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Bill No. 14

National Legal Aid Bill

2022

THE NATIONAL LEGAL AID BILL, 2022

MEMORANDUM

1. Principles of the Bill.

The object of this Bill is to regulate the provision of legal aid services by legal aid service providers in Uganda; to make provision for the grant of legal aid services to indigent, marginalised and vulnerable persons; to make provision for eligibility for the grant of legal aid; to make provision for the termination of legal aid; to make provision for the payment of court fees, costs and damages by an aided person; to create a Legal Aid Funding Account; to recognise legal aid service schemes existing in Uganda; to continue in existence Justice Centres Uganda; to amend the Poor Person's Defence Act; and for other related matters.

2. Gaps in existing Laws

Currently legal aid in Uganda is provided majorly by accredited legal aid service providers, the State, under the Poor Persons Defense Act Cap. 20, the Law Development Centre, under the Law Development Centre Act Cap. 132, the Uganda Law Society, under the Uganda Law Society Act Cap. 276 and Justice Centres Uganda under Circular Instrument No. 1 of 2010.

Section 3 of the Advocates Act, Cap 267 empowers the Law Council to exercise general supervision and control over the provision of legal aid and advice to indigent persons. To this end, the Law Council has accredited a number of legal aid service providers to provide legal

aid in Uganda while at the same time allowed the establishment of a number of legal aid schemes including Pro Bono Schemes, law clinics operated by public universities and the provision of legal aid by para-legals.

Whereas the provision of legal aid by advocates through Pro Bono Schemes is regulated by the Law Council and standards are set for the provision of legal aid services, access to legal aid remains difficult owing to lack of clear modalities for accessing legal aid from the state and non-state actors. This has resulted in the provision of legal aid services without coordination or standardization in the services provided which makes it impossible to meet the legal needs of all persons in Uganda.

The lack of regulation has also resulted in the limited scope of legal aid services provided by legal aid service providers as well as limiting the geographical coverage of legal aid service providers, thereby excluding many Ugandans from accessing legal aid services.

3. Remedies

The Bill therefore seeks to—

- (a) establish a legal framework for the provision of legal aid services by accredited legal aid service providers;
- (b) expand the scope of legal aid services provided by accredited legal aid service providers;
- (c) impose a criteria for provision of legal aid by accredited legal aid service providers; and
- (d) facilitate access to legal aid services by providing credible, accessible, affordable, sustainable and accountable legal aid services to indigent, marginalised or vulnerable persons in Uganda.

4.0. PROVISIONS OF THE BILL

The Bill has 51 clauses, divided into seven Parts.

Part I—Preliminary

This Part incorporates clauses 1 to 2 dealing with Principles for provision of legal aid services and Interpretation of the major terms and phrases used in the Bill.

Part II— Provision of Legal Aid services by an accredited Legal Aid Service Provider and by court

This Part incorporates clauses 3 to 9 dealing with provision of legal aid services, Persons eligible for legal aid services, application for legal aid services, Evaluation of application, Decision on application for legal aid services, Appeal of decision and Grant of legal aid services by Court.

Part III—Variation, Change of Circumstances and Termination of Legal Aid Services

This Part incorporates clauses 10 to 14 dealing with variation of conditions for providing legal aid services, notification legal aid service provider of change in circumstances, termination of legal aid services, consequences of termination of legal aid services and withdrawal of the services of legal personnel.

Part IV—Award and Recovery of Costs, Damages and Disbursements

This Part incorporates clauses 15 to 23 dealing with security for costs by an aided person, recovery of costs, damages and disbursements, deductions from awards arising from a settlement, enforcement of judgments, accounting for funds received, payment of court fees, contributions towards legal aid and prohibition of payments for legal aid services.

Part V— Legal Aid Funding Account

This Part incorporates clauses 24 to 27 dealing with Legal Aid Funding Account, purpose of the Account, sources of funds of the Account and access to funds contained in the Account.

Part VI- Miscellaneous

This part incorporates clauses 28 to 50 dealing with supervision of legal aid service providers, establishment and operation of legal aid clinics, requirement to provide pro bono, powers of legal aid service providers, legal aid services to persons in custody, sharing of information, liability of legal aid service providers, obligations of Government, duties of a legal aid service provider, publication of accredited legal aid service providers, provision of legal aid services by paralegal and community volunteers, offences, protection of interests of aided persons, records, code of conduct, annual report and other reports, report on implementation of this Act, supremacy of this Act, Regulations, amendment of schedule, continuation of legal aid services, continuation of law clinics and pro bono schemes and continuation in existence of Justice Centres Uganda.

