

THE LEGAL AID ACT

REGULATIONS
(*under section 28(1)(a)*)

The Legal Aid (Excepted Offences) Regulations, 2000

L.N. 145B/2000

REGULATIONS
(*under section 28(1)(b)-(h)*)

The Legal Aid Regulations, 2000

L.N. 82A¹/2000

Amends:
137/2015
140/2015

THE LEGAL AID ACT

REGULATIONS

(under section 28(1) (a))

THE LEGAL AID (EXCEPTED OFFENCES) REGULATIONS

(Made by the Minister on the 19th day of October, 2000)

1. These Regulations may be cited as the Legal Aid (Excepted Offences) L N 145B/2000 Regulations, 2000.

2.—(1) Subject to paragraph (2), legal aid shall not be granted under the Legal Aid Act in respect of the following excepted offences—

- (a) an offence under section 3, 5 or 9 (1) and (2) of the Money Laundering Act;
- (b) offences under the Dangerous Drugs Act as follows:
 - (i) manufacturing, importing, exporting, taking steps preparatory to exporting, selling or otherwise dealing in, any dangerous drug;
 - (ii) being in possession of any dangerous drug in excess of the amounts specified in section 22 (7);
- (c) any offence which is not punishable with imprisonment.

(2) A person who is—

- (a) detained in relation to an excepted offence; or
- (b) charged with an excepted offence,

may be granted legal aid in respect of services rendered pursuant to regulation 11 (1) of the Legal Aid Regulations, 2000, by a duty counsel as defined in regulation 2 of those Regulations.

THE LEGAL AID ACT
REGULATIONS
(under section 28(1)(b)-(h))

THE LEGAL AID REGULATIONS

(Made by the Minister on the 23rd day of June, 2000)

L.N. 82A¹/2000
Amends:
137/2015
140/2015

PART I. *Preliminary*

1. These Regulations may be cited as the Legal Aid Regulations, 2000. Citation.
2. In these Regulations “duty counsel” means an attorney-at-law who is required to render the services specified in regulation 11(1). Interpretation.

PART II. *Establishment of Panel*

3.—(1) The Council shall establish the following panels in respect of each clinic— Establishment of panels.

- * (a) a civil panel;
- (b) a criminal panel;
- (c) a duty counsel panel; and
- * (d) an advice panel.

(2) An attorney-at-law who is desirous of rendering legal aid shall apply to the Council in the form set out as Form A in the First Schedule to have his name entered on the panel or panels for which application is made. First Schedule.
Form A.

* Regulation 3(1)(a) and (d) not yet in force.

(3) The Council shall inform the application in writing that his name has been entered on a panel.

(4) The Council shall publish in the *Gazette* and in a newspaper circulated in the Island, a list of the names of the attorneys-at-law on each panel as first constituted and every addition thereto or deletion therefrom.

(5) A copy of the current list shall be posted in a conspicuous place in each police station and court house in the Island.

Removal of
name from
panel.

4.—(1) The Council may remove the name of an attorney-at-law from any panel on which his name appears if the attorney-at-law—

- (a) requests such removal in writing; or
- (b) abandons the matter assigned to him without giving any reason satisfactory to the Council; or
- (c) has, in the opinion of the Council, failed to give the matter assigned to him the same care and attention that he would have if he had been otherwise retained in respect of that matter; or
- (d) is suspended from practice or has been struck off the Roll.

(2) Where pursuant to paragraph (1)(b) or (c), the Council intends to remove the name of an attorney-at-law from any panel on which his name appears, the Council shall notify the attorney-at-law in writing of its intention giving reasons therefor and shall afford the attorney-at-law an opportunity to show cause why his name should not be removed.

(3) The attorney-at-law may, within twenty-one days of receipt of the notice, show cause why his name should not be removed.

- (4) The Council—
- (a) if satisfied as to the cause shown, shall not remove the name of the attorney-at-law from any panel on which his name appears; or
 - (b) if not so satisfied, shall remove the name and shall so inform the attorney-at-law in writing.

