which is to be tried by a Resident Magistrate's Court, and it appears to the Resident Magistrate before whom he is charged that—

(a) it is in the interests of justice that such person should have legal aid at his trial; and

(b) such person has insufficient means to enable him to obtain the services of a legal practitioner to represent him at his trial,

such Resident Magistrate shall certify to the Principal Legal Aid Advocate that it is so in the interests of justice and that such person's means are so insufficient, and the Principal Legal Aid Advocate shall thereupon undertake the defence of such person as if he were a legal practitioner instructed by him.

(2) The Minister may, by notice published in the Gazette, extend the provisions of this section to offences tried by such other courts as may be specified in such notice.

(3) If, in the course of his inquiry regarding the means of the person referred to in subsection (1), it appears to the Resident Magistrate that such person has sufficient means to enable him reasonably to make a contribution towards the costs of the subsequent proceedings in the matter, he shall order such person to make a contribution in accordance with section 10.

(4) An order under this section for a contribution to be made shall be enforceable as if it were a judgment for the payment to the Principal Legal Aid Advocate of a civil debt.

[Ch0401s6]6. Representation in other criminal cases

Whenever a person is charged with an offence to which sections 4 and 5 do not apply, the Principal Legal Aid Advocate may, if he is satisfied that—

(a) for special reasons it is in the interests of justice that such person should have legal aid at his trial; and

(b) such person has insufficient means to enable him to obtain the services of a legal practitioner to represent him at his trial,

undertake the defence of such person as if he were a legal practitioner instructed by him.

[Ch0401s7]7. Legal aid in civil cases

(1) Any party or prospective party to a civil cause or matter instituted or intended to be instituted in the High Court or in a Resident Magistrate's Court may apply to the Principal Legal Aid Advocate for him to undertake the legal representation of the party concerned in respect of such cause or matter.

(2) The Principal Legal Aid Advocate, upon receiving an application under subsection (1), may if he is satisfied that—

(a) the applicant has reasonable grounds for instituting or for defending the proceedings to which the application relates;

(b) it is in the interests of justice that the applicant should have legal aid for the purpose of those proceedings; and

(c) the applicant has insufficient means to enable him to obtain the services of a legal practitioner to represent him in respect of such proceedings,

undertake the legal representation of the applicant in respect of such proceedings as if he were a legal practitioner instructed by the applicant.

(3) The Minister may, by notice published in the Gazette, extend this section to civil cases or matters in respect of such other courts as may be specified in such notice.

(4) The civil causes and matters to which this section applies hall be all causes and matters other than causes or matters within the jurisdiction of a Traditional Court and such other classes of causes and matters as shall be specified by the Minister by notice published in the Gazette.

[Ch0401s8]8. Labour officers acting under the Labour Legislation (Miscellaneous Provisions) Act

Where a labour officer commences to act for a party in a civil matter under section 4 (1) (h) of the Labour Legislation (Miscellaneous Provisions) Act, he shall forthwith inform the

Principal Legal Aid Advocate and shall at all times in respect of the matter concerned be subject to his control. Cap. 56:01

[Ch0401s9]9. Legal aid in appeals

(1) Whenever a person—

(a) desires to appeal from a conviction or sentence imposed by any court in a criminal cause or matter;

(b) desires to appeal from any final judgment or order in any civil cause or matter to which section 7 (4) applies; or

(c) becomes the respondent in an appeal in respect of any civil cause or matter to which section 7 (4) applies,

such person may apply to the Principal Legal Aid Advocate for legal representation in respect of the appeal concerned.

(2) Upon receipt of an application under subsection (1) the Principal Legal Aid Advocate may, if he is satisfied that—

(a) the applicant has reasonable grounds for instituting or for defending the appeal to which the application relates;

(b) it is in the interests of justice that the applicant should have legal aid for the purposes of that appeal; and

(c) the applicant has insufficient means to enable him to obtain the services of a legal practitioner to represent him in respect of that appeal,

thereupon undertake the legal representation of the applicant in respect of such appeal as if he were a legal practitioner instructed by the applicant.

