

STATUTORY INSTRUMENTS SUPPLEMENT
to The Uganda Gazette No. 37, Volume CXV, dated 28th June, 2022

Printed by UPPC, Entebbe, by Order of the Government.

S T A T U T O R Y I N S T R U M E N T S

2022 No. 55.

**THE JUDICATURE (LEGAL REPRESENTATION AT THE EXPENSE
OF THE STATE) RULES, 2022**

ARRANGEMENT OF RULES

PART I—PRELIMINARY

Rule

1. Title
2. Application of Rules
3. Objectives of Rules
4. Interpretation

**PART II—ESTABLISHMENT OF THE STATE FUNDED
LEGAL REPRESENTATION IMPLEMENTATION COMMITTEE**

5. Establishment of the State Funded Legal Representation
Implementation Committee
6. Functions of Committee

PART III—ROLL OF STATE APPOINTED ADVOCATES

7. Advocates eligible for State funded legal representation
instructions
8. Qualification for admission to the Roll of State Appointed
Advocates
9. Appointment of advocate not on the Roll of State Appointed
Advocates
10. Removal from the Roll of State Appointed Advocates

PART IV—STATE FUNDED LEGAL REPRESENTATION

11. Entitlement to legal representation by State appointed advocates
12. Appointment of advocate to represent accused person
13. Duties of State appointed advocate
14. First hearing
15. Ethical considerations
16. Duration of appointment
17. Remuneration
18. Legal representation on appeal
19. Monitoring and evaluation
20. Reports by advocates

SCHEDULES

SCHEDULE 1—FORMS

SCHEDULE 2—CERTIFICATE OF TRIAL READINESS

SCHEDULE 3—REMUNERATION OF ADVOCATES

SCHEDULE 4—FEEDBACK FORM

SCHEDULE 5— FEEDBACK FROM STATE APPOINTED ADVOCATE

SCHEDULE 6— ADVOCATE'S REPORT

STATUTORY INSTRUMENTS

2022 No. 55.

The Judicature (Legal Representation at the Expense of the State) Rules, 2022

(Under section 41 of the Judicature Act, Cap.13)

IN EXERCISE of the powers conferred upon the Rules Committee by section 41 of the Judicature Act, these Rules are made this 16th day of June, 2022.

PART I—PRELIMINARY

1. Title

These Rules may be cited as the Judicature (Legal Representation at the Expense of the State) Rules, 2022.

2. Application of Rules

These Rules apply to representation for accused persons at the expense of the state for criminal offences which carry a sentence of death or imprisonment for life.

3. Objective of Rules

The objective of these Rules is to streamline the management of State funded legal representation in the administration of justice with specific emphasis on—

- (a) ensuring effective and efficient representation of accused persons entitled to legal representation at the expense of the State;
- (b) ensuring the expeditious, efficient and fair trial of accused persons;
- (c) ensuring the proper management and operation of State funded representation;
- (d) establishing a clear criterion for the selection and remuneration of advocates for State funded legal representation; and

- (e) ensuring that the interests of justice are met in cases which carry a sentence of death or imprisonment for life.

4. Interpretation

In these Rules, unless the context otherwise requires—

“accused person” means a person charged with a criminal offence which carries a sentence of death or imprisonment for life;

“advocate” means any person whose name is duly entered on the Roll of Advocates;

“Committee” means the State Funded Legal Representation Implementation Committee established by rule 5;

“court” means a court of judicature established by or under the authority of the Constitution;

“legal representation” includes giving legal advice and providing legal representation to an accused person in person, counselling and all oral and written advocacy;

“Registrar” means a registrar of the relevant court or an authorised officer of court exercising the functions of the registrar;

“State appointed advocate” means an advocate appointed to represent an accused person under these Rules;

“State funded legal representation” means the representation at the expense of the State;

“working days” means Monday to Friday but does not include weekends or public holidays.

PART II—ESTABLISHMENT OF THE STATE FUNDED LEGAL REPRESENTATION IMPLEMENTATION COMMITTEE

5. Establishment of the State Funded Legal Representation Implementation Committee

(1) There is established the State Funded Legal Representation Implementation Committee comprised of—

- (a) the Chief Registrar;

- (b) the Secretary to the Judiciary;
- (c) a representative of the Director of Public Prosecutions;
- (d) the Registrar, Supreme Court;
- (e) the Registrar, Court of Appeal;
- (f) the Registrar, High Court;
- (g) the Registrar, Magistrates Affairs and Data Management;
- (h) the President of the Uganda Law Society;
- (i) the Secretary Law Council;
- (j) a representative of civil society legal aid services providers appointed to the committee by the Chief Registrar; and
- (k) a practicing advocate nominated by the President of the Uganda Law Society.

