

SUBSIDIARY LEGISLATION

to the Gazette of the United Republic of Tanzania No. 39 Vol 95 dated 26th September, 2014

Printed by the Government Printer, Dar es Salaam by Order of Government

GOVERNMENT NOTICE NO. 353 published on 26/9/2014

**THE LEGAL AID (CRIMINAL PROCEEDINGS) ACT
(CAP. 21)**

ARRANGEMENT OF RULES

<i>Rules</i>	
1.	Citation.
2.	Definitions.
3.	Application for legal aid.
4.	Financial status.
5.	Legal aid certificate.
6.	Change of advocates.
7.	Reports.
8.	Organizations offering legal aid.

THE LEGAL AID (CRIMINAL PROCEEDINGS) ACT

(CAP. 21)

RULES

(Made under section 7)

THE LEGAL AID (CRIMINAL PROCEEDINGS) RULES, 2014

- | | |
|-------------|--|
| Citation | 1. These Rules may be cited as the Legal Aid (Criminal Proceedings) Rules, 2014. |
| Definitions | <p>2. In these Rules, unless the context otherwise requires-</p> <p>“accused” includes, in the case of an appeal, the appellant, or in the case of an appeal by the Director of Public Prosecutions, the respondent;</p> <p>“certifying authority” means in the case of a proceeding before the High Court, the Chief Justice or the Principal Judge of the High Court or the Judge in charge of the High Court registry where the proceeding is conducted; and in the case of proceedings before a district court or a court of a resident magistrate, the Chief Justice or the Principal Judge of the High Court or the Judge in charge of the High Court Registry or a Magistrate in charge of the Resident Magistrate’s or District Court where the proceeding is conducted;</p> <p>“designated organisation” means persons or organisations designated by the Chief Justice to provide advocates for the purposes of assisting an indigent accused person to prepare and conduct his defence or appeal;</p> <p>“indigent person” means an accused person who is before the High Court, District Court or a Court of a</p> |

Resident Magistrate, who has been certified to be eligible for legal aid;

“Magistrate in-charge” means a Resident Magistrate in-charge of a Resident Magistrate’s Court or a District Court; and

“Registrar” means the Registrar of the High Court and includes the Deputy Registrar.

Application for
legal aid

3.-(1) An accused person who is-

- (a) charged with an offence involving complicated or novel legal issues;
- (b) charged with an offence involving capital punishment, life imprisonment or a possible sentence of not less than fifteen years imprisonment;
- (c) facing extradition to another country;
- (d) a child; or
- (e) suffering from disabilities or serious illness,

may apply for legal aid to the certifying authority.

(2) The certifying authority may, upon receipt of an application or *suo motu*, certify that an accused person is eligible for legal aid in preparing and conducting his defence or appeal.

(3) An application for certification shall be filed to the High Court, or a Court of Resident Magistrate or District Court where the accused is conducting his defence or appeal.

(4) An application for legal aid shall be made in writing in the format prescribed in Form I set out in the Schedule.

(5) The relevant certifying authority shall make a decision based on merits.

(6) Where an accused person has not made any request for legal aid, the Court may on its own motion, for the interest of justice, refer the matter to the relevant

certifying authority for certification that the accused is eligible for legal aid.

Financial
status

4. Every application for legal aid shall be accompanied by a declaration pertaining to the applicant's financial status in the format prescribed in Form 2 set out in the Schedule.

Legal aid
certificate

5.-(1) The certifying authority shall, where legal aid is granted under this rule issue a legal aid certificate.

(2) The Registrar shall, upon receipt of a certificate issued under sub-rule (1), assign an advocate to an accused for the purposes of preparing and conducting a defence or appeal on behalf of an accused person.

(3) The legal aid certificate shall be in the format prescribed in Form 3 set out in the Schedule.

(4) The advocate assigned to render legal aid under this rule shall not withdraw himself from the proceedings without the leave of the Court.

Change
advocates
of

6.-(1) Where an advocate has been assigned to represent an accused in conducting a defence or appeal, the accused shall not change the assigned advocate, unless-

(a) the accused changes the advocate at his own expenses; or

(b) the Court before which the proceedings are pending orders for the change.