[Ch0401s10]10. Contributions to legal aid and liability of aided person for costs of other persons

(1) Where the Principal Legal Aid Advocate, in granting legal aid under section 6, 7 or 9 as the case may be, is satisfied that the person who has applied for legal aid has sufficient means to enable him reasonably to make a contribution towards the costs of the proceedings concerned, the Principal Legal Aid Advocate may require such person to make a contribution towards the costs.

(2) The amount of any contribution ordered by a magistrate under section 4 or 5 or required by the Principal Legal Aid Advocate under subsection (1) shall not exceed in any case such sum as may be prescribed.

(3) The Principal Legal Aid Advocate and the aided person shall have a right of appeal to the Registrar of the High Court against an order made by a magistrate under section 4 or 5 and the aided person shall have a similar right of appeal against the requirement of the Principal Legal Aid Advocate for a contribution to be made or the amount thereof, when legal aid is granted for an appeal in a criminal cause or matter.

(4) Where in any proceedings an order or agreement for the recovery of any property, damages or other amount is made in favour of an aided person there shall be a first charge on such property, damages or other amount for the payment of any contribution due from such

person in respect of such proceedings and for the payment of the amount by which such contribution is exceeded by the net liability for costs incurred on behalf of such person.

(5) Any sums recovered in any proceedings by virtue of an order or agreement for costs in favour of an aided person shall be paid to the Principal Legal Aid Advocate.

(6) The liability of an aided person by virtue of an order for costs made against him with respect to proceedings in which he has received legal aid shall not exceed the amount (if any) which is a reasonable one for him to pay having regard to all the circumstances:

Provided that any sum received by the Principal Legal Aid Advocate by way of contribution to the costs of those proceedings from the aided person ordered to pay costs shall be applied in the first place towards payment of the costs ordered to be paid by that aided person.

(7) If the contribution made by a person in respect of any proceedings is more than the net liability for costs incurred on his behalf, the excess shall be repaid to him.

(8) A person who fails to disclose his means or who gives false information regarding his income to a magistrate or to the Principal Legal Aid Advocate shall be liable to a fine of K200 and to imprisonment for twelve months.

(9) In this section—

(a) references to the net liability for costs of any proceedings refer to the amount of the sums paid or payable on account of an aided person and not recouped by sums which are recovered by virtue of an order or agreement for costs made in favour of such person with respect to the proceedings;

(b) "aided person" means a person in receipt of legal aid.

[Ch0401s11]11. Certain appeals

(1) Where a magistrate refuses to issue a certificate under section 4 or a Resident Magistrate or other court refuses to issue a certificate under section 5 and the accused person states in the prescribed manner that he wishes to appeal against such refusal, the magistrate, Resident Magistrate or other court, as the case may be, shall forthwith notify the Registrar of the High Court and the Principal Legal Aid Advocate in writing of the appeal and shall include in such notification the reasons for his refusal.

(2) Upon receipt of a notification made under subsection (1), the Registrar of the High Court may, after consulting the Principal Legal Aid Advocate, dismiss the appeal or may direct that such certificate be issued or inquiry be made as appears to him to be just.

(3) Where the Principal Legal Aid Advocate refuses to undertake the legal representation of a person who desires to appeal from a conviction or sentence in a criminal cause or matter, such person may appeal to the Registrar of the High Court in such manner as may be prescribed.

[Ch0401s12]12. Powers of Minister

(1) Notwithstanding any other provision of this Act, the Minister may order the Principal Legal Aid Advocate to undertake or not to undertake the legal representation of any person in respect of any legal proceedings, whether such proceedings are proceedings to which any other provision of this Act applies or not, if the Minister is satisfied that such order is in the interests of justice.

(2) An order made by the Minister under subsection (1) shall be final.