PART III. *Legal Aid Clinics*

5.—(1) The Council shall, with the prior approval of the Minister, establish such number of clinics as it may deem necessary. Establishment
of clinics

(2) Each clinic established by the Council shall—

- (a) Consist of—
 - * (i) a civil department;
 - (ii) a criminal department; and
 - (iii) an administrative department; and
 - (b) be administered by a Board of Directors consisting of not less than seven nor more than eleven persons appointed by the Council, one of whom shall be an attorney-at-law who shall be the chairman.
- (3) The Board of Directors of each clinic—
- (a) may appoint and employ a Director and such number of persons as it considers necessary for the operation of the clinic;
 - (b) shall furnish to the Council half-yearly reports on the operations and accounts of that clinic, or at such other periods as the Council may determine.

6. A Director of a clinic shall—

- (a) be responsible for the administration of the clinic;
- (b) keep a list of attorneys-at-law available for the assignment of legal aid cases;
- (c) monitor the progress of cases assigned by the clinic to attorneys-at-law;
- (d) consult with the Director of Public Prosecutions, Resident Magistrates and Clerks of the Courts regarding preliminary enquires and trial dates;
- (e) carry out such investigations as he considers necessary or desirable in relation to cases for which legal aid is granted;
- (f) administer means tests to applicants for legal aid;

Duties of
Director of a
clinic

* Regulation 5 (2) (a) (i) not yet in force.

- (g) ensure the availability of attorneys-at-law for legal aid;
- (h) liaise with the Registrars of the Supreme Court and Court of Appeal where necessary;
- (i) carry out such other functions as are necessary for the better performance of the legal aid system.

Records to be kept by clinic

7.—(1) A Director of a clinic shall cause to be kept—

- (a) a register containing the particulars specified in paragraph (2);
- (b) a record of the attorneys-at-law to whom assignments are made;
- (c) a roster of duty counsel; and
- (d) a copy of the reports specified in regulation 8.

(2) There shall be entered in the register kept pursuant to paragraph (1)—

- (a) the name of each attorney-at-law entered on a panel or removed therefrom and the date of such entry or removal;
- (b) particulars of cases assigned, including—
 - (i) the date of assignment;
 - (ii) the attorneys-at-law;
 - (iii) the dates on which determined; and
 - (iv) any other relevant information;
- (c) where any case is reassigned, the date of such reassignment and the attorney-at-law to whom the case is reassigned.

Reports by Director of a clinic

8. Every Director of a clinic shall submit to the Executive Director—

- (a) a half-yearly report containing in respect to that period—
 - (i) the number of applications received for legal aid;
 - (ii) the number of legal aid certificates granted;
 - (iii) the number of applications refused and the reasons therefor;
 - (iv) the nature of the cases undertaken;
 - (v) the manner of disposal of the cases;
 - (vi) the amount of fees collected;
 - (vii) the number of attorneys-at-law assigned to each case;
 - (viii) any other relevant matter;
- (b) a yearly financial report containing—
 - (i) the amount of fees collected;
 - (ii) the total income of the clinic;
 - (iii) the total expenditure of the clinic;
 - (iv) any other information which the Council may require.

PART IV. Scheme for the provision of Legal Aid to Persons Detained or Accused

9.—(1) The Council shall establish a roster of duty counsel which shall contain the following particulars— Roster of duty counsel.

- (a) the names, business addresses, business telephone numbers and contact telephone numbers of duty counsel available for service;
- (b) the places within each parish where duty counsel are available for service; and
- (c) the days and times when the duty counsel are available for service.

(2) The Council shall, from time to time, send to the Clerk of the Courts in each parish and the officer in charge of every police station in the Island, a copy of the roster of duty counsel for the parish in which the Clerk of the Courts and officer are stationed.

(3) The Council shall send to the Director of each clinic a copy of the roster referred to in paragraph (2) for the parish to which the Director is assigned.

(4) In paragraph (1) of this regulation and paragraph (a) of regulation 10 “contact number” means the telephone number where duty counsel may be contacted outside of business hours.

10. A duty counsel shall inform the council in writing of any change in—

- (a) his availability for service;
- (b) the place where he is available for service;
- (c) the days or times he is available for service; and
- (d) his business address or business telephone number or contact telephone number.

Notification
of changes to
Council.

11.—(1) A duty counsel shall perform the following duties—

- (a) attend at a police station, lock-up, correctional institution or other place where a person is detained;
- (b) give legal advice to a person detained or accused of an offence;
- (c) attend identification parades, where required;
- (d) make bail application on behalf of an accused person;
- (e) represent an accused person at his first appearance in Court.

Duties of duty
counsel.

