



# OFFICE OF THE PUBLIC LEGAL DEFENDER GUIDELINES

DEPARTMENT OF JUSTICE AND BORDER CONTROL  
GOVERNMENT BUILDINGS  
YAREN DISTRICT  
REPUBLIC OF NAURU



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## 1. Message from the Minister for Justice



The Government of Nauru is mandated to guarantee equal access to justice for everyone in Nauru. This mandate resulted in the formal establishment of the Office of the Public Legal Defender. This has allowed the Government the opportunity to establish this Office to ensure that all persons in Nauru are provided access to adequate legal assistance, which is enshrined in Article 10 of our *Constitution*.

As the Minister for Justice, it is my duty to oversee the effectiveness and efficiency of the Department of Justice, including this Office. The Guidelines are an important step towards strengthening the Office's purpose and goals and to assist those employed in the Office.

For far too long, Nauruan citizens have not been afforded access to free legal services for even the simplest matters. The operational commencement of this Office in 2009 changed the legal landscape and it is my intention that Nauruan citizens continue to benefit from the free legal services provided by this Office. Inclusivity is vital in this day and age and the Guidelines ensure that no one is left behind. The Guidelines are a significant milestone for the Office and that bodes well for the future.

It is also my sincere hope that more Nauruans will use this opportunity to be motivated to pursue a career in the legal profession in the hope that the Office will one day be led and serviced by Nauruans, to advise and serve the people of Nauru. I am a firm believer that before one is to lead, one must first serve and this is proficiently quoted in the biblical passage found in Matthew 20:28 "*...for even the Son of Man did not come to be served, but to serve...*" It is imperative that the staff members of the Office continue to perform their duties well and continue serving the public and the Republic to the best of their abilities.

HON. Maverick Eoe, M.P.  
Minister for Justice

## 2. Message from the Secretary for Justice



As the Head of Department, my role as the Secretary for Justice is to oversee the Office of the Public Legal Defender. It is one of the few offices in the Republic that was created out of policy in order to meet the growing demand for legal services, particularly in criminal law litigation.

As the Office grew and legal literacy increased, the demand for legal services also increased. This resulted in the Office providing legal assistance and representation in family cases and in limited civil cases. It is the only Government office that handles all three areas of law in court on a daily basis and the Guidelines provide much-needed guidance for the administration of the Office.

The key function of the Office is to provide legal aid, which is the provision and availing of free legal assistance to the community at large, in particular those members of the public who cannot afford private legal assistance. This therefore facilitates access to justice for those who cannot afford legal representation to enforce their rights.

The Department of Justice administers justice for the Government and for the people of Nauru. This Office ensures that the legal needs of the citizens of Nauru are served with integrity and professionalism. As an agent of justice, this Office also ensures that access to justice is readily available as and when the need arises, for the benefit of the Republic.

Jay Udit  
Secretary for Justice

### 3. Message from the Director of the Office of the Public Legal Defender



As the Director of the Office of the Public Legal Defender, my role is to manage the daily legal, operational and administrative functions of the Office. While this office has been in operation since 2009, only in 2016 did the Office become established by law, thus allowing the Director the opportunity and power to manage the Office under the supervision of the Secretary for Justice.

The Guidelines explain the functions of the Office and the roles the Office plays in the administration of justice in Nauru. This Office strives to uphold Article 10(3)(e) of the *Constitution*, which guarantees that a person charged with an offence has the right to be legally represented in a court, without incurring any legal fees. Every person is equal before the law and is presumed innocent until proven otherwise by the court, which means that no person is to be subjected to any inhumane treatment and is afforded a number of guarantees necessary for their defence.

As an office giving free legal assistance and services, our Office is mindful of the geographical and demographical influence, hence there may be situations where the Office is unable to assist or may have a conflict of interest. The Director is allowed to 'brief out' cases by engaging the services of a private legal practitioner, who is duly admitted to practice in the Supreme Court of Nauru.

The aim of this Office is to provide equal access to justice for a Nauruan, and legal representation to those without the required financial capability to engage a lawyer. The Office strives to maintain fair and efficient legal assistance and services to the public, in accordance with the rule of law, and the Guidelines ensure that we do so in a transparent and accountable manner.