[Ch0401s13]13. Instruction of private legal practitioners

(1) If in any case the Principal Legal Aid Advocate is unable either personally or through a Legal Aid Advocate to act on behalf of any person under this Act, or if for any other reason he is satisfied that the needs of justice so require, he may instruct a legal practitioner to act on behalf of such person, and may pay such legal practitioner such fees as may be prescribed.

(2) Any legal practitioner instructed to act under subsection (1) shall, in respect of the proceedings concerned, be subject to the directions of the Principal Legal Aid Advocate.

[Ch0401s14]14. Regulations

(1) The Minister may make regulations for the better carrying into effect of this Act, and in particular and without prejudice to the generality of the foregoing such regulations may provide for the following—

(a) the forms of certificate issued under sections 4 and 5;

(b) the forms of application for aid under sections 7 and 9;

(c) the amounts which a person may be required to contribute towards the costs of legal aid and the recovery or refund of such amounts;

(d) the fees which may be paid to legal practitioners under section 13;

(e) the assistance which may be required by the Principal Legal Aid Advocate for the purposes of this Act from such other public officers, and from such other classes of persons as may be prescribed;

(f) the costs which are to be paid by or to either party to any civil proceedings, including an appeal, in respect of which Legal aid is provided under this Act;

(g) appeals to the Registrar of the High Court against an order or direction for contribution.

(2) Regulations made by the Minister under subsection (1) may provide for the costs of Principal Legal Aid Advocate being taxed or otherwise assessed on the same basis as if the person in receipt of legal aid had agreed to pay to him the reasonable costs to which a private legal practitioner would be entitled in accordance with the rules for the taxation of costs, and may provide for termination of legal aid by revocation or discharge of a legal aid certificate or otherwise.

SUBSIDIARY LEGISLATION

SPECIFIED OFFENCES NOTICE

under s. 5

G.N. 74/1964(N)

The Minister has specified the offences set forth in the Schedule as being offences for the purposes of section 5 (1) of the Act.

SCHEDULE

Offence	Penal Code	
Seditious offences	Section	51 (1)

Riot " 71
Rioting after proclamation " 76
Riotously demolishing buildings, etc." 78
Riotously preventing the sailing of ship " 80
Proposing violence at assemblies " 87
Intimidation " 88
Conspiracy to defeat justice and interference with witnesses" 109
Rape " 132
Attempted rape " 134
Indecent assault on females " 137 (1)
Unnatural offences " 153
Indecent assault on boys under fourteen " 155
Indecent practices between males " 156
Incest by males " 157
Incest by females " 158
Libel " 200
Robbery " 300
Attempted robbery " 302
Obtaining goods, etc., by false pretences " 319
Obtaining execution of a security by false pretences " 320
Obtaining credit, etc., by false pretences " 322
Forgery " 356
Forgery of wills " 357
Forgery of judicial or official documents " 358
Forgery, etc., of stamps " 359
Uttering false documents " 360
Uttering cancelled or exhausted documents " 361
Procuring execution of documents by false pretences " 362
Obliterating crossings on cheques " 363
Making documents without authority" 364
Demanding property upon forged testamentary instruments " 365
Importing or purchasing forged notes" 366
Falsifying warrants for money payable under public authority " 367
Falsification of register " 368
Conspiracy to commit a felony " 404
Conspiracy to commit a misdemeanour " 405
Other conspiracies " 406
Accessories after the fact to any offences set forth in this Schedule " 408409

MOTOR MANSLAUGHTER (REPRESENTATION) ORDER

under s. 12 (1)
G.N. 154/1964

The Minister has ordered that Legal Aid Advocate shall not undertake legal representation of any person charged with manslaughter contrary to section 208 of the Penal Code where that charge arises out of the driving a motor vehicle, unless the Minister specifically authorizes such legal representation in any particular case where complicated legal questions or the interests of justice make such representation desirable. Cap. 7:01

LEGAL AID REGULATIONS
under s. 14
G.N. 46/1967

1. Short title

These Regulations may be cited as the Legal Aid Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"aided person" means a person in receipt of legal aid;

"contribution" means a contribution to the costs of the proceedings or matter in respect of which legal aid is given or to be given;

"Legal Aid Advocate" includes the Principal Legal Aid Advocate.