(2) The Chief Registrar shall be the chairperson of the Committee.

(3) The Registrar of the High Court shall be the secretary to the Committee.

(4) The Committee may co-opt technical experts to assist it with specialised issues as may be required by the Committee.

(5) The Committee shall meet at least twice in each calendar year.

6. Functions of Committee

The functions of the Committee are—

- (a) to monitor the implementation of State funded legal representation of accused persons;
- (b) to receive and handle applications from advocates interested to be appointed to the Roll of State Appointed Advocates;
- (c) to determine and review the fees to be paid to advocates on the Roll of State Appointed Advocates under these Rules;

- (d) to handle and resolve complaints from stakeholders with a view of ensuring discipline and ethical values in the management of the State funded legal representation; and
- (e) to handle any other matters that may arise, for the effective implementation of these Rules.

PART III—ROLL OF STATE APPOINTED ADVOCATES

7. Advocates eligible for State funded legal representation instructions

(1) The Chief Registrar shall maintain a Roll of State Appointed Advocates to represent accused persons under State funded legal representation.

(2) The Roll of State Appointed Advocates shall comprise advocates willing and able to conduct matters before all courts.

(3) The Chief Registrar shall, at the beginning of every calendar year, issue through the Uganda Law Society, notices of expression of interest for advocates to be appointed to the Roll of State Appointed Advocates.

(4) An advocate interested to be admitted to the Roll of State Appointed Advocates shall, within fourteen days from the date of the notice under subrule (1) express his or her interest in writing to the Chief Registrar, in Form 1 set out in Schedule 1 to these Rules.

(5) The Chief Registrar shall, annually, issue a list of State appointed advocates to all courts.

8. Qualification for admission to the Roll of State Appointed Advocates

An advocate is eligible to be admitted on the Roll of State Appointed Advocates who has—

- (a) in relation to legal practice, experience of at least—
 - (i) one year; for cases triable by a Magistrates Court;
 - (ii) two years; for cases triable by the High Court; and
 - (iii) five years; for cases in the Court of Appeal and Supreme Court;
- (b) no record of previous professional misconduct or disciplinary action.

9. Appointment of advocate not on the Roll of State Appointed Advocates

(1) A Registrar or Chief Magistrate may appoint an advocate who is not on the Roll of State Appointed Advocates to represent an accused person only in the following circumstances—

- (a) where an advocate agrees to act in accordance with these Rules and is acting pro bono pursuant to the Advocates (Pro Bono Services to Indigent Persons) Regulations, 2009; or
- (b) where a Judge, Registrar or Chief Magistrate considers that it is in the interest of justice to do so, and the accused person consents to the representation.

10. Removal from the Roll of State Appointed Advocates

The Committee may remove an advocate from the Roll of State Appointed Advocates where the advocate—

- (a) is found guilty of professional misconduct by the Law Council;
- (b) has been disbarred from legal practice;
- (c) has been reported by the Court or other stakeholders to have exhibited unethical and unprofessional conduct in handling State funded legal representation matters;

- (d) is found to be incompetent; or
- (e) is unable to perform the functions of his or her office arising from infirmity of body or mind.

PART IV—STATE FUNDED LEGAL REPRESENTATION

11. Entitlement to legal representation by State Appointed Advocate

The circumstances under which the court shall appoint an advocate under the State funded legal representation shall be those provided under Article 28(3)(e) of the Constitution.

12. Appointment of advocate to represent accused person

(1) A Registrar or Chief Magistrate may, as soon as a determination has been made that an accused person satisfies the criteria for State funded legal representation, appoint any advocate on the Roll of State Appointed Advocates to act for an accused, taking into consideration the following—

- (a) the geographical location of the advocate;
- (b) the experience of the advocate;
- (c) the seriousness and complexity of the case; and
- (d) the need to ensure efficiency and minimise costs.

(2) The Registrar or Chief Magistrate shall, within fourteen days before the commencement of trial or opening of a session, notify all advocates on the Roll of State Appointed Advocates in their area of jurisdiction of the upcoming criminal trial or session and request the advocates to express interest in being appointed under these Rules, within two days from the date of notification.

(3) The Registrar or Chief Magistrate shall, at least ten days before the commencement of trial or opening of a session, invite in writing an advocate who expressed interest under subrule (2) to represent a particular accused person.