(2) The duty counsel shall complete the Report and Certificate of Duty Counsel in the form set out as Form B in the First Schedule and forward the original to the Council within twenty-four hours of his first meeting with the persons detained or accused or as soon as practicable thereafter.

First Schedule.
Form B.

PART IV. Scheme for the provision of Legal Aid to Persons Detained or Accused

Person detained or arrested to be informed of right to legal aid.

12.—(1) Where a person is detained at or charged with an offence and brought to a police station or lock-up, the officer detaining the person or making the arrest shall inform him of his right to legal aid and to representation by a duty counsel.

(2) A person referred to in paragraph (1) who is unable to afford an attorney-at-law of his choice may request the services of a duty counsel.

(3) Where a person requests the services of duty counsel, the police officer to whom the request is made shall contact the first available duty counsel on the roster, and where a duty counsel cannot be contacted, the police officer shall contact the Council which shall assign a duty counsel.

(4) There shall be placed in a conspicuous position in every police station or lock-up a sign to the effect that any person who is unable to afford an attorney of his choice may request the services of a duty counsel under these Regulations.

Duty counsel to attend upon person detained or accused

13. The duty counsel contacted or assigned pursuant to regulation 12(3) shall forthwith attend the police station, lock-up, correctional institution or other place to perform the duties referred to in regulation 11(1).

Means test not to be administered under this Part.

14. A means test shall not be administered in relation to any person represented by duty counsel under this Part.

Procedure on receipt by Council of Report and Certificate of Duty Counsel. Second Schedule. Part I.

15. The Council shall, upon receipt of a Report and Certificate of Duty Counsel referred to in regulation (11)(2), process the report and pay to the duty counsel the appropriate fee specified in Part 1 of the Second Schedule, with effect from the date specified therein.

PART V. Application for Legal Aid

Application for legal aid.

16.—(1) Every person, whether or not he was represented by duty counsel under Part IV who is desirous of obtaining legal aid, in respect of—

*(a) a civil matter; or

(b) a criminal matter,

First Schedule. Form C.

shall make an application to a certifying authority in the form set out as Form C in the First Schedule.

(2) Where, upon enquiry, the court is informed by an accused person that he is unable to afford the services of an attorney-at-law, and that he is

*Regulation 16 (1)(a) not yet in force.

applying for legal aid, the certifying authority in the court may grant that person legal aid, subject to an assessment of that person's means.

(3) An application for legal aid under paragraph (1) shall be filled out—

- (a) by a Clerk of the Courts, if the certifying authority is a Resident Magistrate;
- (b) in any other case, by a Court Administrator or such other person as may be designated by the Registrar of the Supreme Court.

(4) The original of an application shall be forwarded to the Executive Director within fourteen days of the date of the application or as soon as possible thereafter.

17.—(1) Every person who makes an application for legal aid shall be subject to a means test to determine whether legal aid should be granted unconditionally or subject to a contribution by the applicant, or refused. Means test.

(2) For the purposes of assessing the eligibility for legal aid of an applicant who is required to make a contribution and the means of such an applicant the certifying authority shall take into account such factors as it considers relevant, including—

- (a) the income and expenses of the applicant;
- (b) the applicant's property (if any);
- (c) the nature of the offence.

(3) Where an application is refused, the certifying authority shall inform the applicant giving reasons therefor.

18. Where legal aid is granted, the certifying authority shall issue a legal aid certificate to the applicant in the form set out as Form D in the First Schedule. Legal aid certificate
First Schedule,
Form D.

PART VI. *General*

19.—(1) Where an attorney-at-law who is assigned legal aid is unable to appear at the trial or at the hearing of an appeal or application for leave to appeal, he shall, at least eight days before the date fixed for such trial or hearing, as the case may be, give notice in writing thereof to the Clerk of the Courts, the Registrar of the Supreme Court or Court of Appeal, as the case may be, and where applicable, the Director of the Clinic who made the assignment. Procedure where any attorney-at-law unable to appear.

(2) Upon receipt of a notice referred to in paragraph (1)—

- (a) the Clerk of the Courts shall—
 - (i) inform the Resident Magistrate who shall assign another attorney-at-law to the case; and

(ii) make a note in relation thereto on the legal aid certificate;

(b) the Registrar shall assign another attorney-at-law to the case and shall make a note in relation thereto on the legal aid certificate.

Bill to be
verified.

First
Schedule
Form E.