3. Legal Aid Certificate and order for contribution

(1) Every certificate and order by a magistrate under section 4 of the Act shall be in Form L.A.1 in the First Schedule.

(2) Every certificate and order by a Resident Magistrate under section 5 of the Act shall be in Form L.A.2 in the First Schedule.

(3) Every such certificate and order shall be prepared in triplicate. One copy shall be served without delay on the aided person and another copy shall be so served on the Principal Legal Aid Advocate.

4. Application for Legal Aid

(1) An application for legal aid under section 4 or 5 of the Act shall be made orally. If the Magistrate to whom such application is made considers that it is in the interests of justice that the applicant should have legal aid at his trial he shall require the applicant to state what his means consist of and shall record the answers given in a file separate from the case record.

(2) Every application for legal aid under section 7 or section 9 (1) (b) or (c) of the Act shall be in Form L.A.3 in the First Schedule.

(3) Every application for legal aid under the provisions of section 9 (1) (a) of the Act shall be in Form L.A.4 in the First Schedule.

(4) Every applicant for legal aid shall furnish such information regarding his income and disposable capital as shall be required by the Magistrate to whom the application is made or by the Principal Legal Aid Advocate, and every aided person shall from time to time inform the Principal Legal Aid Advocate of any alteration in the amount of his means.

5. Contributions to Legal Aid

(1) An applicant for legal aid who has a salary or income of an amount shown in the first column of paragraph 1 of the Second Schedule shall be deemed, in the absence of special circumstances, to have sufficient means to enable him reasonably to make an income contribution of the amount set out opposite to that person's salary or income in the second column of such paragraph.

(2) An applicant for legal aid who has, or whose spouse has, disposable capital shall be deemed, in the absence of special circumstances, to have sufficient means to enable him reasonably to make a capital contribution of the amount specified in paragraph 2 of the Second Schedule.

(3) For the purposes of subregulations (1) and (2) the normal family expenses of the applicant shall not be regarded as special circumstances.

(4) The maximum contribution to be made by an applicant for legal aid or by an aided person shall be the total of an income contribution and a capital contribution calculated in accordance with the Second Schedule.

(5) A contribution may be ordered or required to be paid in one sum or by instalments and the order or requirement shall state the date before which the contribution or each instalment thereof is to be paid.

(6) If any alteration occurs in the means of an aided person before the termination of the proceedings in respect of which legal aid is given the Principal Legal Aid Advocate may direct an increase or reduction in the amount of the contribution to be made.

6. Appeals to Registrar from Magistrate or Resident Magistrate

(1) An appeal by an aided person under section 10 (3) of the Act against an order for contribution or as to the amount thereof may be made orally in court immediately after the making of the order or in writing within 14 days of the date of such order. An appeal by the Principal Legal Aid Advocate against the amount fixed for contribution shall be made in writing within 14 days of the date of the service of the order on him. The Magistrate, Resident Magistrate or other court, as the case may be, shall forthwith notify the other party to the appeal and the Registrar of the High Court in writing of the appeal and shall forward with such notification a copy or note of the application for legal aid, of any information supplied by the applicant regarding the applicant's income and disposable capital and of the reasons for fixing the amount of the contribution.

(2) Upon receipt of a notification made under subregulation (1), the Registrar of the High Court may, after such inquiry as he thinks just, dismiss the appeal, revoke the order for contribution or reduce or increase the amount of contribution ordered.

(3) An appeal under section 11 (1) of the Act may be made orally in court immediately after the refusal to issue a certificate or in writing within 14 days after the date of such refusal.