Part VII- Savings and Transitional

This part incorporates amendments of Cap. 20.

AOGON SILAS, (MP)
Kumi Municipality.

THE NATIONAL LEGAL AID BILL, 2022

ARRANGEMENT OF CLAUSES

Clause

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SCHEDULE—Currency Point

A Bill for an Act

ENTITLED

THE NATIONAL LEGAL AID ACT, 2022

An Act to regulate the provision of legal aid services by legal aid service providers in Uganda; to make provision for the grant of legal aid services to indigent, marginalised and vulnerable persons; to make provision for eligibility for the grant of legal aid; to make provision for the termination of legal aid; to make provision for the payment of court fees, costs and damages by an aided person; to create a Legal Aid Funding Account; to recognise legal aid service schemes existing in Uganda; to continue in existence Justice Centres Uganda; to amend the Poor Person's Defence Act; and for other related matters.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Principles for provision of legal aid services

Legal aid services shall be provided in accordance with the following principles—

- (a) adherence to human rights norms and standards;
- (b) provision of prompt and effective services;

- (c) provision of free and voluntary services;
- (d) non-discrimination ;
- (e) impartiality;
- (f) equity and fairness; and
- (g) the best interest of the aided person.

2. Interpretation

In this Act, unless the context otherwise requires—

“advocate” has the meaning assigned to it under the Advocates Act, Cap. 267;

“aided person” means a person who is receiving legal aid from a legal aid service provider in accordance with this Act;

“Account” means the Legal Aid Funding Account established under section 23 of this Act;

“currency point” has the value assigned to it in the Schedule to this Act;

“community volunteer” means a person based in a community who offers advice to individuals and the community based on his or her general or specific training in law;

“eligible person” means a person who is eligible to receive legal aid under this Act;

“indigent person” means a person who has been assessed by a legal aid service provider and found, having regard to his or her income, assets or social status that he or she cannot afford to pay for legal services;

“Law Council” has the meaning assigned to it under the Advocates Act, Cap. 267;

“legal aid service provider” includes—

- (a) an organisation that has been accredited by the Law Council to provide legal aid services under the Advocates Act, Cap. 267
- (b) an advocate providing pro bono services under a pro bono scheme approved by the Law Council;
- (c) the Law Development Centre;
- (d) Uganda Law Society;
- (e) Justice Centres Uganda;
- (f) a pro bono scheme, law clinic or any other such scheme by whatever name called, operated by a public or private institution of learning and approved by the Law Council to provide legal aid services; or
- (g) any body mandated by an Act of Parliament to provide legal aid services in Uganda;

“legal aid services” include—

- (a) legal advice;
- (b) legal representation;
- (c) legal education;
- (d) assistance in—
 - (i) resolving disputes by alternative dispute resolution;
 - (ii) drafting of relevant documents and effecting service incidental to any legal proceedings; and
 - (iii) reaching or giving effect to any out-of-court settlement;

- (e) creating awareness through the provision of legal information and law-related education; and
- (f) recommending law reform and undertaking advocacy work on behalf of the community;

“legal personnel” means a lawyer or advocate employed by the legal aid service provider to provide legal aid services to the aided person;

“long term imprisonment” means a custodial sentence of ten years and above;

“marginalisation” means the condition of a person or group of persons arising from exclusion from meaningful participation in the economic, social, political, cultural and other forms of human activity in their community;

“marginalised person” means a person who is marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom;

“minority community” means an indigenous community that lives within or is attached to a geographically distinct traditional habitat or ancestral territories and who identify themselves as being part of a distinct cultural group;

“Minister” means the Minister responsible for Justice;

“paralegal” means a person who holds a qualification in law, other than a degree in law, recognized by the Law Council and includes a post graduate law student who has been duly enrolled for a post graduate bar course in a post graduate law school or institution;

“post graduate law school or institution” means the Law Development Centre established under the Law Development Centre Act, Cap 132 or any other institution approved by the Law Council;

“pro bono services” means professional services of an Advocate given for the public good to an indigent, vulnerable or marginalised person without charge and includes legal aid services;

“vulnerable person” means a person who is in need of special protection because of age, gender, illness, physical or mental disability, national, social or personal status, or other status, including a child, a refugee, an internally displaced person, a stateless persons, an asylum seeker, a victim of human trafficking or of gender-based violence, an illiterate person, elderly person and a member of a minority community.

