



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No.2421

CONTENTS

Page

GOVERNMENT NOTICE

No. 244	Promulgation of Legal Aid Amendment Act, 2000 (Act 17 of 2000), of the Parliament.....	1
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Government Notice

OFFICE OF THE PRIME MINISTER

No. 244 2000

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 17 of 2000: Legal Aid Amendment Act, 2000.

Act No. 17, 2000

LEGAL AID AMENDMENT ACT, 2000**EXPLANATORY NOTE:**

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To **amend the Legal Aid Act, 1990, so as to empower the Minister to withdraw the appointment of any person as legal aid counsel or to limit any act or function of such counsel; to provide for the repeal of a provision dealing with the issuing of legal aid certificates in certain circumstances; to provide for a refund of any amount of contribution; to provide for offences and penalties; and to provide for incidental matters.**

(Signed by the President on 21 September 2000)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:

Amendment of section 1 of Act No. 29 of 1990

1. Section 1 of the Legal Aid Act, 1990 (hereinafter referred to as "the principal Act") is amended by -

(a) the substitution for the definition of "lower court" of the following definition:

"lower court' means any court established under the provisions of the Magistrates' Court Act, 1944 (Act No. 32 of 1944), and includes a district labour court established by section 15 of the Labour Act, 1992 (Act No. 6 of 1992);"; and

(b) the substitution for the definition of "practitioner" of the following definition:

"practitioner' means [an attorney or advocate authorized under any law to practise as such and who is not employed in the public service] a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995);".

Amendment of section 3 of Act No. 29 of 1990

2. Section 3 of the principal Act is amended by the addition of the following subsection:

"(3) The Minister may withdraw the appointment of any person as legal aid counsel or impose any limitation with respect to any act or function of such counsel authorized by section 4(2)(a), if in the Minister's opinion, the conduct or performance of such person warrants such withdrawal or limitation."

Act No. 17, 2000

LEGAL AID AMENDMENT ACT, 2000**Amendment of section 6 of Act No. 29 of 1990**

3. Section 6 of the principal Act is amended by the addition of the following subsection:

“(3) A practitioner to whom a matter has been allocated under this Act, shall not -

- (a) solicit for or receive payment or services in respect of such matter from his or her legally aided client or any person on behalf of such client; or
- (b) receive a donation or any reward of whatever nature from his or her legally aided client or any person on behalf of such client intended as payment for the practitioner’s services.”.

Amendment of section 8 of Act No. 29 of 1990

4. Section 8 of the principal Act is amended by the deletion of subsection (2).

Amendment of section 10 of Act No. 29 of 1990

5. Section 10 of the principal Act is amended -

- (a) by the deletion of paragraph (a) of subsection (1); and
- (b) by the renumbering of subsection (3) to be subsection (2).

Amendment of section 13 of Act No. 29 of 1990

6. Section 13 of the principal Act is amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) convicted of an offence -

- (i) who was not legally represented at his or her trial and intends to appeal against his or her conviction or any resultant sentence or order; or
- (ii) who has been granted leave to appeal against his or her conviction or any resultant sentence or order;”.

Amendment of section 15 of Act No. 29 of 1990

7. Section 15 of the principal Act is amended by the addition of the following subsection:

“(3) The Director shall refund an amount of contribution paid under subsection (1), if no legal assistance was rendered.”.

Substitution of section 20 of Act No. 29 of 1990

8. The principal Act is amended by the substitution for section 20 of the following section:

“Termination of legal aid

20. The Director may at any time for any reason which the Director considers sufficient, terminate any legal aid granted under this Act for the purposes of any [civil] proceedings before a court or tribunal: Provided that, in the case of legal aid granted under section 12, the Director shall do so only with the leave of the court.”.

Insertion of section 24A of Act No. 29 of 1990

9. The principal Act is amended by the insertion after section 24 of the following section:

“Offences and penalties

24A. (1) A practitioner commits an offence if such practitioner contravenes or fails to comply with section 6(3).

- (2) A person commits an offence, if such person -
- (a) pretends or holds himself or herself out as representing the Directorate of Legal Aid and obtains or attempts to obtain money or contributions or services from any person; or
 - (b) obtains or attempts to obtain legal aid by giving false information regarding his or her means knowing such information to be false, or withholding material facts or information regarding such means.
- (3) A person convicted of -
- (a) an offence referred to in subsection (1) or subsection (2)(a) is liable to a penalty not exceeding a fine of N\$20 000 or a period of four years imprisonment, or both; or
 - (b) an offence referred to in subsection (2)(b) is liable to a penalty not exceeding a fine of N\$4000 or a period of 12 months imprisonment, or both.”.

Short title

10. This Act shall be called the Legal Aid Amendment Act, 2000.