7. Appeals to Registrar from Principal Legal Aid Advocate

(1) An appeal under section 10 (3) of the Act against a requirement of the Principal Legal Aid Advocate for a contribution to be made or the amount thereof and an appeal under section 11 (3) shall be made to the Principal Legal Aid Advocate in writing not more than 14 days after the

day on which the aided person is informed of the requirement of contribution, or on which the convicted person is informed of the refusal by the Principal Legal Aid Advocate to undertake the representation of such person, as the case may be. The Principal Legal Aid Advocate shall forthwith notify the Registrar of the High Court in writing of the appeal and shall include in or with such notification a copy of the application for legal aid and—

(a) in the case of an appeal under section 10 (3), a copy or note of the information supplied by the applicant regarding the applicant's income and disposable capital and of the reasons for fixing the amount of the contribution;

(b) in the case of an appeal under section 11 (3), the reasons for his refusal to undertake the representation of the applicant.

(2) Upon receipt of a notification made under subregulation (1), the Registrar of the High Court may, after such inquiry as appears to him to be just, dismiss the appeal or—

(a) in the case of an appeal under section 10 (3), revoke the requirement of contribution or reduce the amount of contribution required;

(b) in the case of an appeal under section 11 (3), direct that such certificate be issued and contribution be made as appears to the Registrar to be just.

8. Fees and contribution in criminal cases

(1) Where the Principal Legal Aid Advocate instructs a legal practitioner under section 13 of the Act for the purposes of a criminal trial or appeal, the Principal Legal Aid Advocate may pay fees to such legal practitioner in accordance with the Third Schedule.

(2) Where Legal Aid Advocate undertakes the representation of an aided person in a criminal trial or appeal, the amount of the fees which would be payable in accordance with the Third Schedule to a legal practitioner in respect of such representation shall be deemed to be sums paid or payable on account of that aided person for the purposes of section 10 (9) of the Act.

9. Fees, costs and contribution in civil cases

(1) In all civil proceedings to which an aided person is a party the court shall make an order for the taxation of the aided person's costs:

Provided that, with the agreement of all parties to any proceedings and of the Legal Aid Advocate or legal practitioner acting for an aided person in such proceedings, the court may make no order for taxation of costs.

(2) The costs of an aided person shall be taxed in accordance with the usual rules of taxation as if the aided person had agreed with the Principal Legal Aid Advocate to pay the reasonable costs, charges and expenses to which a private practitioner would be entitled for the work done.

(3) Nothing in subregulation (2) shall affect the discretion of the Court in making orders as to costs in civil proceedings. Where the Court makes an order that the aided person shall recover his costs of any proceedings from any other party thereto, the amount to be recovered shall not be limited to such aided person's liability to make a contribution to legal aid but the

costs shall be taxed in accordance with subregulation (2) and shall be deemed to have been incurred by the aided person.

(4) Nothing in this regulation shall be taken to affect the contribution towards costs which the aided person is required to make; and, for the purposes of section 10 (9) of the Act, any costs taxed under subregulation (2) which are attributable to work done by Legal Aid Advocate shall be deemed to be sums paid or payable on account of the aided person.

(5) Where in any civil proceedings an aided person is ordered to pay the costs of any of the other parties to such proceedings the court may direct an inquiry as to what is a reasonable sum for the aided person to pay in all the circumstances.

(6) Where the Principal Legal Aid Advocate undertakes work of a civil nature for an aided person which does not result in court proceedings and has required the aided person to make a contribution to the costs of such work, the aided person may, if he considers that the costs which would be allowed on taxation would be less than the contribution he has been required to make, request such costs to be taxed. If such a request is made, the Principal Legal Aid Advocate shall submit to the Registrar of the High Court a bill of costs, and such bill shall be taxed by the Registrar on the basis set out in subregulation (2).

(7) Where the Principal Legal Aid Advocate instructs a legal practitioner under section 13 of the Act for the purpose of any civil proceedings, subregulation (2) shall apply and the costs payable by the Government to the practitioner shall be the full amount allowed on taxation of costs on account of—

(a) disbursements by the legal practitioner; and

(b) profit costs in respect of work done by the legal practitioner.