20.—(1) Every attorney-at-law who is assigned a matter under a legal aid certificate shall, after the determination of the matter, submit a bill in the form set out as Form E in the First Schedule in respect thereto for verification to the certifying authority who made the assignment.

(2) The certifying authority shall verify the bill within fourteen days of the receipt thereof.

(3) The attorney-at-law shall submit the bill as verified to the Executive Director for payment.

Tariff of
fees.
Second
Schedule.
Part II.

21. The tariff of fees specified in Part II of the Second Schedule shall with effect from the date specified therein, be paid to an attorney-at-law who is assigned a matter under a legal aid certificate.

Provision
regarding
travelling
allowances.

Part III.

22. The Council may permit an attorney-at-law who is assigned a matter under a legal aid certificate to file a claim for travelling allowances in exceptional circumstances and may, in the appropriate case, pay to the attorney-at-law such allowance in accordance with Part III of the Second Schedule.

FIRST SCHEDULE

(Regulations 3(2), 11
(2), 16(1), 18 and
20 (1))

FORM A

THE LEGAL AID ACT, 1997

APPLICATION BY ATTORNEY-AT-LAW TO HAVE NAME ENTERED ON A PANEL

I....., an Attorney -at-law
having an office at.....
(address)

hereby apply to have my name entered on the following panel or panels---

- legal aid criminal
- legal aid civil
- duty counsel
- legal advice

(Tick in the box the panel or panels for which application is made)

My area of specialization is

I am available for work at.....
.....

in the parish(es) of..... on
.....:.....day(s) during the hours
of.....

I hereby undertake to comply with the provisions of the Legal Aid Act and the Legal Aid Regulations and to perform all duties undertaken by me as a member of the panel while my name remains thereon.

Dated at.....this.....day of.....20.....

FIRST SCHEDULE, *cont'd.*

FORM B

REPORT AND CERTIFICATE OF DUTY COUNSEL

As duty counsel I

performed the following services under the Legal Aid Act,

on behalf of

(name)

.....

(address)

who was—

(a) detained []

(b) charged with the offence of

at

(place)

1. I advised him/her with respect to:

(a) bail []

(b) his/her choice of plea
following which he/she chose to plead

(i) guilty []

(ii) not guilty []

(c) his/her right to apply for
an adjournment []

(d) making an application for
legal aid []

2. I assisted him/her while he/she was being questioned by the Police []

3. I represented him/her at the holding of an I.D. Parade []

4. I attended Court on his/her behalf on the day of..... 20.....

Signed

Duty Counsel

*Signature of Officer i/c
Police Station*

Date.....

FIRST SCHEDULE, *contd*
FORM C
APPLICATION FOR LEGAL AID
UNDER
THE LEGAL AID ACT

Please Answer all Questions
IN BLOCK LETTERS

NAME OF INTERVIEWER

PLACE OF INTERVIEW

DATE

SECTION A

PARTICULARS OF APPLICANT

1 Name of Applicant

Telephone No

1a Name of person attending and answering questions on behalf of applicant

2 Address

(address of residence and postal address)

2a Address of Business or Place of Work

3 Occupation

4 Age

Date of Birth

SECTION B

FAMILY DEPENDANTS

6 Marital Status

(1) Single

(2) Married

(3) Common Law

(4) Visiting

(5) Widowed

7 Duration of marital status

FIRST SCHEDULE, *contd.*

FORM C, *contd.*

- 8. Is spouse alive or dead
- 9. Name of mate or spouse
- Occupation Employer
- Age Address of Business
- Are you at present living together
- (If no) address of spouse
- 10. Number of children who are dependants
- 11. Number of children attending school

SECTION C

HOUSEHOLD

- 12. Type of Occupancy:
 - (1) Owner (2) Rent (3) Lease (4) Squatting
 - (5) Family House
- 13. Number of rooms
- 14. Light Water piped into yard into house
- 15. Tenement Lease Land [Other] Own Land
- 16. Head of Household
- 17. Number of persons in household
- Relationship to Applicant

SECTION D

EDUCATIONAL BACKGROUND

PRIMARY	SECONDARY	VOCATIONAL	TERTIARY	
[]	[]	[]	Teachers College	[]
			Community College	[]
			University	[]
			Advance Vocational Performance Training	[]