(4) An advocate invited under subrule (3) shall, within two days from the date of the invitation—

- (a) accept instructions, by lodging with the court a notice in Form 2 set out in Schedule 1 to these Rules, confirming his or her acceptance of the instructions.; or
- (b) decline instructions by lodging with the court a notice in Form 3 set out in Schedule 1 to these Rules notifying the refusal.

(5) An advocate shall only refuse instructions in accordance with the Advocates (Professional Conduct) Regulations and the court shall, within two days of receipt of the notice of refusal, appoint another advocate on the Roll of State Appointed Advocates to represent the accused person.

(6) Where more advocates express interest than required for a particular session, the Registrar or Chief Magistrate shall judiciously exercise his or her discretion in appointing the advocates.

(7) The Court shall at all times consider the interest of an accused person when cause-listing hearings.

(8) A Registrar or Chief Magistrate shall, in appointing advocates under these Rules, use a rotational basis to ensure that every advocate on the Roll of State appointed Advocates is given an opportunity to represent an accused person.

13. Duties of State appointed advocate

(1) An advocate appointed to represent an accused person under the State funded legal representation shall provide legal representation to the accused person.

(2) A State appointed advocate shall at all times comply with all applicable laws, rules and regulations.

(3) A State appointed advocate shall sign the undertaking set out in Form 4 set out in Schedule 1 to these Rules prior to admission to the Roll of State Appointed Advocates.

(4) A State appointed advocate shall—

- (a) meet with the accused person to provide legal advice and counselling;
- (b) provide written confirmation to court that he or she has met with the accused person, within two working days after the meeting; and
- (c) submit to the court a certificate of trial readiness within five working days before the hearing in the form set out in Schedule 2 to these Rules.

(5) The certificate of trial readiness shall be completed by the prosecutor and the defence advocate.

(6) A Judge or Chief Magistrate may, upon receipt of the certificate of trial readiness and being satisfied that the case is ready for trial, fix the case for trial.

(7) An advocate appointed under the State funded legal representation shall appear before the court for every hearing involving the accused person unless written notice is provided to the court that the advocate is unavailable for a hearing and the court grants leave for the advocate not to attend.

14. First hearing

The court shall, at the first hearing, confirm whether—

- (a) the accused person is entitled to State funded legal representation;
- (b) the accused has accepted or rejected State funded legal representation;

- (c) the accused person has legal representation; and
- (d) a certificate of trial readiness has been submitted to the court by the advocate as required under rule 13 (4) (c).

15. Ethical considerations

(1) Where an advocate appointed under these Rules is required under the Advocates (Professional Conduct) Regulations or by operation of statute to withdraw from a case, that advocate shall inform the Judge, Registrar or Chief Magistrate hearing the case.

(2) Where an advocate withdraws under subrule (1), the Registrar or Chief Magistrate shall appoint another advocate on the Roll of State Appointed Advocates to represent the accused person.

(3) An advocate shall not be required to represent more than one accused person where that advocate is of the view that to do so would cause a conflict of interest between the accused persons.

16. Duration of appointment

(1) Upon appointment to represent an accused person, an advocate shall remain appointed for the pre-trial period, the trial and, where practicable, at all stages of post-conviction, including appeal, revision and review of court decisions, unless the convict objects to the representation.

(2) An advocate appointed under the State funded legal representation may be permitted by court to withdraw from a case where it is clear that the complexity and seriousness of the case requires alternative legal representation or for any other reason as the court may deem appropriate.

17. Remuneration

(1) An advocate appointed for State funded legal representation shall be paid such fair and proper fees as assessed by the court in accordance with the fees set out in Schedule 3 to these Rules.

(2) An advocate acting pursuant to the Advocates (Pro Bono Services to Indigent Persons) Regulations, 2009 shall not be entitled to remuneration under these Rules.

(3) For the avoidance of doubt, where a State appointed advocate represents a person on appeal, review or revision, the advocate shall be paid fees for the appeal separately, in accordance with Schedule 3 to these Rules.

(4) All remuneration paid under these Rules shall include disbursement costs.

(5) Fees shall be paid to an advocate no later than seven working days following the conclusion of the trial or appeal.

(6) Any dispute concerning the remuneration payable to an advocate shall be communicated in writing to the Chief Registrar within seven working days after payment and the Chief Registrar shall forward the dispute to the Committee within seven days from the date of receipt of the dispute for consideration and disposal.

18. Legal representation on appeal

(1) Where an accused person is sentenced to life imprisonment or death or where the Director of Public Prosecutions appeals against sentence, the convict is entitled to representation by a State appointed advocate.