(8) Where in any proceedings an order or agreement such as is referred to in section 10 (4) or 10 (5) of the Act is made, the Principal Legal Aid Advocate may take steps on behalf of the aided person to enforce such order or agreement. The Principal Legal Aid Advocate shall retain or receive on behalf of the Government out of the amounts recovered by him or the aided person—

(a) any sum paid by virtue of an order or agreement for costs made in favour of the aided person;

(b) a sum equal to the amount with which any property, damages or other amount is charged in accordance with section 10 (4) of the Act;

(c) any costs of recovery by the Principal Legal Aid Advocate of the sums set out in paragraphs (a) and (b) above,

and shall pay any balance to the aided person.

10. Termination and revocation of legal aid

(1) Legal Aid granted in civil proceedings may be terminated or revoked by the authorities, and in the circumstances, specified in this Regulation.

(2) The Principal Legal Aid Advocate may terminate legal aid—

(a) at any time at the request of the aided person; or

(b) where the aided person has been required to make a contribution and any payment in respect thereof is more than twenty-one days in arrear; or

(c) if he is satisfied that the proceedings for which legal aid has been granted have been disposed of; or

(d) if he is satisfied that the aided person has required the proceedings to be conducted unreasonably so as to incur unjustifiable expense to the Government or has required unreasonably that the proceedings be continued:Provided that legal aid shall not be terminated under this paragraph until notice has been served on the aided person that the Principal Legal Aid Advocate may do so and that he may show cause why legal aid should not be terminated; or

(e) on being satisfied—

(i) that the aided person has died, or

(ii) that the aided person has had a receiving order made against him.

(3) Where the Principal Legal Aid Advocate is satisfied that an aided person has wilfully failed to comply with any provision as to the information to be furnished by him, or in furnishing any such information has knowingly made a false statement or false representation, he may, if he thinks fit—

(a) where such omission or act occurred prior to the grant of legal aid revoke such grant; or

(b) where such omission or act occurred after the grant of legal aid terminate legal aid from the date upon which such omission or act occurred; or

(c) in the case of failure by an aided person to provide additional information revoke the grant, whether such omission or act occurred prior to or after the grant of legal aid.

(4) At any time during the hearing of any proceedings to which an aided person is a party the court may, upon application by or on behalf of any other party to the proceedings or by or on behalf of the Principal Legal Aid Advocate, consider whether the aided person—

(a) has wilfully failed to comply with any provision as to the information to be furnished by him; or

(b) in furnishing any such information has knowingly made a false statement or false representation,

and on any such application the court may make an order revoking the grant of or terminating legal aid from such date as may be appropriate and the court's decision shall be final:

Provided that no order shall be made under this subregulation until the aided person has been given an opportunity to show cause.

(5) Where the Principal Legal Aid Advocate terminates legal aid or revokes the grant of legal aid, he shall forthwith issue a notice of termination or revocation, as the case may be, and shall send the notice and one copy thereof to the aided person. The Principal Legal Aid Advocate shall send a further copy of the notice to the aided person's legal practitioner if any.

(6) When a court makes an order revoking the grant of or terminating legal aid the Legal Aid Advocate or legal practitioner representing the aided person shall forthwith inform the Principal Legal Aid Advocate.

11. Effect of termination and revocation of legal aid

(1) Subject to this Regulation, a person whose grant of legal aid is revoked shall be deemed never to have been an aided person in relation to the proceedings to which the grant related, and a person whose legal aid is terminated shall, from the date of termination, cease to be an aided person in the proceedings.

(2) Upon receipt by him of notice of revocation of the grant of or termination of legal aid by the Principal Legal Aid Advocate or upon revocation or termination by the court, the retainer of any legal practitioner acting on behalf of the aided person in the proceedings to which the legal aid relates shall forthwith determine.

(3) Where a grant of legal aid has been revoked or legal aid has been terminated—

(a) the costs of the proceedings to which the grant of aid related incurred on behalf of the aided person shall, as soon as practicable thereafter, be taxed;

(b) the Government shall remain liable to a legal practitioner instructed by the Principal Legal Aid Advocate to represent the aided person for the payment of any costs so taxed which relate to work done or expenses incurred by that practitioner.