PART II—PROVISION OF LEGAL AID SERVICES BY AN
ACCREDITED LEGAL AID SERVICE PROVIDER AND BY COURT

3. Provision of legal aid services

Legal aid services may be provided in a civil or criminal matter before a tribunal, court of judicature or subordinate court.

4. Persons eligible for legal aid services

(1) A person is eligible to receive legal aid services if the person is indigent, marginalised or vulnerable.

(2) Notwithstanding subsection (1), a legal aid service provider may grant legal aid services to a person where, in the opinion of the legal aid service provider, the matter for which legal aid services are requested, is a matter of public interest.

5. Application for legal aid services

(1) A person who intends to receive legal aid services shall apply to a legal aid service provider.

(2) An application made under subsection (1) may be oral, in writing or in any other form prescribed by the legal aid service provider or by the Minister.

(3) An application for legal aid services may be made by the eligible person or any other person or organisation on behalf of the eligible person.

6. Evaluation of application

(1) A legal aid service provider shall evaluate an application for legal aid services for purposes of determining the eligibility of the applicant to receive legal aid services in accordance with section 4 of this Act.

(2) In determining the applicant's eligibility, the legal aid service provider may take into account—

- (a) for purposes of determining whether the applicant is indigent—
 - (i) the financial status of the applicant, including his or her income, assets, debts and other financial obligations;
 - (ii) the standard of living of the applicant; or
 - (iii) any other circumstance affecting the applicant's ability to afford legal services;
- (b) the age, health, disability or any other personal circumstance of the applicant, for purposes of determining whether the applicant is vulnerable; and
- (c) the culture, religion, custom, including whether the person is a refugee, a stateless person or a member of a minority community in Uganda, for purposes of determining whether the applicant is marginalised.

(3) A legal aid service provider may request from the applicant, any other information necessary for purposes of determining the eligibility of the applicant to access legal aid services.

7. Decision on application for legal aid services

(1) A legal aid service provider shall, within five working days of receipt of an application made under section 5, determine the application.

(2) Where a legal aid service provider is satisfied with an application for legal aid services, the legal aid service provider may provide legal aid services to the applicant on such conditions as the legal aid service provider determines necessary.

(3) A legal aid service provider shall upon making a decision to grant legal aid services under this Act, inform the applicant and any other person the legal aid service provider considers necessary, of the grant.

(4) Where the aided person is party to a civil, criminal or any other legal proceeding, the legal aid service provider shall, within five days of making a decision to grant legal aid service, give notice of the grant to court and any other party to the proceedings.

(5) Where a legal aid service provider is not satisfied with an application for legal aid services, the legal aid service provider shall inform the applicant, giving reasons for the refusal.

(6) Where a legal aid service provider is unable to provide the legal aid services sought by the applicant, the legal aid service provider may refer the applicant to another legal aid service provider.

8. Appeal of decision

(1) An applicant for legal aid who is aggrieved by the decision of the legal aid service provider under section 7 may, within fourteen working days from the date of receipt of the notice under subsection (5), appeal the decision to the Law Council.

(2) The decision of the Law Council shall be final.

9. Grant of legal aid services by Court

(1) A prisoner who is indigent, vulnerable or marginalised and intends to have legal aid services in the preparation and conduct of his or her defence at his or her trial may, upon being committed for trial or at any time after an indictment is filed against him or her, apply to court, for legal aid services.

(2) An application made under subsection (1) may be oral, in writing or in any other form prescribed by the Chief Justice.

(3) An application for legal aid services may be made by the prisoner or any other person or organisation on behalf of the prisoner.

(4) Court shall in accordance with section 2 of the Poor Persons Defense Act evaluate the application for legal aid services.

(5) Where Court determines that it is desirable to for a prisoner to receive legal aid services, court shall direct Government to provide legal aid services to the prisoner on such conditions as court may determine.

(6) Where Government is directed by Court to provide legal aid services, the legal aid services shall be provided by Justice Centres Uganda.

(7) For purposes of this section, a prisoner means a person arrested, detained, suspected or accused of, charged with or sentenced for a crime punishable by a custodial sentence other than life imprisonment or death.

PART III—VARIATION, CHANGE OF CIRCUMSTANCES AND
TERMINATION OF LEGAL AID SERVICES

10. Variation of conditions for providing legal aid services

(1) A legal aid service provider may vary a condition upon which legal aid services are provided to the aided person.

