

SUBSIDIARY LEGISLATION

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THE JUDICATURE AND APPLICATION OF LAWS ACT,
(CAP.358)

RULES

(Made under section 4)

THE JUDICATURE AND APPLICATION OF LAWS (LEGAL
AID IN CIVIL PROCEEDINGS) RULES, 2019

ARRANGEMENT OF RULES

PART I
PRELIMINARY PROVISIONS

Rules Title

1. Citation.
2. Interpretation.

PART II
PROVISION OF LEGAL AID IN CIVIL MATTERS

3. Certificate for legal aid.
4. Change of legal aid provider.
5. Recovery of costs.

SCHEDULE

THE JUDICATURE AND APPLICATION OF LAWS ACT,
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THE JUDICATURE AND APPLICATION OF LAWS (LEGAL
AID IN CIVIL PROCEEDINGS) RULES, 2019

PART I
PRELIMINARY PROVISIONS

- Citation **1.** These Rules may be cited as the Judicature and Application of Laws (Legal Aid in Civil Proceedings) Rules, 2019.
- Interpretation **2.** In these Rules unless the context requires otherwise-
- Cap.341 “advocate” has the meaning ascribed to it under the Advocates Act;
- Cap.21 “aided person” means a person who has been granted legal aid under the Legal Aid Act;
- “certifying authority” means-
- (a) in the case of proceedings before the High Court, the Principal Judge, the Judge in charge or the presiding Judge of the High Court where the proceedings are conducted; and
- (b) in the case of proceedings before a district court, Juvenile Court or a court of a resident magistrate, a Magistrate-in-charge of the respective court or the presiding magistrate where the proceedings are conducted;
- Cap.237 “Chief Court Administrator” has the meaning ascribed to it under the Judicial Administration Act and includes any other person acting in that capacity;
- Cap.21 “indigent person” has the meaning ascribed to it under section 3 of the Legal Aid Act;

- “legal aid provider” means an institution registered under section 9 of the Legal Aid Act;
- “legal aid services” has the meaning ascribed to it under section 3 of the Legal Aid Act;
- “Registrar” means the Registrar of the High Court and includes a Deputy Registrar or Acting Deputy Registrar.

PART II
PROVISION OF LEGAL AID IN CIVIL MATTERS

Certificate for
legal aid

3.-(1) Without prejudice to any other arrangements for provision of legal aid services in respect of civil proceedings, where it appears to the certifying authority that-

- (a) a party to a proceeding is indigent; and
- (b) the interests of justice so requires that such party should have legal aid, the authority shall cause the party to be provided with legal aid.

(2) Upon satisfaction on eligibility of a person for the provision of legal aid in terms of subrule (1), the certifying authority shall issue a certificate for legal aid in the prescribed CLA Form No.1 which shall be submitted to the Registrar or magistrate-in-charge as the case may be.

(3) The Registrar or magistrate in-charge shall, upon receipt of the Certificate for Legal Aid, assign a legal aid provider to provide legal services to the aided person.

(4) The assigned legal aid provider shall not withdraw from the conduct of the case without leave of the court.

Change of
legal aid
provider

4.-(1) An aided person shall not change the assigned legal aid provider unless-

- (a) the court before which the proceedings are pending is satisfied that the change will facilitate the ends of justice, and makes an order to that effect; or

Judicature And Application of Laws (Legal Aid In Civil Proceedings)

GN. NO. 153 (Contd.)

(b) The aided person changes the legal aid provider at his own expense.

(2) Where a legal aid provider has been changed pursuant to subrule (1), the provider shall be entitled to costs and remuneration as shall be determined by the presiding Judge or magistrate-in-charge.

Recovery of
costs
Cap.21

5. Costs incurred by a legal aid provider in respect of the proceedings may be deducted from the award of costs in accordance with the provisions of section 29 of the Legal Aid Act.

CLA FORM NO.1

SCHEDULE

(Made under Rule 3(2))

CERTIFICATE FOR LEGAL AID

To:
Registrar/magistrate incharge

This is to certify that *(name)* who is a party in Civil Case/Appeal/Application No. of before the High Court/Resident Magistrate's Court/District Court* of at has met the criteria for provision of legal aid for the conduct of his case. I, therefore, hereby order that a legal aid provider be assigned to him.

Name
Signature.....
Principal Judge/Judge incharge/presiding Judge/Magistrate-in-charge/presiding Magistrate
Date:

Dar es Salaam,
11th February, 2019

IBRAHIM HAMIS JUMA
Chief Justice