

Turks and Caicos Islands

Supreme Court Ordinance

## Legal Aid (Early Criminal and Civil Assistance) Rules 2021

Government Notice 1173 of 2021

Legislation as at 31 December 2021

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# Turks and Caicos Islands

## Supreme Court Ordinance

### Legal Aid (Early Criminal and Civil Assistance) Rules 2021 Government Notice 1173 of 2021

Published in The Gazette - Turks and Caicos Islands 90 on 31 December 2021

Assented to on 30 December 2021

Commenced on 31 December 2021

*[This is the version of this document from 31 December 2021.]*

MADE by the Chief Justice under section 16 of the Supreme Court (Amendment) Ordinance.

#### Part I – Preliminary

##### 1. Citation and commencement

These Rules may be cited as the Legal Aid (Early Criminal and Civil Assistance) Rules 2021 and shall come into operation on the 31st day of December 2021.

##### 2. Interpretation

In these Rules—

"**Assisted Person**" refers to a person granted Civil Legal Aid

"**Civil Legal Aid Panel**" refers to the Legal Aid Panel established under Rule 15 of these Rules

"**Duty Counsel**" refers to an Attorney on roster who is assigned to appear on behalf of persons arrested and/or investigated for the commission of a crime.

"**Litigation Attorney**" is an Attorney whose name appears on the Litigation Attorney Roster and may be assigned a civil legal aid case

"**Registrar**" refers to the Registrar of the Supreme Court.

#### Part II – Criminal cases

##### 3. Duty Counsel Roster

- (1) There is established a Duty Counsel Roster which shall be compiled and kept by the Registrar of the Supreme Court.
- (2) An Attorney who is admitted to practice in the Islands and who holds a valid practising certificate is eligible to be placed on the Duty Counsel Roster.
- (3) An Attorney wishing to be placed on the Duty Counsel Roster shall apply to the Registrar.
- (4) An application for appointment onto the Duty Counsel Roster shall be in Form C set out in Schedule A, and shall be accompanied by a curriculum vitae, unless the Attorney is already on the Legal Aid Roster.
- (5) The Duty Counsel Roster shall be revised every 60 days after the last compilation, and shall be maintained by the Registrar.

#### 4. Responsibilities of Duty Counsel

A Duty Counsel shall provide services for persons arrested for criminal offences during the investigative stage at the police station. In this regard, a Duty Counsel may provide the following services—

- (a) attending at the place where a person arrested is being held or detained to provide legal advice;
  - (b) holding an interview with the arrested person;
  - (c) being present at an identification parade, where required;
  - (d) applying for bail at the police station or when the person is charged, at Court;
  - (e) providing any service that may be required to advance the course of justice for the person arrested, including appearing for the person in an application for further detention; and/or
  - (f) representation of the person charged at his/her first appearance before the Court, where an application may include—
    - (i) seeking withdrawal of any charges;
    - (ii) making an application for bail;
    - (iii) entering any pleas by the accused; and/or
    - (iv) arguing in mitigation of sentence where an accused pleads guilty to any offences.
- (2) Duty Counsel is also to be available for persons needing assistance with any Mental Health-related hearings before a person is charged before the Court.

*[Please note: numbering as in original.]*

#### 5. Terms of engagement

An Attorney on the Duty Counsel Roster must be prepared and available throughout the period of their allocated duty schedule to be summoned at any time during day-time or night-time hours to provide legal advice and assistance for a person detained or arrested for a crime, and during the time of investigation(s) at the police station.

#### 6. Assignment of Duty Counsel

- (1) The weekly assignment of Duty Counsel shall be published two weeks in advance by the Registrar from the Duty Counsel Roster.
- (2) The assigned Attorneys' names will be sent to police stations to provide early legal services for persons arrested on suspicion of commission of offences.
- (3) The duties of a Duty Counsel cease after the detained person's first appearance at Court, should the investigations result in a criminal charge being laid, or at the police station where the investigation does not end in a criminal charge.
- (4) A Duty Counsel shall fill out the Duty Counsel Claim in any particular case once his/her duties cease.

#### 7. Accessing the services of Duty Counsel

- (1) A person who has been detained or arrested for crime, but has not been formally charged with an offence, may be entitled to the services of a Duty Counsel, where—
  - (a) he is desirous of having Counsel present during investigation
  - (b) he fills out Form A, the Legal Aid (Extended) (Post Arrest, Investigations and Pre-charge) Application Form setting out his income; and

- (c) his income is below US\$ 10,000 *per annum*;
  - (d) he is otherwise able to establish poor circumstances or need.
- (2) A false declaration of income in Form A will not disentitle an applicant to the services of a Duty Counsel, but may affect his chances of securing Legal Aid before the Legal Aid Panel.
  - (3) The Officer in charge of the police station shall notify the allocated Duty Counsel forthwith of the presence of a detained person who requests the assistance of the Duty Counsel and shall provide the detained person with a copy of Form A.
  - (4) The allocated Duty Counsel shall provide a person detained at a police station with advice and assistance as needed and represent him in all processes and procedures of investigation at the police station until his first appearance before the Court (where the detained person is charged with an offence) or his release from detention.