(2) Where a legal aid service provider varies a condition upon which legal aid services are provided to the aided person, the legal aid service provider shall, within seven days of the variation of the condition, inform in writing, the aided person, court and any other party to the proceedings.

11. Notification to legal aid service provider of change in circumstances

(1) An aided person or a person acting on behalf of an aided person shall inform the legal aid service provider of any change in the personal circumstances of the aided person.

(2) A legal aid service provider may, upon receipt of a notice in subsection (1), vary a condition upon which legal aid services are provided to the aided person.

12. Termination of legal aid services

(1) Legal aid services shall terminate—

- (a) on the death of the aided person;
- (b) upon final determination of the matter for which legal aid services is provided; or
- (c) upon enforcement of a judgement of court or an out of court settlement by the legal aid service provider.

(2) Notwithstanding subsection (1), a legal aid service provider or the aided person may terminate legal aid services provided under this Act—

- (a) in the case of the legal aid service provider, where—
 - (i) the aided person breaches any provision of this Act or a condition for the provision of legal aid services;
 - (ii) the aided person ceases to be eligible to receive legal aid services;

- (iii) the legal aid service provider ceases to be qualified to provide legal aid services in Uganda;
 - (iv) the aided person loses interest in the matter for which legal aid services are provided;
 - (v) the aided person is receiving legal aid services on the same matter, from another legal aid service provider or private counsel; or
 - (vi) the aided person obtains legal aid services by fraud, mistake or misrepresentation of any material fact; and
- (b) in the case of the aided person, with the consent of the legal aid service provider.

(3) An aided person or legal aid service provider shall, before terminating legal aid services, give the aided person or legal aid service provider written notice of not less than ten days, specifying the reasons for the intended termination.

(4) An aided person or legal aid service provider who is in receipt of the notice in subsection (3) may, within seven days of receipt of the notice, respond in writing, to the aided person or legal aid service provider, giving reasons why legal aid services should not be terminated.

(5) The aided person or legal aid service provider shall, upon receipt of the response referred to in subsection (4), evaluate the response and—

- (a) suspend the legal aid services, for a period prescribed in the notice of suspension, to enable the aided person or the legal aid service provider to remedy the causes of the suspension; or

- (b) terminate the legal aid services.

(6) Where the aided person or legal aid service provider is, after suspension of legal aid services in subsection (5) (a), of the opinion that the measures taken to remedy the causes of the suspension are—

- (a) not sufficient, the aided person or legal aid service provider may, terminate the legal aid services; or
- (b) sufficient, restore the legal aid services provided under this Act on such conditions as the aided person or the legal aid service provider determines necessary.

(7) Where the aided person or legal aid service provider makes a decision to terminate legal aid services under this section, the aided person or legal aid service provider shall, within fourteen days of the decision, notify the aided person, Court or any other interested party.

(8) A person aggrieved by the decision of the aided person or the legal aid service provider under this section shall appeal to the Law Council for redress and the decision of the Law Council shall be final.

13. Consequences of termination of legal aid services

- (1) The termination of legal aid services shall not affect—
 - (a) the obligations of the legal aid service provider or an aided person arising out of a condition of the grant of legal aid services that accrued before termination;
 - (b) the rights of the legal aid service provider or aided person to enforce any obligation arising from the grant of legal aid services; or
 - (c) the obligations of the legal aid service provider to pay for services provided under the grant, before termination.

(2) Upon the termination of legal aid services, the aided person, the legal aid service provider or the legal personnel shall inform court of the termination of legal aid services.

14. Withdrawal of the services of legal personnel

(1) A legal aid service provider may withdraw the services of a legal personnel on its own accord or on application by the aided person.

(2) The services of a legal personnel may be withdrawn by the legal aid service provider on application by the aided person, where—

- (a) the legal personnel has acted in a manner that is prejudicial to the interests of the aided person; or
- (b) the quality of services offered or rendered by the legal personnel are below the quality of services expected of an advocate under the Advocates (Legal Aid to Indigent Persons) Regulation, 2007 or any other law.

(3) A legal aid service provider shall, upon receipt of an application for the withdrawal of the services of a legal personnel, inform the legal personnel in writing.

(4) A legal personnel to whom notice is given under subsection (2) may, within seven days of receipt of the notice, respond to the notice, in writing.

(5) Upon review of the application and any response if any, the legal aid service provider may, if satisfied that the legal personnel has acted in a manner prescribed in subsection (2)—

- (a) suspend the services of the legal personnel for a period prescribed in the notice of suspension, to enable the legal personnel remedy the causes of the suspension; or
- (b) withdraw the services of the legal personnel.