(2) Where a convict appeals, the trial advocate may continue to represent him or her unless the advocate is unable to continue for good reason or where the convict objects to the representation.

(3) Where the trial advocate is unable to represent the convict on appeal, the Registrar shall, within fourteen days appoint another advocate from the Roll of State Appointed Advocates to represent the accused person.

(4) The Registrar or Chief Magistrate shall schedule a pre-session meeting regarding the appeal between the Judge, prosecutor, State appointed advocate and the convicted person.

(5) The remuneration due to a State appointed advocate on appeal shall be as set out in Schedule 3 to these Rules.

19. Monitoring and evaluation

(1) The Registrar or Chief Magistrate shall issue a feedback form to be completed by all accused persons represented by State appointed advocates as prescribed in the form set out in Schedule 4 to these Rules.

(2) A State Appointed Advocate shall, within seven days after the conclusion of a session, complete and submit to the Registrar, the feedback form set out in Schedule 5 to these Rules.

(3) Any adverse feedback or complaints about an advocate shall be made to the Chief Registrar.

20. Reports by advocates

An advocate who represents an accused person under these Rules shall, at the end of the trial, complete the report in the form set out in Schedule 6 to these Rules and submit it to the Registrar.

SCHEDULE 1

Rule 7 (4), 12 (4) & 13 (3)

FORMS

FORM 1

THE REPUBLIC OF UGANDA

**EXPRESSION OF INTEREST TO BE ENTERED ON THE ROLL OF
STATE APPOINTED ADVOCATES.**

I,.....
.... of M/s
Advocates do hereby express interest to be entered on the Roll of
State Appointed Advocates for the year..... in the High
Court Circuit of or Magisterial Area of
.....

I enclose my curriculum vitae and relevant documentation.

This day of 20.....

Signed

.....

Advocate.

FORM 2

ACCEPTANCE OF INSTRUCTIONS

Rules 12(4)(a)

THE REPUBLIC OF UGANDA

IN THE COURT OF UGANDA AT
CRIMINAL CASE NO. OF

UGANDA

versus

NOTICE OF ACCEPTANCE OF INSTRUCTIONS

TAKE NOTICE that of (*firm, address, including physical and email*) has accepted instructions to represent (*name of accused person (s)*) as a State appointed advocate in respect of the above-mentioned criminal case.

All court process in respect of the case should be sent to the physical and email address.

DATED at this day of 20....

.....
State Appointed Advocate

LODGED at the Registry of theatthis day of 20....

.....
Registrar/Chief Magistrate

FORM 3

REFUSAL OF INSTRUCTIONS

Rule 12(4)(b)

THE REPUBLIC OF UGANDA

IN THE COURT OF UGANDA AT
CRIMINAL CASE NO. OF

UGANDA

versus

NOTICE OF REFUSAL OF INSTRUCTIONS

TAKE NOTICE that of
(firm and address, including physical and email) has declined instructions
to represent
(name of accused person (s)) as a State appointed advocate in respect of the
above-mentioned criminal case.

The instructions are declined on the following grounds
.....
.....
(indicate grounds in line with professional rules and regulations).

DATED at this of 20....

.....
State Appointed Advocate

LODGED at the Registry of the this day of
..... 20....

.....
Registrar/ Chief Magistrate

FORM 4

UNDERTAKING

Rule 13 (3)

I, (*name of advocate*), hereby accept my admission to the Roll of State Appointed Advocates and agree to comply at all times with the following conditions—

1. I will comply at all times with the Judicature (Legal Representation at Expense of the State) Rules.
2. I will act at all times in the interests of justice, the accused person and the court.
3. I will provide the services set out in the Judicature (Legal Representation at Expense of the State) Rules, 2022 within the prescribed time.

DATED at this day of 20....

.....
State Appointed Advocate

SCHEDULE 2

Rule 13 (4) (c)

CERTIFICATE OF TRIAL READINESS

IN THE COURT OF UGANDA HOLDEN AT

Case No.

UGANDA

Versus

.....

The date of trial is:

The time estimate is:

Issue	Yes	No	N/A	Details
DEFENCE				
1. The defence is in effective contact with the accused person				
2. Have all the exhibits (if any) been retrieved from the Experts				
3. Will the accused person maintain a plea of not guilty?				
4. Have alternate pleas or plea bargaining been considered?				
5. Has all defence evidence to be relied on been obtained?				
6. Has all disclosure been received?				
7. Have the directions of the court been complied with?				