### Part III – Civil cases

#### 8. Civil Legal Aid cases

- (1) Civil Legal Aid may be granted to assist a would-be plaintiff or applicant, defendant or respondent in exigent circumstances.  
Provided that legal aid may be granted for civil cases upon a demonstration of importance, urgency and need.
- (2) Need shall be determined by the Civil Legal Aid Panel, the Civil Legal Aid Panel being satisfied that the person seeking legal aid may be entitled to relief by bringing suit or to a defence where a suit has been brought against him but cannot afford the services of an Attorney.
- (3) Civil Legal Aid may also be granted to a plaintiff or applicant who intends to commence a suit of serious public importance but cannot afford the services of an Attorney.
- (4) An application for Civil Legal Aid may be made in respect of the following civil matters—
  - (a) Constitutional Motions where the subject is a matter of public interest and will advance the cause of justice;
  - (b) *Habeas Corpus* Applications;
  - (c) Judicial Review Applications where there exists any public interest issue;
  - (d) Domestic Violence-Related Disputes;
  - (e) Court proceedings involving the welfare of a child, including child abduction cases, and the separate representation of the child in such proceedings;
  - (f) Contentious Probate matters;
  - (g) Landlord/tenant matters where the tenant is in imminent danger of homelessness; and
  - (h) Any other matter which the Civil Legal Aid Panel will deem to be appropriate for Civil Legal Aid.
- (5) No filing fees shall be paid for any of the matters in Rule 8(4) for which legal aid is granted to a person.

## 9. Eligibility for Civil Legal Aid

- (1) A person may be eligible for Civil Legal Aid if—
  - (a) he is incapable of engaging Counsel to prosecute or defend his civil claim and the claim or matter is of a type listed in Rule 8(4)(a) to (h) which is eligible for Legal Aid;
  - (b) he is incapable of engaging Counsel to bring proceedings, where his liberty is at stake, including *Habeas Corpus* and Judicial Review cases; or
  - (c) he is incapable of engaging Counsel to bring a Constitutional Motion in the assertion of his Constitutional rights generally, and which is, or may be, a matter of public interest.

## 10. The application

- (1) An application for Civil Legal Aid under this Part shall be determined by the Civil Legal Aid Panel set up under these Rules.
- (2) An application for Civil Legal Aid specified under Rule 8 may be made to the Registrar of the Supreme Court by—
  - (a) a person who is eligible under Rule 9(1);
  - (b) any person, including an Attorney, duly authorised to make an application on behalf of a person who is eligible for Civil Legal Aid under Rule 9(1); or
  - (c) a parent, guardian, or person responsible for the care or welfare of a minor or person under disability, who is qualified under Rule 9(1), or an Attorney on their behalf.
- (3) An application for Civil Legal Aid may be made in Form A1 (Civil Legal Aid Application Form) as set out in Schedule A.
- (4) An application may be submitted in the following manner—
  - (a) a duly completed and sworn application form shall be submitted to the Registrar; or
  - (b) a scanned duly completed or sworn copy may be submitted electronically to the Registrar to the following email address: [courtregistry@gov.tc](mailto:courtregistry@gov.tc), or such other email address as may be provided by the Registrar, from time to time.

## 11. Time for making the application

- (1) An application shall be made any time before the commencement of a suit.
- (2) In *Habeas Corpus* proceedings, an application for Civil Legal Aid may be made anytime during the eligible person's detention.
- (3) A Judge before whom a person who may be eligible for Civil Legal Aid appears may advise the person of the availability of Civil Legal Aid and inform them that an application may be made to the Registrar for consideration by the Civil Legal Aid Panel.

## 12. Information required

A Civil Legal Aid Application Form shall seek such information as will provide information of the nature of the type of proceeding or claim, and a fair assessment of the means of the applicant, his or her spouse, or of both, and any assets owned by them, in order to determine the applicant's financial capability to engage an Attorney.

## 13. Verification of information provided

The Civil Legal Aid Application shall be verified on oath before a Justice of the Peace.

#### 14. Grant of Civil Legal Aid

- (1) The grant of Civil Legal Aid shall be deemed to be effected once approval is given by the Civil Legal Aid Panel, in Form B (Civil Legal Aid Approval Form) set out in Schedule A.
- (2) The Civil Legal Aid Panel may, having regard to the means of an applicant disclosed in his application, grant Legal Aid to cover the full cost of bringing suit, commencing proceedings or defending a suit, or part thereof.
- (3) Civil Legal Aid may be granted for only part of the matter or proceedings to which the application relates as the Civil Legal Aid Panel deems appropriate.
- (4) Where partial Civil Legal Aid is granted, notification to the applicant of approval of Civil Legal Aid will state the scope and limitation of the approval.
- (5) In all cases in which Legal Aid is refused (in whole or in part) by the Legal Aid Panel, reasons for the refusal shall be indicated on the Civil Legal Aid Approval Form.