(4) Where a grant of legal aid has been revoked or legal aid has been terminated, those provisions of section 10 of the Act which provide for a charge upon property recovered by an aided person shall apply to any property recovered as a result of the formerly aided person continuing to take, defend or be a party to the proceedings to which the aid related.

(5) For the purpose of subregulation (4) the reference to a person whose legal aid has been terminated shall, where the legal aid has been terminated under regulation 10 (2) (e), include his personal representatives, or his trustee in bankruptcy or the Official Receiver, as the case may be.

(6) Where a grant of legal aid has been revoked—

(a) the Principal Legal Aid Advocate shall have the right to recover from the person to whom the aid was granted the costs taxed under subregulation (3) (a) less any amount received from him by way of contribution; and

(b) any legal practitioner who has acted for the aided person shall have the right to recover from that person the difference between the amount paid or payable by the Government and the full amount of his solicitor and own client costs.

(7) Where legal aid has been terminated, the aided person shall remain liable for the payment of his maximum contribution, if any, as ordered and where he continues to take, defend or be a party to the proceedings to which the aid related—

(a) those provisions of section 10 of the Act which relate to sums recovered by virtue of an order or agreement for costs made in favour of an aided person shall apply in so far as the costs were incurred while he was an aided person; and

(b) those provisions of section 10 of the Act which relate to an aided person's liability by virtue of an order for costs made against him shall apply in so far as the costs were incurred while he was an aided person.

12. Power of Principal Legal Aid Advocate to require assistance

The Principal Legal Aid Advocate may require the assistance of any District Commissioner or Social Welfare Officer for the purpose of obtaining information and rendering such other assistance as may reasonably be required for the purpose of rendering legal aid.

FIRST SCHEDULE

FORM L.A. 1 reg. 3

THE LEGAL AID ACT

CERTIFICATE AND ORDER*

(UNDER SECTION 4)

Criminal Case No. ..... of 19 ..... in the (Resident) Magistrate's Court

at .....

The Republic versus .....

(insert name of accused)

TO: THE PRINCIPAL LEGAL AID ADVOCATE

*I hereby certify that it appears to me that .....

of .....

(insert name of accused and particulars)

who is charged with the offence of .....

(insert offence)

contrary to .....

(insert Act and section)

on which charge he has been committed for trial by the High Court, has insufficient means to enable him to obtain the services of a legal practitioner, and that it is in the interests of justice that he should have legal aid at his trial.

2. *I am satisfied that the said person has sufficient means to make a contribution towards the cost of legal aid and hereby order him to make a contribution of K ..... towards the costs of legal aid payable by instalments as follows—

.....

.....

(or) payable as one sum before the ..... day of ....., 19 .....

3. A copy of the information regarding his means supplied to me by the accused is attached.

.....

(Resident) Magistrate

....., 19 .....

(insert date)

FORM L.A. 2

THE LEGAL AID ACT

CERTIFICATE AND ORDER*

(UNDER SECTION 5)

Criminal Case No ..... of 19 ....., in the (Resident) Magistrate's Court

at .....
The Republic versus .....

(insert name of accused)

To: THE PRINCIPAL LEGAL AID ADVOCATE

*I hereby certify that it appears to me that .....

of .....

(insert name of accused and his particulars)

who is charged before me with the offence of .....

(insert offence)

contrary to ..... which offence is

(insert Act and section)

of a class specified by Notice in the Gazette for the purposes of section 5 of the Legal Aid Act, has insufficient means to enable him to obtain the services of a legal practitioner and it is in the interests of justice that he should have legal aid at his trial.

2. *I am satisfied that the said person has sufficient means to make a contribution towards the costs of legal aid and hereby order him to make a contribution of K ..... towards the costs of legal aid payable by instalments as follows—

(or) payable as one sum before the ..... day of ....., 19 .....

3. A copy of the information regarding his means supplied to me by the accused is attached.

.....