**Ravuanimasei Tagivakatini**  
Director of the Office of the  
Public Legal Defender

### 4. Purpose of the Guidelines for Legal Assistance

- (1) The Office was established by law in 2016, via an amendment to the *Criminal Procedure Act 1972* (Section 50A). The Director, after consultation with the Secretary, may establish guidelines that set out eligibility criteria for granting legal aid, rendering legal assistance and legal services. The Office is funded by the Government of Nauru via public funds, to cater for Office expenditures. Like all Government institutions providing public services like health, education and security, service provided by the Office is needed to maintain a democratically preserved society. In that context, prioritization of public funds is largely attributed to providing social services to Nauruans.
- (2) Depending on the decision of the Director, the Office is responsible for ensuring that a Nauruan is afforded the right and opportunity to a 'level playing field' when fronting the court in a criminal, family or civil case. Nauruan citizens can feel confident in appearing in court to face the court process, knowing that the Office will provide the necessary legal assistance that is fair, effective and efficient; which ensures that the process is accountable and transparent. While the safety of the public, property and the members of the Nauru Police Force is essential, the Office seeks to protect the rights of people who are arrested, detained and charged.
- (3) Implementing the Guidelines will set a perimeter that allows for Nauruans who cannot afford a private lawyer to seek legal advice and representation from the Office. Due to limited resources, accessibility to legal representation has to be controlled whilst attempting to provide maximum service. The Guidelines set out the requirements to be considered when decisions are made by the Office to offer services with the financial earnings or assets as a primary factor, or that the gravity of offence may also be a factor, while gender issue is always an intervening factor. Needless to mention, socio-political pressures are always on the Office to provide some form of legal assistance.
- (4) The Guidelines also ensure the survival of a vibrant private bar. A clear demarcation needs to be drawn for the co-existence of free legal assistance as opposed to a private practice, and the Guidelines allow the Office to safeguard the private bar in maintaining qualitative and quantitative representation.

(5) The Guidelines are also in place to promote the effective and efficient administration of the Office by encouraging the lawyers to take action and make decisions in appropriate situations, as well as articulating the different circumstances that the office employees encounter, for example, a conflict of interest situation. The Office, though the Guidelines, will be able to overcome such circumstances and to ensure the smooth administration and responsibilities where required. The following Forms will be introduced to capture relevant information necessary to assist the Office:

- (a) Form 1: Application for Legal Aid
- (b) Form 2: Application for Review of Decision where Legal Aid is rejected
- (c) Form 3: Withdrawal of Legal Representation
- (d) Form 4: Plea Declaration
- (e) Form 5: Agreement on Briefing Out

(6) In addition to assisting the Office, the Guidelines seek to provide adequate information to the general public on the nature and operations of the Office.

## 5. Role of the Pacific of the Public Legal Defender

- (1) The primary role of the Office is to offer legal assistance to Nauruan citizens, asylum seekers or refugees who qualify for legal aid:
  - (a) who may be charged with a criminal offence;
  - (b) who need legal assistance in respect of legal proceedings under any written law; or
  - (c) subject to the availability of resources and staffing, when requested to do so by the Nauru Court of Appeal, the Supreme Court or the District Court.
- (2) The duties required in subclause (1) may include:
  - (a) taking written instructions from clients, including visiting clients in remand;
  - (b) conducting site visits;
  - (c) attending court proceedings;
  - (d) preparing and filing interlocutory applications;
  - (e) preparing and filing court submissions;
  - (f) conducting the hearing; or
  - (g) filing appeal documents.
- (3) The Office must provide legal services to the public, which may include the following:
  - (a) giving legal advice to persons being interviewed under caution at the Central Police Station at Boe District via telephone or visitation;
  - (b) giving legal advice;
  - (c) drafting of letters;

- (d) drafting of Statutory Declarations;
  - (e) drafting of Powers of Attorney;
  - (f) drafting of Wills; or
  - (g) witnessing and attestation of documents.
- (4) Service delivery is the key component of the Office and the legal officers are available around the clock to provide legal services.