#### 15. Roster of Litigation Attorneys

- (1) There is established a Roster of Litigation Attorneys who may be assigned to matters in which civil legal aid has been granted.
- (2) An Attorney who is admitted to practice in the Turks and Caicos Islands and who holds a valid Practising Certificate is eligible to be placed on the Roster of Litigation Attorneys.
- (3) An Attorney wishing to be placed on the Roster of Litigation Attorneys shall apply to the Registrar.
- (4) An application for appointment onto the Roster of Litigation Attorneys shall be in Form C set out in Schedule A, and shall be accompanied by a Curriculum Vitae.
- (5) The Registrar shall compile a Roster of Litigation Attorneys from the applications.
- (6) The Roster of Litigation Attorneys shall be revised every 60 days after the last compilation, and shall be maintained by the Registrar.

#### 16. Assignment of an Attorney

- (1) The assignment of an Attorney under this Part shall be made by the Registrar after the application for Civil Legal Aid has been approved by the Civil Legal Aid Panel in accordance with the Roster of Litigation Attorneys and with regard to the area of specialty or specialisation in civil matters.
- (2) The Registrar may in assigning cases, further have regard to expertise, availability of an Attorney, and where fee payment terms must be negotiated, agreement as to the terms of such payment.

### Part IV – Legal Aid Certificates and fees

#### 17. Approval and issuance

- (1) There is established a Civil Legal Aid Panel which shall have the following members—
  - (a) A Judge of the Supreme Court, who shall be the Chairman.
  - (b) Three members of the Bar appointed by the Chief Justice.
- (2) The Civil Legal Aid Panel shall meet to consider applications every two weeks, or shorter time in matters deemed urgent by the Chairman, or classified as urgent by the Registrar.
- (3) The Civil Legal Aid Panel shall provide a monthly report of its sittings and activities to the Chief Justice.

- (4) The Civil Legal Aid Panel shall be constituted by the Chairman and any two members of the Civil Legal Aid Panel.
- (5) Civil Legal Aid is granted once the Civil Legal Aid Panel approves the application, and the Registrar issues a Legal Aid Certificate.
- (6) The Civil Legal Aid Certificate must set out the issue date, effective date of grant of Legal Aid, the date of expiry of the grant, the name of the applicant, the scope of work intended to be covered by Legal Aid, and the fee assigned.
- (7) The issuance of a Civil Legal Aid Certificate shall be *prima facie* evidence of the grant of Civil Legal Aid.

## 18. Review of a decision by the Panel

- (1) A decision to refuse Civil Legal Aid may be the subject of review by the Chief Justice.
- (2) An application for review of the decision to refuse (in whole or in part) or limit Civil Legal Aid may be made in writing to the Chief Justice, and shall be lodged with the Registrar.

## 19. Termination of Legal Aid

- (1) Once Civil Legal Aid has been granted to an applicant, it will be valid until the occurrence of any of the following—
  - (a) the expiry date which shall be stated on the Civil Legal Aid Certificate, which shall not exceed twelve months from the date of issuance;
  - (b) the earlier revocation or cancellation of the Civil Legal Aid Certificate by the Legal Aid Panel; or
  - (c) the conclusion or resolution of the suit or matter to which the Civil Legal Aid Certificate relates;
- (2) The Civil Legal Aid Panel may, where it deems it appropriate (including where further information regarding the applicant's financial means are made available to the Civil Legal Aid Panel), revoke, cancel or grant additional, or an extension of, Civil Legal Aid to an applicant, including the extension of the expiry date of the Civil Legal Aid Certificate.

## 20. Duty Counsel access

The Registrar shall each week, transmit to each police station through the Police Administration, the names and contact numbers of Duty Counsel who shall be available to attend the police station for the purpose of undertaking the duties set out in Rule 4.

## 21. Fees: Duty Counsel

- (1) Fees payable to Duty Counsel shall be in accordance with the Fee Schedule set out in Schedule B.
- (2) There shall be kept at each police station, a Book referred to as the Duty Counsel Book which shall be signed by Duty Counsel following each visit to the police station for the purpose of providing legal advice and assistance to a person detained or arrested for a crime, as well as participating in any relevant activity such as an identification parade.
- (3) A claim for Duty Counsel's fees shall set out the date of the attendance at the police station and the activity to which the claim for payment relates.
- (4) Where the matter to which a claim for Duty Counsel's fees relates does not progress to charge or a court hearing, the claim must be signed by the Duty Counsel supported with evidence of an entry in the Duty Counsel Book at the Police Station verifying counsel's attendance, and work done.



- (5) Where the matter to which a claim for Duty Counsel's fees relates does progress to charge or a court hearing, the claim shall be made after the first appearance and shall be signed by the Duty Counsel and endorsed by the Clerk of Court.
- (6) The amount of payment of Duty Counsel's fees shall be in accordance with the fee schedule contained in Schedule B to these Rules. In every case, an Attorney shall receive payment in respect of a claim for Duty Counsel's fees no later than two calendar months after the submission of a duly completed claim.