(6) Where the legal aid service provider is, after suspension of legal aid services in subsection (5) (a), of the opinion that the measures taken to remedy the cause of the suspension are—

- (a) not sufficient, the legal aid service provider may withdraw the services of the legal personnel; or
- (b) sufficient, the legal aid service provider shall restore the services of the legal personnel on such conditions as the legal aid service provider determines necessary.

(7) Where the legal aid service provider makes a decision to withdraw the services of a legal personnel, the legal aid service provider shall, within fourteen days of the decision, notify the legal personnel, aided person, Court or any other interested party.

(8) A person aggrieved by the decision of the legal aid service provider under this section shall appeal to the Law Council for redress and the decision of the Law Council shall be final.

PART IV— AWARD AND RECOVERY OF COSTS, DAMAGES AND DISBURSEMENTS

15. Security for costs by an aided person

In a civil suit, an aided person shall not be required to make provision for security for costs unless court is satisfied that there are reasonable grounds for making such an order against the aided person.

16. Recovery of costs, damages and disbursements

(1) Where in any suit, costs or damages are awarded to the aided person—

- (a) the costs awarded shall belong to the legal aid service provider; and
- (b) the damages awarded shall belong to the aided person.

(2) Notwithstanding subsection (1) (a), the legal aid service provider shall reimburse the costs incurred by the aided person during the proceedings for which costs were awarded.

(3) For the purpose of receiving any costs payable under subsection (1) (a), a legal aid service provider may take all such steps and pursue all such remedies as would have been taken by the aided person to whom such costs were awarded, and any expenses incurred in taking such steps or pursuing such remedies shall be recovered by the legal aid service provider from the costs awarded.

(4) Where in any suit, court makes an award of damages against an aided person, the damages shall be paid by the aided person.

(5) An aided person shall not be required to pay costs arising from any proceedings for which he or she is receiving legal aid services unless court is satisfied that there are reasonable grounds for making such an order against the aided person.

17. Deductions from awards arising from a settlement

(1) A legal aid service provider may, with the prior, written and informed consent of the aided person, deduct a percentage of an out of court settlement made to an aided person as costs incurred by the legal aid service provider in providing legal aid services to the aided person in the settlement.

(2) A person aggrieved by a decision made pursuant to subsection (1) may appeal the decision to the Law Council and the determination of the Law Council shall be final.

18. Enforcement of judgments

(1) A legal aid service provider may enforce a judgment of court or an out-of-court settlement made in favour of an aided person.

(2) Where a legal aid service provider fails or neglects, within reasonable time, to enforce a judgment of court or an out-of-court

settlement made in favour of an aided person, the aided person may enforce the court judgement or out of court settlement.

19. Accounting for funds received

(1) A legal personnel shall account to the legal aid service provider for costs, damages and disbursements received by the legal personnel on behalf of the aided person.

(2) A legal aid service provider shall account to the aided person for costs, damages and disbursements received by the legal personnel on behalf of the aided person.

20. Payment of court fees

An aided person shall not be required to pay court fees unless court is satisfied that there are reasonable grounds for making such an order against the aided person.

21. Contributions towards legal aid

A legal aid provider may, in granting legal aid to the aided person, require the aided person to contribute to the cost of legal aid to an extent which, in the opinion of the legal aid service provider, is just and reasonable having regard to the means of the person concerned.

22. Prohibition of payments for legal aid services

(1) A legal aid service provider, agent or staff of a legal aid service provider shall not demand payment from any person as a condition for grant of legal aid services under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or imprisonment for a term not exceeding five years.

PART V—LEGAL AID FUNDING ACCOUNT

23. Legal Aid Funding Account

(1) There is established an account to be known as the Legal Aid Funding Account.

- (2) The Account shall be administered by the Law Council.

24. Purpose of the Account

The purpose of the Account is to provide a source of funds to support the provision of legal aid services by legal aid service providers.

25. Sources of funds of the Account

The funds of the Account shall consist of—

- (a) grants, gifts, loans or other endowments and donations deposited onto the Account from any source within and outside Uganda;
- (b) money received by the Account by way of voluntary contribution;
- (c) income derived from operations of the Account or otherwise accruing to the Account;
- (d) fines and penalties recovered for breach of the provisions of this Act;
- (e) costs awarded to a legal aid service provider in a matter which was funded from the funds contained in the Account;
- (f) fees and charges paid by legal aid service providers to the Law Council for accreditation and other services provided by the Law Council; and
- (g) money appropriated by Parliament for purpose of legal aid.