Issue	Yes	No	N/A	Details
8. Have any witness summons been served?				
9. Have you notified the court of any interpreter requirements?				
10. Is the case ready to proceed without delay before the court?				
I certify the accused person's case to be trial ready				
Signed:				
Dated:				
PROSECUTION				
1. Has all evidence to be relied on at trial been served?				
2. Has all disclosure been provided?				
3. Have the directions of the court been complied with?				
4. Have any witness summons been served?				
5. Is the prosecution in effective communication with the victims, complainants and witnesses required for trial?				
6. Have the witnesses acknowledged that they will attend trial?				
7. Is the case ready to proceed without delay before the court?				
I certify the prosecution to be trial ready				

Issue	Yes	No	N/A	Details
Signed:				
Dated:				
ADDITIONAL INFORMATION FOR THE COURT:				

SCHEDULE 3

*Rule 17 (1), & (3)
and 18 (5)*

REMUNERATION OF ADVOCATES

No.	HEARING	FEE (UG SHS)
1	Full trial	400,000 – 1,100,000
2	Nolle prosequi	200,000 – 400,000
3	No case to answer	300,000 – 750,000
4	Plea bargain	250,000 – 500,000
5	Appeals	350,000 – 750,000

SCHEDULE 4

Rule 19(1)

THE REPUBLIC OF UGANDA

FEEDBACK FORM

IN THE COURT OF UGANDA AT

CRIMINAL CASE NO. OF

UGANDA

versus

.....

FEEDBACK FROM ACCUSED PERSON

1. Name of accused person:
2. Offence charged with:
3. Name of advocate assigned to represent accused person in the matter:
.....
4. Court decision in the case:(e.g.,
sentence, acquittal)

FEEDBACK ON ADVOCATE'S LEGAL REPRESENTATION:

1. Availability of counsel:
2. Attendance of court hearings:
.....
3. Presentation of case (e.g., *examining witnesses*):
.....
.....
.....
4. General satisfaction with advocate's representation:
.....

.....
.....
.....
.....

COMPLETED at this..... day of 20....

.....
Accused Person

RETURNED to the Court this day of 20....

.....
Registrar/Chief Magistrate

SCHEDULE 5

Rule 19(4)

To:

The Registrar, High Court
Judiciary Headquarters
Kampala

FEEDBACK FROM STATE APPOINTED ADVOCATE

1. Number of cases handled during the session.....
2. Duration of Session: From to
3. Name of presiding Judicial officer(s)
4. Court where Session was conducted
5. Organisation/management of the session: *(e.g. duration of the session, duration of daily hearings, daily opening and closing of hearings, involvement of stakeholders, pre-session meetings, the relationship between the advocates, prosecutors and court, etc)*
.....
.....
.....
.....
6. Preparedness of State Counsel *(e.g., availability of witnesses, exhibits, readiness of submissions within timelines, session time management, etc):*
.....
.....
.....
7. Facilitation and remuneration of counsel *(e.g. fairness of the assessment, timeliness of payment and any challenges in accessing payment, etc):*

.....
.....
.....
.....

8. Timely access to facilities and services *(such as the cause-list, case records, accused person(s), court notices, witness summons, rulings, judgment, certifications, etc)*

.....
.....
.....
.....

9. General recommendations for better management of future sessions:

.....
.....
.....
.....

COMPLETED at this..... day of 20.....

.....

State Appointed Advocate

SCHEDULE 6

Rule 20

THE REPUBLIC OF UGANDA

IN THE COURT OF UGANDA AT

CRIMINAL CASE NO. OF

UGANDA

versus

.....

ADVOCATE'S REPORT

1. Criminal Case <i>(Criminal Case No and names of accused person)</i>	
2. Date of commencement and conclusion of case.	
3. Number of attendances during the case <i>(Including at court hearing and to accused person while in detention)</i>	
4. Summary of proceedings and legal representation afforded to accused person.	
5. Result in the criminal case.	
6. Any post-conviction reliefs sought <i>(Such as appeal, bail, Ministers Order, etc)</i>	

DATED at this day of 20....

.....
State Appointed Advocate

ENDORSED this day of 20....

.....
Officer in Charge of Prison

SUBMITTED to the Registrar of the Court this day of
20....

.....
Registrar/Chief Magistrate

.....
ALFONSE CHIGAMOY OWINY- DOLLO
Chief Justice

Cross References

Advocates (Pro Bono Services to Indigent Persons) Regulations,
2009, S. I. 39 of 2009

Advocates (Professional Conduct) Regulations, S. I. 267-2
Constitution

Magistrates' Courts Act, Cap. 16

Poor Persons Defence Act, Cap. 20

Trial on Indictments Act, Cap. 23