(Resident) Magistrate

....., 19 .....

(insert date)

FORM L.A. 3

THE LEGAL AID ACT

APPLICATION FOR LEGAL AID (CIVIL)

TO: THE PRINCIPAL LEGAL AID ADVOCATE

I, ... living at ..... apply to you for Legal Aid in the under-mentioned matter.

2. The following are my personal particulars and full details of my income and capital—

(A) Married Yes/No

(B) Employed Yes/No

(C) (i) *Name and address of employer .....

(ii) Work on which employed .....

(D) *Salary or wages

(E) (i) *Profession, business or occupation .....

(ii) Income from above .....

(F) Other income .....

(G) Other means of a capital nature—

Self .....

Husband/Wife .....

There is included in above—

(i) dwelling house value

(ii) furniture, necessary household effects, clothing and tools of trade value .....

(iii) the sum of K ..... paid in respect of Workmen's Compensation/payment for personal injuries by

.....

(H) Any other means (give particulars and value) .....

3. I am prepared to make a contribution of K ..... towards the costs of legal aid.

4. The matter in respect of which I desire legal aid is as follows—

.....

(set out nature of matter shortly)

.....

.....

Direction

I direct a contribution of K ..... payable in one sum before ..... (or) by instalments as follows—

Date .....

.....

Principal Legal Aid Advocate

FORM L.A. 4

THE LEGAL AID ACT

APPLICATION FOR LEGAL AID (CRIMINAL)

(UNDER SECTION 9)

To: THE PRINCIPAL LEGAL AID ADVOCATE

1. I, ...

(insert the name of the applicant and his particulars)

desire to appeal from a conviction *and/or sentence imposed by the ..... Court in Criminal Case No. ..... of 19 .....

2. I attach hereto a brief statement of my grounds of appeal.

....

(insert date) (Signature of Applicant)

N.B. The statement referred to in paragraph 2 of this form must accompany the completed form, otherwise it will not be possible for the Principal Legal Aid Advocate to consider the application.

SECOND SCHEDULE

1. The income contribution shall be as set out below—

Where the person's Income or Salary per annum is—	Contribution payable
K402–K500	K20
K502–K600	K30
K602–K700	K40
K702–K300	K50
K802–K900	K60
K902–K1,000	K70
K1,002–K1,100	k80
K1,102–K1,200	K100
K1,202–upwards	Legal Aid may be refused on financial grounds; but if not refused, the contribution shall be half the amount by which his annual income exceeds K1,000.

2. Capital Contribution

If the value of the applicant's disposable capital exceeds K100, his contribution shall be one half of the amount by which the value of his disposable capital exceeds K100.

In assessing the value of disposable capital, all property of the applicant and of any spouse is to be included, except—

(a) any dwelling house in which the applicant or spouse lives, necessary household effects, clothing and tools of trade;

(b) the subject matter of dispute;

(c) any sum paid in respect of compensation under the Workmen's Compensation Act, any "ex-gratia" payment by the Government in respect of injuries received and any sum paid under an insurance policy in respect of personal injuries.

THIRD SCHEDULE reg. 8

Fees and expenses payable to a legal practitioner in Criminal Cases:

1. Fees where the case proceeds to trial—	K	t
(a) for all work up to and including the first day of the trial—		
(i) where counsel represents one accused person	42	00
(ii) for each additional person represented at the trial	10	50
(b) for every half hour or part of half an hour for which the trial proceeds after the first day:	2	00

Provided that the maximum *fee which may be paid under this sub-head shall be 42 00

2. Where the case does not proceed to trial a reasonable fee for the work done not exceeding 21 00

3. On an appeal against conviction or sentence: 21 00

Provided that on special grounds the Principal Legal Aid Advocate may pay to counsel engaged by him an additional fee not exceeding 42 00

4. Where a legal practitioner is engaged by the Principal Legal Aid Advocate reasonable travelling expenses and hotel bills may be paid. When such practitioner uses his own car travelling expenses shall be calculated at 10t per mile.