26. Access to funds contained in the Account

(1) The funds contained in the Account shall only be utilized for provision of legal aid services by legal aid service providers.

(2) The Law Council shall, in consultation with legal aid service providers make regulations for accessing monies contained in the Account.

(3) Monies contained in the Account shall not be withdrawn from or paid out of the Account without authorization of the Law Council.

PART VI— MISCELLANEOUS

27. Supervision of legal aid service providers

(1) The Law Council shall exercise general supervision over the provision of legal aid by legal aid service providers in Uganda.

(2) In performing its functions under this Act, the Law Council shall have the powers to—

- (a) open inquiry into the provision of legal aid by a legal aid service provider;
- (b) appraise legal aid services and activities;
- (c) review the provision of legal aid services;
- (d) revoke the accreditation of an accredited legal aid service provider; and
- (e) impose administrative penalties for infringing the provisions of this Act.

28. Establishment and Operation of legal aid clinics

An institution of higher learning offering a course in the field of law may, with the approval of the Law Council, establish, operate and provide legal aid services through a law clinic.

29. Requirement to provide pro bono

An advocate shall annually provide pro bono in accordance with regulations prescribed by the Law Council.

30. Powers of legal aid service providers

A legal aid service provider shall have power to—

- (a) access court, including a military court, on any matter of interest to the aided person;
- (b) visit a jail, prison or any other place of detention in order to access the eligibility of a person detained for purposes of legal aid; or
- (c) seek, obtain, receive and hold information relating to a person for purposes of assessing the eligibility of that person to receive legal aid.

31. Legal aid services to persons in custody

(1) A person in charge of a prison, police station, remand home for children or other place of custody shall—

- (a) ensure that every person in custody is informed of the availability of legal aid services in a language that the person understands;
- (b) ensure time and facilities are availed to the person in custody to apply for legal aid services from a legal aid service provider of his or her choice; and
- (c) notify a legal aid service provider of the application, if any, within twenty-four hours of the making of the application.

(2) A person who willfully obstructs a person held in custody from accessing legal aid services commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or imprisonment not exceeding two years, or both.

32. Sharing of information

(1) A legal aid service provider may share information with another legal aid service provider for purposes of determining the eligibility of a person to receive legal aid services under this Act.

(2) Where there is change of instruction by an aided person from one legal aid service provider to another, the former legal aid

service provider shall transfer a copy of the record to the new legal aid service provider.

33. Liability of legal aid service providers

(1) A legal aid service provider shall not be liable for any act or omission done or omitted to be done in good faith in the provision of legal aid services under this Act.

(2) Where the legal service provider is an advocate, the legal aid service provider shall comply with the Advocates (Professional Conduct) Regulations, 2020

34. Obligations of Government

(1) Government and its agencies shall ensure that legal aid services providers are able to—

- (a) provide legal aid services independently, without intimidation, hindrance, harassment, unlawful interference, violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate and lawful exercise of powers granted under this Act or any other law;
- (b) access police stations, places of detention and prisons for the purpose of assisting a vulnerable or indigent person and to be present during questioning by any investigative authority, subject only to lawful exceptions;
- (c) consult with the aided person in confidence;
- (d) access information and documents regarding the offence that the aided person is suspected or accused of, or in respect of which he or she is being prosecuted; and
- (e) represent an aided person in court, including a military court and to be present at all stages of the proceedings.

(2) A person who unlawfully interferes with the performance of the functions of a legal aid service provider commits an offence and is liable, on conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding one thousand currency points, or both.

35. Duties of a legal aid service provider

- (1) The duties of a legal aid service provider shall include—
- (a) protecting the interests of the aided person;
 - (b) providing the aided person with appropriate information regarding the legal aid services provided;
 - (c) avoiding and taking appropriate action in respect of conflict of interest; and
 - (d) maintaining all documents of the aided person and making the documents available to the aided person, upon request;
- (2) A legal aid service provider shall, every three months—
- (a) visit places of detention, including prisons and police stations, remand home for children or other place of custody for purposes of assessing whether a person detained in the place of detention is eligible for legal aid;
 - (b) attend court, including a military court, for purposes of assessing whether a person appearing in court is eligible for legal aid; and
 - (c) undertake visits to verify the legal needs of vulnerable and marginalised persons, including the elderly, widows or widowers, orphans, children, people with disabilities, internally displaced persons, prisoners on remand and refugees.