## 6. Accessibility to services provided by the Office of Public Legal Defender

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- (1) Legal practitioners have a professional and ethical duty to represent people irrespective of their age, race, religious beliefs, colour, gender or mental and physical impairments. Despite the seriousness of the offence or the gruesomeness of the crime, each person has the right to be represented in a court of Law. As per the Guidelines, the Office is accessible to persons seeking its legal services.
- (2) All Nauruans regardless of age, gender or status need to be aware of their rights and the whole process from the time of their arrest to the time they are first produced in a court of law. Most times it is the lack of legal knowledge that causes a person arrested to unintentionally and unknowingly waive their constitutional rights when arrested or interviewed under caution. The Office intends to educate all Nauruans of their rights and the aim is to work in conjunction with the Department of Education and the Department of Women's and Social Development Affairs by conducting awareness programmes in schools and to the relevant audiences. The purpose of such awareness programmes is to educate the public of the changes in the law, their rights and their options, whether as a victim or as a suspect. The ultimate goal for these awareness programmes is to ensure that the laws of Nauru are upheld and that the public are mindful of the repercussions of their actions.

## 7. Referrals to services provided by the Office of the Public Legal Defender

- (1) The Office works in conjunction with other Government institutions and Non- Government Organisations in the administration of justice in Nauru. The Office also strives to ensure that it continues to provide the legal service and representation to Nauruans and to any institution or organisation that seeks the assistance of the Office.
- (2) The Nauru Police Force is an important institution that is fundamental to the administration of justice and the safeguarding of democracy in the Republic. The Office is privileged to have a cordial and professional working relationship with the Nauru Police Force in ensuring that a suspect's right from the time of arrest, questioning, detention and production in a court is protected. The Judges' Rules requires the Police to administer caution to avoid the accused persons making statements without knowing the effect of it and that the Office is immediately notified if a suspect needs legal assistance while being interviewed under caution. It is therefore very crucial for the Police that the right to seek or engage a legal counsel is put to the suspect, as this demonstrates the existence of democracy in Nauru. The Nauru Police Force is fully aware that the Office is available 24/7 to offer any legal assistance to a suspect who has been arrested or detained.
- (3) In the event that a suspect did not consult a lawyer whilst being cautioned interviewed by the Police, then the next cause of action taken by the Police after charging the person is to produce the suspect in court. For a first-time defendant, this experience can be an intimidating, unpleasant and embarrassing experience and most times, suspects get lost in this process. The court and its staff have vast experience in dealing with these kinds of situations, hence a judicial officer will ask the defendant three important questions:
  - (a) 'do you wish to defend yourself?';
  - (b) 'do you wish to engage a counsel of your choice to defend you?';  
and
  - (c) 'do you wish to engage a counsel from the Office of the Public Legal Defender if you cannot afford a lawyer?'

The majority of defendants appearing for the first time in court usually seek the assistance of the Office and in these circumstances, the Office is readily available to assist and advise the defendant thus ensuring that a person's right to engage a legal representative and having a fair trial is maintained and protected.

- (4) From the time of arrest to the time of transfer into the custody of the Nauru Correctional Centre to be further detained, suspects often may still have not engaged a lawyer or been made aware that such a right exists. In such a situation, the Correctional Officers may advise the suspects to contact the Office for legal assistance. Correctional Officers also play an important role in referring suspects to the Office despite such referrals not being their primary duty. Such humanitarian actions by Correctional Officers greatly assist defendants when their case is called for review in court because by this time, suspects have become fully aware of their rights and options, after receiving the legal advice and assistance from the Office.
- (5) There are also times when other Government departments refer members of the public to the Office for legal aid. In such cases, although the Office is obliged to assist, the decision to grant legal aid rests with the Director.

## 8. Independence of the Office of the Public Legal Defender

- (1) The Office has a duty to serve the people of Nauru. The Office functions independently of the Government even though it is funded through public funds. This is to ensure that the process and the independence of the Office are maintained and safeguarded.
- (2) The Office also has a duty to the courts of Nauru in ensuring a fair and balanced judicial system is available to a defendant at all times. However, in an occasion when one may wish to challenge the decision of the Director for refusing legal assistance or legal representation, the court has stated that although one has the right to seek the services of the Office; that right is not a privilege as the independence of the Office has to be respected as well. This was emphasized the case of the Republic v Matthew Batsiua & Ors<sup>1</sup>, where the Nauru Court of Appeal stated:

*"[76]. Whatever the law may have been prior to 2016 we are satisfied that the position in Nauru now is that when an indigent person is charged with a serious criminal offence he should immediately apply to the Public Legal Defender for such "aid, advice and assistance" as may in the circumstances be required. If such a person should appear in court without having approached the Public Legal Defender he should be advised by the court of his right to do so, as was done in this case. In the absence of an application for, or where legal aid has been refused, the trial judge will have to decide whether or not the trial should proceed. If it is decided to go ahead then, if an appellate court decides that the trial was unfair, the conviction will be quashed. Of course, not every trial of an unrepresented accused is unfair any more than every trial of a represented accused is fair; principal, however, among the matters which will have to be taken into account by a trial judge being presented with an unrepresented accused will be the seriousness of the charges faced.*

*[77]. We are satisfied that Muecke J erred in his view that he had a power, independent of the power granted to the Public Legal Defender, to grant legal aid to the Respondents..."*

- (3) The Guidelines will ensure that the Office will always work and maintain a cordial and professional relationship with the Government, the courts and all other stakeholders in ensuring the protection and implementation of the rule of law, while at the same time, maintaining the integrity and independence of the Office.

## 9. Commitment to the private bar in Nauru

- (1) The private bar of Nauru is an essential entity that assists in the administration of justice and the rule of law in Nauru. The Office intends to work with the private bar in serving Nauru and in doing so, the Office will ensure that there is a co-existing ethical and professional working relationship.
- (2) Prior to the formal establishment of the Office in 2016, the number of private legal practitioners in Nauru was declining, causing Nauruans to have limited access to legal advice and representation. The establishment of the Office gave Nauruans the choice of choosing their legal representatives, and to be committed to the growth, preservation and operation of the private bar.
- (3) By committing to the growth, preservation and operation of the private bar, the Director will decide on legal representation of an applicant in consideration of the "Means Test". The following is a list of matters that are not included in the list which is subject to the Director's discretion:
  - (a) land transfers;
  - (b) personal injury claims;
  - (c) civil proceedings against the Republic and any instrumentality of the Republic; and
  - (d) any matter where a conflict of interest arises for the Office or an employee of the Office.
- (4) In committing to the growth of the private bar, since 2014 the Office has worked in collaboration with the Secretary in conducting three Pleders Course Programs. This resulted in more than 40 Pleders graduating and getting admitted to the Supreme Court of Nauru. Furthermore, a handful of Nauruan persons have graduated as lawyers and have been admitted to the Supreme Court of Nauru. The admission of Pleders and lawyers have boosted the public's confidence in the private bar and the Office is ready to assist in conducting training and capacity building in the field of law.



- (5) In the hope of maintaining an ethical and professional relationship with the private bar, the Guidelines will enable the Office to maintain a high standard of professional conduct and will disassociate itself from any legal assistance to any person in any manner whatsoever whilst the person is still retaining any private law firm.

## 10. Limitation in providing legal assistance

- (1) There will be situations that will limit the Office from providing legal assistance. These include:
- (a) persons who can afford a private legal practitioner;
  - (b) non-Nauruan citizens;
  - (c) complainants in criminal cases;
  - (d) persons who have already retained and represented by a private practitioner;
  - (e) the Republic, Government Departments, Tribunal, Committee or Body;
  - (f) State owned enterprises, Corporations or Business; and
  - (g) where a conflict of interest arises, involving a client, officer or the Office.
- (2) Persons who can afford a private legal practitioner, non-Nauruan citizens and persons who have retained private legal practitioners will be referred to private legal practitioners, while complainants will be referred to the Police and/or the Office of the Director of Public Prosecutions.
- (3) The Republic, Government Departments, Tribunals, Committees and Bodies are represented by the Office of the Solicitor General. State Owned Enterprises, corporations and businesses are represented by in-house lawyers or private legal practitioners.
- (4) Conflict of interest cases arise occasionally and the level of conflict depends on each circumstance. The list in Clause 9(3) is there to safeguard and preserve the private bar.