## 22. Fees in Civil Legal Aid Cases

- (1) An Attorney shall be entitled to the payment of his Brief Fee, after conclusion of the case assigned to him, unless an interim payment for specific and substantial work is approved by the Civil Legal Aid Panel.
- (2) Payment shall be effected in accordance with the type of work undertaken, reflecting the specified categories of Tiers 1-3 in Schedule B of these Rules.
- (3) A Tier 3 Attorney, shall not appear in a constitutional matter or in an application for Judicial Review save where he appears to assist a Tier 1 Attorney, as approved by the Civil Legal Aid Panel.
- (4) A Tier 2 Attorney may appear on his own in a constitutional matter or in an application for Judicial Review, or he may also appear as an Attorney assisting a Tier 1 Attorney as approved by the Civil Legal Aid Panel.
- (5) A Tier 1 or Tier 2 Attorney may apply in writing to the Legal Aid Panel for enhanced legal aid fees by reason of the complexity of a civil case/proceeding. Complexity may be defined by matters such as the issues raised, whether they be novel, or unusual, whether there be a large number of witnesses or other circumstance requiring more than ordinary industry and skill.
- (6) A Tier 1 or 2 Attorney who has been assigned a brief may in lieu of applying for enhanced legal aid fees, apply to the Civil Legal Aid Panel for the assistance of another Attorney by reason of the complexity of the matter. Complexity may be defined by matters such as the issues raised, whether they be novel, or unusual, whether there be a large number of witnesses or other circumstance requiring more than ordinary industry and skill, that it may require more than one Attorney. Provided that an Attorney who applies for the assistance of another Attorney and who considers himself entitled to enhanced fees also, may have to demonstrate further why enhanced fees may be paid to him.  
Such demonstration may be made before the Civil Legal Aid Panel.
- (7) An application under subrules 22(5) and 22(6) shall be in the form of Form E set out in Schedule A to these Rules and shall be lodged with the Civil Legal Aid Panel as a document accompanying the application for civil legal aid, or filed thereafter, even after civil legal aid has been approved for an applicant.
- (8) The Civil Legal Aid Panel shall have regard to Form E in deciding the type of legal aid to grant.
- (9) A Tier 2 Attorney or Tier 3 Attorney assisting a Tier 1 Attorney as allowed by the Civil Legal Aid Panel shall be entitled to his own Brief Fee and a Refresher fee as set out in Schedule B.
- (10) An Attorney shall be entitled to payment for all work done in the pursuit of justice, and in the interest of advancing the case of the applicant.
- (11) Pursuant to the immediately preceding paragraph, an Attorney may be deprived of Civil Legal Aid Refresher fees if a ruling, or a finding of fact is made by a Judge regarding any of the following matters—
  - (i) that the proceedings were unreasonably taken by him and were unlikely to advance the applicant's interests;

- (ii) that the proceedings were either calculated to, or would have the effect of unreasonably delaying proceedings.
- (12) An Attorney shall be paid for work done under the Civil Legal Aid Certificate only, and not for work done for the same client prior to the issuance of the Civil Legal Aid Certificate.
- (13) Civil Legal Aid shall be paid for inter-island and intra-island transportation costs incurred by Attorneys.
- (14) Civil Legal Aid shall be paid for overnight hotel accommodation after inter island travel, and for each day that an Attorney who has travelled from his island of ordinary residence remains on another island for the conduct of the case. Payment of a Litigation Attorney's fees shall be made upon the submission of Form D as set out in Schedule A, accompanied by a copy of the Legal Aid Certificate issued.
- (15) A Litigation Attorney's Claim Form shall be submitted within twenty-eight days after the completion of the case to which it relates to the Registrar. Late submission of an application shall be accepted by the Registrar, but no interest or additional fee shall be chargeable by reason of delay in payment in respect of a late claim for a Litigation Attorney's fees.
- (16) In every case, an Attorney shall receive payment for concluded work, no less than one month or more than six months after the submission of a duly completed Litigation Attorney's Claim Form.
- (17) Payment of Attorney's fees shall be calculated in accordance with the Fee Schedule set out in Schedule B.
- (18) Payment of fees shall include the payment of a Brief Fee as a one-time retainer fee for preparation of court papers and all pretrial matters up to the hearing of the suit, and only for matters that progress to a hearing of the suit, or resolution thereof by mediation.  

For the avoidance of doubt, no additional brief fee shall be paid for interlocutory and other pretrial matters except where for considerations of complexity, the Civil Legal Aid Panel approves such.
- (19) Attorneys will be entitled to Refresher fees for each day attending at the hearing, until final submissions are made, or until resolution is reached by mediation.
- (20) Where a person granted Civil Legal Aid opts for Mediation, or the matter is referred by the Court for Mediation, the attorneys who attend Mediation shall be entitled to Refresher Fees for attending Mediation.
- (21) An appearance by an Attorney made for the purpose of that Attorney securing an adjournment shall not attract any fee payment.