36. Publication of accredited legal aid service providers

The Law Council shall annually publish in a newspaper of wide national circulation and display at every district headquarter or any other public place in every district of Uganda—

- (a) a list of legal aid service providers in the district, including their contact, address, and name of the responsible person;
- (b) the services provided by the legal aid service provider; and
- (c) any other information the Law Council considers necessary.

37. Provision of legal aid services by paralegal and community volunteers

(1) A legal aid service provider may engage the services of or employ a paralegal or a community volunteer to provide legal aid services to an aided person under this Act.

(2) The provision of legal aid services by a paralegal or community volunteer shall be under the supervision and control of a legal aid service provider.

(3) The Law Council shall regulate the provision of legal aid services by paralegals and community volunteers.

38. Offences

A person who—

- (a) wilfully prohibits or obstructs a person held in custody from accessing legal aid services; or
- (b) receives legal aid services by means of fraud or misrepresentation of his or her true financial status or vulnerability;

commits an offence and is liable, on conviction, to a fine not exceeding five hundred currency points or imprisonment not exceeding two years, or both.

39. Protection of interests of aided persons

A legal aid service provider shall take all reasonable steps to protect the interests of an aided person.

40. Records

(1) A legal aid service provider shall keep proper records of its activities and any other activities undertaken on behalf of an aided person.

(2) The records referred to in subsection (1) shall be collected and stored in accordance with the Data Protection and Privacy Act, 2019.

41. Code of conduct

(1) The Minister may, in consultation with the Law Council, develop a code of conduct for legal aid service providers.

(2) Without limiting the general effect of subsection (1), the code of conduct shall include—

- (a) the protection of the rights and interests of an aided person;
- (b) duties of the legal aid service provider to the aided person;
- (c) conflict of interest;
- (d) observance of confidentiality;
- (e) disciplinary control;
- (f) sexual exploitation;
- (g) in the case of professionals, the duty to observe the prescribed ethical standards of their respective professional bodies;
- (h) accountability; and
- (i) integrity and ethical conduct.

42. Annual report and other reports

(1) A legal aid service provider shall, not later than three months after the end of each financial year, submit to the Minister through the Law Council, an annual report covering its activities during the preceding year.

- (2) The annual report shall contain—
- (a) the financial statements of the legal aid service provider;
 - (b) the number and nature of cases handled, including other activities of the legal aid service provider; and
 - (c) such other information as the legal aid service provider may consider appropriate relating to its activities.

43. Report on implementation of this Act

The Minister shall annually submit to Parliament a report on the implementation of this Act.

44. Supremacy of this Act

(1) This Act shall take precedence over all other laws relating to the provision of legal aid in Uganda.

(2) Subject to the Constitution, a provision in any Act or regulation which makes reference to any matter governed under this Act shall be interpreted as required under this Act.

45. Regulations.

(1) The Minister may, by statutory instrument, make regulations for the better carrying into effect the provisions of this Act.

(2) Regulations made under this section may, in respect of any contravention of any of the regulations, prescribe—

- (a) a penalty of a fine not exceeding one thousand currency points or imprisonment not exceeding ten years or both; or
- (b) an administrative penalty not exceeding one thousand currency points for each infringement.

46. Amendment of Schedule

The Minister may, with the approval of Cabinet, by statutory instrument, amend the Schedule to this Act.

47. Continuation of legal aid services

(1) A legal aid service provider providing legal aid services to any person immediately before the coming into force of this Act shall continue providing legal aid services to that person as if the same was provided under the provisions of this Act.

(2) Notwithstanding subsection (1), a person providing legal aid services shall within six months from the commencement of this Act, make the necessary arrangements to comply with the provisions of this Act.

48. Continuation of law clinics and pro bono schemes

A law clinic, pro bono scheme or any other such legal aid scheme existing immediately before the coming into force of this Act shall continue to exist as if the same was created under this Act.

49. Continuation in existence of Justice Centres Uganda

(1) Justice Centres Uganda established under Circular Instrument No. 1 of 2010 shall continue in existence as a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name, do enjoy or suffer anything that may be done, enjoyed or suffered by a body corporate.

(2) Justice Centres Uganda shall, in addition to any other functions, be responsible for providing legal aid services on behalf of Government.