(2) Where an advocate has been changed pursuant to sub-rule (1), the Court shall order the advocate to be paid the fees to be determined by the presiding Judge or magistrate.

Reports

7.-(1) The Registrar or the Magistrates-in-Charge shall prepare quarterly and annual reports on provision of legal aid in the format prescribed in Form 4 set out in the Schedule and submit them to the Chief Registrar.

(2) The Chief Registrar shall compile reports submitted under sub-rule (1) and forward such reports to the Chief Justice.

Organizations
offering legal
aid

8. The Registrar shall keep and maintain a comprehensive list of advocates and organisations offering legal aid in their respective areas.

SCHEDULE

FORM 1

APPLICATION FOR LEGAL AID

(Made under rule 3(1))

To: The Chief Justice/Principal Judge/Judge-in-Charge/Judge.....

1. is before the High Court/Resident Magistrate's Court/District Court* of.....at.....at.....
.....in Criminal Case/Sessions Case/Appeal/Application No.....being a person whose means are insufficient to engage an advocate and/or being.....(e.g. A child/disabled etc.), hereby apply for legal aid.*
2. I am charged with the following offence(s)/appealing against conviction for the following offence(s)/applying for..... (copy of charge sheet/petition of appeal/application, etc. attached) *;
3. My contact address is.....phone number....., email....., National ID Number/TIN number.....;**
4. I attach herewith my declaration as to means and inability to defend myself.

Signature:.....

Date:.....

*Delete whichever is not applicable.

**Complete whichever sections are appropriate and delete the others.

FORM 2

DECLARATION AS TO FINANCIAL STATUS

(Made under rule 4)

I ofsolemnly and sincerely
declare that:

1. I live at.....
2. I have children whom I am supporting.
3. During the past twelve (12) months I have not been employed/I have been
employed as
4. Other reasons for the application are.....
5. Therefore, I do not have sufficient means to enable me to obtain legal services
in respect of Criminal Case/Sessions Case/Appeal/Application
No.....* in which I am the accused/applicant.

I have read and understood this declaration/this declaration was completed at my
dictation by.....of.....who has signed below as witness; he read the
contents of this form to me in the..... language and I dictated to him in
the..... language the entries which he was to make for me.

I realize that, if any entry is false, I may be liable to prosecution.

This Declaration is made and
subscribed by the said
who is known to me personally
(or who has been

.....
identified to me by; the
DEPONENT
latter being known to me personally)
this day of.....2013

}

The Legal Aid (Criminal Proceedings) Rules, 2014

G.N. No. 353 (contd.)

Name:.....

Signature:.....

Qualification:.....

Address(es):

*Delete as necessary and complete as appropriate.

FORM 3

LEGAL AID CERTIFICATE

(Made under rule 5 (3))

This is to certify that(name of the accused) has been granted legal aid in respect of Criminal Case/Sessions Case/Appeal/Application No.....before the High Court/Resident Magistrate's Court/District Court* of.....at..... this day of 20.....

Signature:.....

Chief Justice/Principal Judge/Judge-in-Charge/Judge*

Date:.....

*Delete whichever is not applicable.

FORM 4

REPORTS ON PROVISION OF LEGAL AID

(Made under rule 7)

IN THE HIGH COURT/ RESIDENT MAGISTRATES'/ DISTRICT COURT AT

.....
QUARTER/ANNUAL REPORT ENDING ON

Summary:

NO	NAME OF ACCUSED	NUMBER OF CASE	OFFENCE INVOLVED	STATUS OF CERTIFICATE(GRA NTED OR NOT)	NAME OF ADV. ASSIGNED	COST (DSA) AND TRAVELLING	REMA

Summary:

NO	PARTICULARS	
	Total applications received	
	No of applications granted	
	No of applications refused	
	No of pending applications	

Report prepared by Registrar/Deputy Registrar/Magistrate in -charge/Resident Magistrates'/ District Court

Signature.....

Name.....

Dar es Salaam,
28th August, 2014

MOHAMED CHANDE OTHMAN
Chief Justice

I CONSENT,

Dar es Salaam,
26th September, 2014

ASHA ROSE MIGIRO
Minister for Constitutional Affairs and Justice