FIRST SCHEDULE, *contd*
FORM C, *contd*

SECTION E	MEANS TEST
20 Do you own (state value)	
Land \$	Animals \$
House \$	Machinery and Tools \$
Motor Vehicle \$	
21 Source of Income	
(1) Salary \$	(3) Salary of Spouse \$
(2) Other members of household \$	(4) Savings \$
(a) Partner \$	(b) Bank \$
(c) Credit Union \$	(d) Building Society \$
22 Commitments	
(1) Rent \$	(2) School fees \$
(3) Insurance \$	(4) Hire purchase \$
(5) Other \$	
(a) Light Bill \$	(b) Travel expense \$
(c) Parental support \$	(d) Child maintenance \$
(e) Water rate \$	
23 Can you afford the services of an Attorney-at-Law?	
24 Have you retained an Attorney-at-Law before in the matter in which you are requesting assistance? YES NO	
25 Is any Attorney-at-law acting for you in any other matter? YES NO	
25a If yes state type of matter and name of Attorney-at-Law	
26 Have you ever been granted Legal Aid in any matter YES NO	
If yes when	

FIRST SCHEDULE, *contd*

FORM C, *contd*

I agree that the Attorney (s) is/are entitled to secure the services of any other Attorney-at-Law of his/their choosing to act in his/their place as my legal representative for any other reason and in his/their entire discretion

Signature of Applicant _____

Date _____

SECTION H

I DECLARE that all the aforesaid information is true and I understand that any false statement made concerning my income or if my financial position shall improve considerably then the LEGAL AID COUNCIL is at liberty to withdraw from any case or to charge me fees according to my change in income

FURTHER, I understand that the fees quoted or paid are not necessarily final, and that if the matter is more complex or entails much more work and time than the Attorney or Attorneys first understood according to the initial instructions, then the LEGAL AID COUNCIL would be at liberty to raise the fees accordingly

Dated the _____ day of _____, 20_____

CLIENT _____

SECTION I ASSESSMENT (For Office Use Only)

- | | | | | | | |
|-----|------------------------------|-------|---------------------------|-----|------------|-----|
| i | Occupation | [] | Income | [] | Dependants | [] |
| | Home Commitments | [] | Assets | [] | Total | [] |
| ii | Assessed Category | [] | | | | |
| iii | Full Legal Aid granted | [] | Limited Legal Aid granted | [] | | |
| | Legal Aid not granted | [] | | | | |
| iv | Fees assessed at | _____ | | | | |
| v | Attorney (s)-at-law assigned | _____ | | | | |

FIRST SCHEDULE, *contd.*

Form C, *contd.*

Comments:

Assessing Officer _____

Date _____

FORM D

THE LEGAL AID ACT

LEGAL AID CERTIFICATE

..... of
 (name of person granted legal aid)

..... is
 (address)

hereby granted legal aid for

.....
 (state matter)

triable in the Court

and shall pay the sum of dollars (\$)
 (delete if not applicable)

The Attorney-at-law assigned to the matter is

Dated the day of , 20

Certifying Authority _____

If matter reassigned state name of Attorney-at-law to whom matter
 reassigned and date _____

Certifying Authority _____

SECOND SCHEDULE, *cont'd.*

PART II. *Criminal Matters*

With effect from April 1, 2015:—

Offences	Senior Counsel	Junior Counsel
—	—	—
	\$	\$
<i>Trials</i>		
Capital Murder	135,960.00	90,640.00
Non-Capital Murder and Manslaughter	101,970.00	67,980.00
Other Circuit Court and Firearm cases	90,640.00	67,980.00
RM Court Offences other than Fraud		33,990.00
Fraud		45,320.00
Traffic Offences—	33,990.00	
Dangerous/Reckless Driving under the influence of Alcohol		
<i>Preliminary Enquiries</i>		
Where Oral Evidence is given	45,320.00	33,990.00
Only Written Statements Tendered	22,660.00	13,596.00
<i>Appeals</i>		
Murder	67,980.00	45,320.00
Other Circuit Court and Firearm cases	45,320.00	31,724.00
RM Court Appeals, other than Fraud	33,990.00	22,660.00
Fraud	45,320.00	31,724.00

PART III. *Travelling and Subsistence Allowances*

At a rate of \$6.50 per kilometer.

N.B. No Allowance is payable for travel within a radius of 80 kilometers from the office of an attorney-at-law wherever such office is situated.