(3) Land, buildings, rights, funds, securities and credits possessed or owned by and the benefit of all contracts entered into by the Justice Centres Uganda prior to the commencement of this Act, shall vest in the Justice Centres Uganda as they were previously vested in the Justice Centres Uganda prior to the commencement of this Act.

(4) All rights, powers, liabilities and duties, whether arising under any written law or otherwise, which immediately before the commencement of this Act were vested in, imposed on or enforceable

by or against the Justice Centres Uganda prior to the commencement of this Act, shall be vested in, imposed on or be enforceable by or against the Justice Centres Uganda as they existed prior to the commencement of this Act.

(5) All persons who, immediately before the commencement of this Act, were employed by Justice Centres Uganda shall continue to be employed by Justice Centres Uganda under this Act.

(6) The terms and conditions, including the salary, under which a person referred to in subsection (5) is employed after the commencement of this Act shall be no less favorable than those that applied to that person's office immediately before the commencement of this Act.

(7) Any pending court proceedings, court actions, judgments or court orders which were enforceable by or against the Justice Centres Uganda immediately before the commencement of this Act shall be enforceable by or against the Justice Centres Uganda as they would have been enforced by or against the Justice Centres Uganda immediately before the commencement of this Act.

PART VII—SAVINGS AND TRANSITIONAL

50. Amendment of Cap. 20

(1) The Poor Persons Defence Act Cap. 20 is amended—

(a) in section 1 by—

(i) inserting immediately after the words “currency point”, the following—

“indigent person” means a person who has been assessed by a certifying officer and found, having regard to his or her income, assets or social status that he or she cannot afford to pay for legal services;”;

“legal aid” include—

- (a) legal advice;
- (b) legal representation;
- (c) assistance in—
 - (i) resolving disputes by alternative dispute resolution;
 - (ii) drafting of relevant documents and effecting service incidental to any legal proceedings; and
 - (iii) reaching or giving effect to any out-of-court settlement.”

“legal aid service provider” means an organisation that has been accredited by the Law Council to provide legal aid services under the Advocates Act, Cap. 267;”

- (ii) inserting immediately after the word “Minister”, the following—

“poor person” includes an indigent, Marginalised or vulnerable person;”;

- (iii) by substituting for the definition of the word “prisoner” the following—

“prisoner” means an indigent, marginalised or vulnerable person committed for trial;”;

- (iv) inserting immediately after the words “trial judge”, the following—

“vulnerable person” means a person who is in need of special protection because of age, gender, illness, physical or mental disability, national, social or personal status, or other status, including a child, a refugee, an internally displaced person, a stateless persons, an asylum seeker, a victim of human trafficking or of gender-based violence, an illiterate person, elderly person and a member of a minority community;”.

- (b) by inserting sections 2A and 2B immediately after section 2, as follows—

“2A. Criteria for legal aid

(1) In determining a prisoner’s eligibility to receive legal aid under section 2, a certifying officer may take into account—

- (a) for purposes of determining whether the prisoner is indigent—
- (i) the financial status of the prisoner, including his or her income, assets, debts and other financial obligations;
 - (ii) the standard of living of the prisoner; or
 - (iii) any other circumstance affecting the prisoner’s ability to afford legal services;
- (b) the age, health, disability or any other personal circumstance of the prisoner, for purposes of determining whether the prisoner is vulnerable; and
- (c) the culture, religion, custom, including whether the prisoner is a refugee, a stateless person or a member of a minority community in Uganda, for purposes of determining whether the prisoner is marginalised.

(2) Subsection (1) shall not apply to a person entitled to legal aid under article 28 (3) (c) of the Constitution.”

“2B. Provision of Legal Aid

(1) Where a certifying officer determines that it is desirable, in the interests of justice, that a prisoner be granted legal aid, legal aid shall be provided by—

- (a) an advocate under the Uganda Law Society pro bono scheme or any other pro bono scheme organised by the Law Council; or
- (b) Justice Centres Uganda.

(2) Where the entity referred to in subsection (1) is ordered by a certifying officer to provide legal aid to a prisoner, the entity to which the order is directed shall, within three working days and in writing, inform Court of its ability to provide legal aid and court may, upon receipt of the notice, make additional orders as it determines necessary.”

SCHEDULE

section 2

Currency Point

One currency point is equivalent to twenty thousand shillings.

Cross References

1. The Constitution of the Republic of Uganda, 1995.
2. The Advocates Act, Cap. 267.
3. Uganda Law Society Act
4. The Poor Persons Defence Act, Cap. 20.
5. The Law Development Centre Act, Cap. 132.