### **23. Interim payments, court fees and experts**

- (1) An Attorney who has been assigned a case, and who has done substantial work, may be entitled to an interim payment in the discretion of the Registrar.
- (2) For an Attorney to be eligible for an interim payment, a duly completed claim Form indicating that the application is in respect of an interim claim shall be submitted to the Registrar.
- (3) Civil Legal Aid shall not include fees for experts.
- (4) An application for an expert to be engaged shall be made in writing to the Civil Legal Aid Panel setting out sufficient reasons for requiring the services of an expert.
- (5) The Civil Legal Aid Panel shall consider an application made under Rule 23(4) for civil legal aid to cover the services of an expert separately from the application for civil legal aid and may grant or refuse such application.

## Part V – Special provisions

### 24. Costs

- (1) The grant of Legal Aid to an assisted person shall operate as a charge on any costs of whatever kind or however secured, whether after a full trial hearing or in truncated proceedings, that the assisted person may obtain or is awarded in his favour by the Court in relation to the matter to which the Civil Legal Aid Certificate relates.
- (2) Costs may be awarded for or against an assisted party who brings suit or defends a suit or matter under Rule 8 save where Rule 23(3) applies.
- (3) No costs shall be enforced against an assisted party who brings or defends any suit under Rule 8(4) (a)(b)(c) and (e), save costs thrown away or costs awarded after the suit or defence is dismissed for being frivolous and disclosing no cause of action.
- (4) Civil Legal Aid shall not be used for the payment of costs of suit. Where the suit or matter for which Civil Legal Aid is granted is lost, is not made out, is dismissed, is struck out for want of prosecution, is discontinued, or in any way or circumstance concludes with the award of costs against the assisted person, such costs shall not be paid out from the Civil Legal Aid granted to the assisted person even where there is money unused from the Legal Aid provided.
- (5) Costs awarded in favour of an assisted person in respect of a matter to which a Civil Legal Aid Certificate relates shall be recovered, in whole or in part, as a debt to the Registrar for the recovery of any payment made pursuant to the Civil Legal Aid Certificate.
- (6) For the purpose of recovery of any payment made pursuant to a Civil Legal Aid Certificate under Rule 24(5), the Registrar shall keep a Register of Recipients of Civil Legal Aid under Rule 8, with information on its progress until conclusion.
- (7) Once a suit or matter to which a Civil Legal Aid Certificate relates is concluded, any costs found due to the assisted person either after taxation, or as agreed between the parties, shall be recovered from the assisted person as a debt to the Registrar, in whole or in part, to an amount equivalent to the total of payments made by the Registrar pursuant to the Civil Legal Aid Certificate, including in respect of costs paid in respect of representation of an assisted person in any appeal.

### 25. Foreign Attorneys

No Civil Legal Aid fee payment shall be made in respect of the services of any overseas lawyer instructed by an Attorney to represent a Civil Legal Aid assisted person.

### 26. Disciplinary matters

The provisions on the handling of complaints against Attorneys contained in Rules 20, 21, and 22 of the Legal Aid Rules 2021 shall apply to any complaint made against an Attorney, either as Duty Counsel or Litigation Counsel under these Rules.

## Schedule A

### Form A – Early Legal Aid application form

Name of applicant \_\_\_\_\_

Address of Applicant \_\_\_\_\_

Date of Arrest or detention \_\_\_\_\_

Reason for Arrest if known:

Do you require the services of an Attorney at Law \_\_\_\_\_

Can you afford to pay an Attorney for his services \_\_\_\_\_

Are you employed \_\_\_\_\_

What is your monthly net income \_\_\_\_\_

If your income is not regular,

can you estimate your periodic income \_\_\_\_\_ Per \_\_\_\_\_

Do you own a motor vehicle \_\_\_\_\_

I declare that what I have stated is the truth. Should it be discovered that I have not told the truth, it may result in the refusal of Legal Aid for pretrial and trial purposes by the Legal Aid Panel established under the Legal Aid Rules 2021.

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

### Form A1 – Civil Legal Aid application form

(To determine the means of the applicant)

ID:

1. Please Tick One: Mr\_ Mrs\_ Ms\_ Miss\_

Family Name: \_\_\_\_\_

First Name: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

2. Marital Status:— Married: \_ Divorced: \_ Single: \_ Other: \_

Are you seeking Legal Aid as Plaintiff/Applicant or

Defendant/Respondent \_\_\_\_\_

What civil matter do you need Legal Aid for \_\_\_\_\_

#### FINANCIAL DETAILS

3. Are you in a position to furnish your financial details? Yes\_ No\_

If No Provide Details

\_\_\_\_\_

If Yes Answer Questions below—

4. Are you employed? Yes\_ No\_

5. Is your income below US\$10,000?

If Yes,

- Most recent pay slip, or

- Provide your employment history for the past 12 months:—
  - Current Employer(s):  
 (1) \_\_\_\_\_
  - Past Employers:  
 (1) \_\_\_\_\_  
 (2) \_\_\_\_\_  
 (3) \_\_\_\_\_
  - Net Salary Weekly\_\_ \$
  - Net Salary Monthly\_\_ \$
6. Are you self-employed? Yes \_\_ No \_\_
7. Is your income below US\$10,000?  
 If Yes, provide:
- Your personal or Business Bank Statements for the past 3 months
8. Is your family income (including your spouse's income) below US\$20,000?  
 Yes\_\_ No\_\_ Not Applicable\_\_
- If Yes, attach the details requested at 2 or 3 above in respect of your spouse/partner and also,
  - Provide the Employment history of your Spouse/Partner for the past 12 months.
  - Current Employer(s):  
 (1) \_\_\_\_\_
  - Past Employers:  
 (1) \_\_\_\_\_  
 (2) \_\_\_\_\_  
 (3) \_\_\_\_\_
9. Spouse's Partner's Salary Weekly \_\_ \$  
 \_\_\_\_\_ Monthly\_\_ \$  
 \_\_\_\_\_ Annually \_\_ \$
10. Do you own a house/apartment? Yes\_\_ No\_\_
11. Do you own any land? Yes\_\_ No\_\_
12. Do you own a motor vehicle? Yes\_\_ No\_\_
13. Do you own a boat? Yes\_\_ No\_\_
14. Do you own any other valuable assets? Yes\_\_ No\_\_  
 Give details \_\_\_\_\_
15. Do you pay rent? Yes\_\_ No\_\_  
 Amount:\_\_\_\_\_
16. Do you make mortgage payments? Yes\_\_ No\_\_

Amount: \_\_\_\_\_

17. Do you make payments towards any loans?

Yes \_\_\_ No \_\_\_

Amount: \_\_\_\_\_

18. Monthly expenses:

Water: \$ \_\_\_\_\_

Electricity: \$ \_\_\_\_\_

Internet/Cable: \$ \_\_\_\_\_

Gas: \_\_\_\_\_

Groceries: \_\_\_\_\_

19. Number of dependent children under 18

(including children you pay child support or maintenance for) \_\_\_\_\_

20. Name and Age of each dependant, and cost of maintaining each:

(1) Name and age: \_\_\_\_\_

Monthly Cost: \$ \_\_\_\_\_

(2) Name and age: \_\_\_\_\_

Monthly Cost: \$ \_\_\_\_\_

(3) Name and age: \_\_\_\_\_

Monthly Cost: \$ \_\_\_\_\_

(4) Name and age: \_\_\_\_\_

Monthly Cost: \$ \_\_\_\_\_

(5) Name and age: \_\_\_\_\_

Monthly Cost: \$ \_\_\_\_\_

21. ADDITIONAL INFORMATION

The following additional matters are relevant to give a full picture of my financial circumstances

\_\_\_\_\_

- I understand that any legal aid paid to me excludes any costs that may be awarded against me.
- I understand that any costs that may be awarded in my favour will be paid back as a debt owed to the Registrar of the Supreme Court.

#### DECLARATION

I \_\_\_\_\_ make oath and swear that the statements made above are true, and accurate. I understand that if I have made any deliberately false statement, I may be liable to prosecution and/or be liable to repay any legal aid wrongly paid to me.

#### APPLICANT'S NAME AND SIGNATURE

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_

JUSTICE OF THE PEACE

**Form B – Civil Legal Aid approval form**

Official Use Only (Legal Aid Panel)

# Deferred

# Approved<sup>1</sup>

# Not Approved

# Approved as complex<sup>2</sup># Approved as complex<sup>3</sup>

1. Name of Applicant \_\_\_\_\_

2. Date of Application \_\_\_\_\_

Date Matter Placed before Legal Aid Panel \_\_\_\_\_

3. Please tick one of the following

Civil Legal Aid is Applied for:

- a. Constitutional Motion of public interest OR will advance the cause of justice.
- b. a *Habeas Corpus* Application.
- c. application for Judicial Review where there exists any public interest issue.
- d. A Domestic Violence-Related Matter.
- e. A Matter/Case involving the welfare of a child, including abduction cases, and the separate representation of the child in such proceedings.
- f. A Contentious Probate matter.
- g. A Landlord/tenant matter where the tenant is in imminent danger of homelessness.
- h. some other matter which is appropriate for Civil Legal Aid

# Other (specify) \_\_\_\_\_

Comments of the Civil Legal Aid Panel:

\_\_\_\_\_

Chairman of the Civil Legal Aid Panel

\_\_\_\_\_

Date \_\_\_\_\_

1

Standard claim/application or defence - no demonstrated complexity

2

Demonstrated complexity for enhanced legal aid

3

Demonstrated complexity requiring additional Attorney

## Form C – Litigation Attorney Roster application form

### *Attorney information*

1. Full name: \_\_\_\_\_
2. Address: \_\_\_\_\_
3. Phone: \_\_\_\_\_
4. Email: \_\_\_\_\_

ROSTER APPLIED FOR - PLEASE TICK ONE OF THE FOLLOWING:

DUTY COUNSEL	
CIVIL LITIGATION ATTORNEY	

5. Current Law Office (If different from address above)  
\_\_\_\_\_
6. Other Law Offices you work from or are associated with:  
\_\_\_\_\_
7. When were you admitted/called to practice law?  
\_\_\_\_\_
8. How long have you practised Law in the Turks and Caicos Islands?  
\_\_\_\_\_
9. Provide details on three cases in which you instituted or defended a suit to its conclusion, ending with the final judgment of the court (Write on extra paper and submit along with this form):  
\_\_\_\_\_
10. Are there any complaints against you with the TCI Bar Council?  
\_\_\_\_\_  
If yes, explain  
\_\_\_\_\_
11. Have there been any findings of professional misconduct made against you by the Bar Council or the Chief Justice?  
\_\_\_\_\_
12. Have there been any findings of professional misconduct made against you by any other professional body?  
\_\_\_\_\_
13. Have you ever been sanctioned or disciplined by the Bar Council or the Chief Justice?  
\_\_\_\_\_



- 14. Are you currently involved in any civil proceedings as a defendant relating to your practice?  
\_\_\_\_\_
- 15. Are there any outstanding civil judgments related to your practice against you, or any past or present proposals to creditors?  
\_\_\_\_\_
- 16. Are you currently or have you ever been a defendant in a criminal trial?  
\_\_\_\_\_
- 17. Have you ever been convicted of an offence involving dishonesty for which you have not been pardoned?  
\_\_\_\_\_
- 18. Has judgment ever been entered against you in any civil action involving fraud or misappropriation?  
\_\_\_\_\_
- 19. What proportion of your legal practice would you like to dedicate to legal aid work?  
\_\_\_\_\_
- 20. In support of my application, I make the following assertions:  
PLEASE PLACE X

<p>I am a lawyer and member in good standing with the Turks and Caicos Islands Bar Association. I will immediately notify the Registrar of the Supreme Court of the Supreme Court if my status changes. I currently hold a practising certificate to practice as an Attorney.</p>	
<p>I agree to provide services to the best of my ability and according to strict professional standards.</p>	
<p>I will submit my claims either in person to the Registry of the Supreme Court, or electronically as advised by the Registrar of the Supreme Court.</p>	

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Form D – Civil Legal Aid Attorney claim form**

Attorney's Name \_\_\_\_\_

Attorney's Address \_\_\_\_\_

Client's Name \_\_\_\_\_

Date of Legal Aid Certificate \_\_\_\_\_

Suit No. \_\_\_\_\_

Legal Aid Roster Number \_\_\_\_\_

**PLEASE TICK WHAT IS APPLICABLE TO THIS CLAIM**

FINAL CLAIM
INTERIM CLAIM
SUPREME COURT - GRAND TURK
SUPREME COURT - PROVIDENCIALES
ATTORNEY (DUTY COUNSEL)
ATTORNEY CIVIL

PLEASE PROVIDE THE FOLLOWING INFORMATION.

WRITE ON ADDITIONAL PAPER IF NECESSARY

**CLAIM CIVIL SERVICES**

Type of fee (Brief/ Refresher)	Suit No.	Type of proceeding	Date of proceeding	Duration of proceeding	Payment due US\$
<b>GRAND TOTAL</b>					

**CLAIM FORM DUTY COUNSEL**

Date and time of service provided	Type of service provided	Duration of service provided	Payment due US\$
<b>GRAND TOTAL</b>			

ATTORNEY CERTIFICATION

- I confirm that I have provided the services specified above, and that the services were authorised by the grant of Legal Aid to my client.

I seek payment of the appropriate fee in accordance with the Legal Aid (Extended) Rules 2021 and the schedules thereof
- The particulars furnished herein are in all respects true.

Signed \_\_\_\_\_

Date \_\_\_\_\_

FOR INTERIM CLAIMS ONLY

Endorsement of work done by Judge \_\_\_\_\_

Date \_\_\_\_\_

**Form E – Civil Legal Aid  
Legal Aid enhanced payment (complexity) application form**

**ATTORNEY DETAILS**

Date of Application for Civil Legal Aid	
Name of Attorney:	
Professional contact details of Attorney:	
Address:	
Email Address:	
Phone Number:	
Attorneys' Years of Practice (Bar of any Commonwealth Jurisdiction or Ireland):	
Attorneys' Years of Practice at the Bar of the Turks and Caicos Islands:	

**TYPE OF MATTER**Indicate Type of Matter (*tick one box*):

Constitutional Motion	
<i>Habeas Corpus</i>	
Judicial Review	
Domestic Violence related proceedings	
Contentious Probate	
Landlord & Tenant	
Child Welfare proceedings	

**COMPLEXITY FACTORS**Indicate all factors in support of stated complexity (*tick relevant boxes or number, where indicated*)

(i) Number of witnesses	Significant number of witnesses (state number)	
	Very significant number of witnesses (state number)	
(ii) Complex factual circumstances	Complex factual circumstances	
	Exceptional complexity	
(iii) Involvement of expert evidence	Significant involvement of expert evidence	
	Exceptional complexity of expert evidence	
(iv) Unusual or novel legal issue	Unusual or novel legal issue	
	Unusual or novel legal issue of general public importance	
(v) Some other complexity	Some other complexity	
	Some other exceptional complexity	

### COURT PROCEEDINGS

Provide details of the Court proceedings (*insert details below*)

(i) Estimated Duration of the Court proceedings	
(ii) Description of any pre-trial material which may be required	
(iii) Legal issues for determination at trial	
(iv) Details of any other factor of complexity (novel legal issue, issue of general public importance, etc.)	

### ANY OTHER FACTORS OF COMPLEXITY

Provide details of any other factors which justify payment of Attorneys' fees at an enhanced rate (*Tier 2 or Tier 3*)

**ATTORNEY'S DECLARATION**

I \_\_\_\_\_ declare that the information stated in this application for enhanced Attorneys' fees on the basis of complexity reflect accurately the complexity of the matter.

Signature of Attorney \_\_\_\_\_

Date: \_\_\_\_\_

**Schedule B****Fee rates****DUTY COUNSEL**

<b>ATTENDANCE AT POLICE STATION</b>	<b>US\$</b>
DAY 1	<b>400</b>
INTERVIEW	<b>300-400</b>
ATTENDANCE AT COURT PRE-CHARGE	<b>600</b>
ATTENDANCE AT COURT FOR BAIL AND OTHER MATTERS	<b>600</b>

**LITIGATION ATTORNEYS**

\*TBN: To be negotiated between Attorney and Registrar with prior approval of the Legal Aid Panel

**Tier:**

TIER 1 Attorneys more than 15 years, call

TIER 2 Attorneys 5 years' call and under 15 years' call

TIER 3 Attorneys under 5 years' call

Queen's Counsel The use of Queen's Counsel is only suitable for cases in Band 3, subject to prior approval by the Civil Legal Aid Panel.

Bands 2 and 3 fees rates may be agreed between Attorney 1 (Queen's Counsel only for Band 3) and the Registrar.

**Band:**

1. A standard claim
2. Case of exceptional complexity by reason of (a) a significant number of witnesses or complex factual circumstances (b) a significant involvement of expert evidence (c) an unusual or novel legal issue of general public importance and/or (d) some other unusual complexity.

3. A case of exceptional complexity by reason of (a) a very significant number of witnesses (b) exceptional complexity of expert evidence (c) an unusual or novel legal issue of general public importance and/or (d) some other exceptional complexity, where the Attorney instructed or to be instructed is Queen's Counsel.

**Table B**

Type of case	Band	Attorney (Tier 1) Brief	Attorney (Tier 1) Refresher	Band	Attorney (Tier 2) Brief	Attorney (Tier 2) Refresher	Attorney (Tier 3) Brief	Attorney (Tier 3) Refresher	Mediation day 1
Constitutional Motion		2,000	1,000	1	1,500	800	700		N/A
	2	TBN	TBN	2	TBN	TBN	700		
	3(QC)	TBN	TBN						
<i>Habeas Corpus</i>	1	2,000	1,000	1	1,500	800	700	350	
	2	TBN	TBN	2	TBN	TBN			
	3(QC)	TBN	TBN						
Judicial Review	1	2,000	1,000	1	1,500	800	700	350	
	2	TBN	TBN	2	TBN	TBN			
	3(QC)	TBN	TBN						
Domestic Violence	1	1,500	800	1	700	400	600	300	500
	2	TBN	TBN	2	800	500			
Contentious Probate	1	1,000	600	1	700	300	600	300	500
	2	TBN	TBN	2	800	400			
Landlord & Tenant	1	1,000	600	1	700	300	600	300	500
	2	TBN	TBN	2	800	400			
Child welfare proceedings	1	2,000	600	1	1,000	600	800	400	700
	2	TBN	TBN	2	1,200	800			



	3(QC)	TBN	TBN						
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MADE this 30<sup>th</sup> day of December 2021.

**Mabel M Agyemang**

**Chief Justice**

### **Explanatory note**

*(This Note is not part of the Rules)*

These Rules provide for early legal aid assistance in criminal matters and to extend legal aid to certain civil cases.

Early Legal Aid is provided through these Rules by the introduction of Duty Counsel at police stations for the representation of persons who are arrested on suspicion of crime, through investigations until they are charged before the Court and at their first Court appearance.

Legal Aid in civil cases is intended to place an eligible plaintiff or defendant who is otherwise incapable of engaging Counsel to prosecute or defend his/her claim in the position of a litigant who is capable of engaging Counsel for the purpose of prosecuting or defending any of the matters set out in Rule 8.