## 11. Application process for legal assistance

- (1) A person seeking legal assistance will need to lodge a formal application, requesting the Office to provide the necessary legal assistance in a court. The template of the Application Form is provided in the Schedule. An Applicant will need to provide all court documents, together with the Application Form so that the Office can assess whether the Applicant is eligible for the legal assistance. Once an assessment on the Applicant's request is completed, the Form is then given to the Director for a decision.
- (2) The Director will assess the application by using the 'Means Test' and 'Merits Test', and must ensure that:
  - (a) all the disclosures or any document pertaining to the case is provided with the Application Form;
  - (b) full instructions on the circumstances of the case is provided by the Applicant;
  - (c) the substantive and procedural laws which affect the charge against the Applicant is considered; and
  - (d) any other relevant information pertaining to the case is gathered during the course of making the assessment.
- (3) The Director reserves the right to refuse legal representation of an Applicant after assessing the application and determining that the Applicant does not qualify for legal aid. The Director must provide written reasons to the Applicant in the event the Applicant's application is rejected.
- (4) An Applicant may be granted temporary legal aid assistance and representation pending assessment and final determination of his or her application.
- (5) In the event that the Application for legal aid is granted, the Office will proceed to ensure that any court order or document sought is adhered to and filed.
- (6) An Applicant is required to provide full disclosures and particulars of their instructions to the Office when requested to do so. Failure to produce full disclosures and instructions may result in the rejection of legal aid assistance or the withdrawal of legal aid already granted, whether temporarily or otherwise.

## 12. Process of a 'Means Test'

- (1) A Means Test is to determine whether an Applicant has the financial capacity to engage a private legal practitioner. Therefore, all applications for legal aid must be subject to a "Means Test". The information required is set out in Form 1. The threshold sum for a person to qualify for legal aid is that the person has to earn a maximum gross income of \$25,000 per annum.
- (2) To determine whether an Applicant has the 'means', the Office will look at the Applicant's income and assets, as well as expenses and liabilities. The gross income and assets of the spouse is also considered. The spouse's income and assets will not be considered if court proceedings are domestic in nature, for example, an application for divorce.
- (3) Personal financial information must be provided to assist the Office at all times. Failure to provide a complete record of finances may prolong the decision making process and may result in an application being rejected.

## 13. Process of a 'Merits Test'

- (1) A Merits Test is to determine the best course of action that an Applicant should pursue in court. All applications for legal aid are subject to a "Merits Test" and the information required is set out in Form 1.
- (2) To determine whether an application has 'merits', the Office will look at the Applicant's chances of success in a case and whether it is reasonable to proceed with the case. It is especially useful where there are no available defences in criminal cases and the Applicant can be advised to plead guilty and the Office assists in mitigation. It is also useful where an Applicant wishes to file a civil suit or a family application but it is frivolous or vexatious.
- (3) An opinion on the merits of the case may determine whether or not to grant legal aid.

## 14. Process when an application for legal aid is rejected

- (1) Upon the Director's decision to reject an application for legal aid, the Applicant may appeal the Director's decision by way of a review process using Form 2 of the Schedule. That Form must be completed and delivered to the Office within 14 days of receiving the rejection letter.
- (2) Upon receiving the Applicant's Form 2 review application, the Director must forward the Form to the Secretary within 5 working days. A decision on the review application will be made within 20 working days thereafter. The Applicant must be notified of the decision of the Secretary within 5 working days.

## 15. Withdrawal of legal aid

- (1) The Office has the right to withdraw the grant of legal aid at any stage of a criminal or other proceeding. The decision to withdraw must be based on reasonable cause so as not to prejudice the client from having a fair trial. In the event the Office withdraws from representing a client, the Office must inform the client of the reason for withdrawing the legal service.
- (2) In the case of a client wishing to disengage the services of the Office, the client may do so voluntarily and must not implicate the Office in making that decision. The client must complete Form 3 of the Schedule and deliver it to the Office when they have decided to disengage the services of the Office.
- (3) In the case of a client who instructs the Office to undertake or pursue actions that are unethical or criminal in nature, the Office may withdraw from representing the client.
- (4) In the case of a client who refuses to heed the advice of the Office or decides to unilaterally advance their case, the Office may withdraw from representing the client.
- (5) Where the Office has withdrawn from representing the client, the Office will appear with the client on the next court date and will advise the court of its decision to withdraw as legal counsel and will further seek leave of the court to do so. It will be the client's duty to arrange and liaise with a

private legal practitioner if they so choose, to represent him or her once leave has been granted by the court for the Office to withdraw as legal representative for the client.

## 16. Taking Instructions

- (1) Taking instructions from clients is an important aspect of legal practice and must be done properly. The entering of plea in criminal cases is the most crucial part of criminal law as it will determine the outcome of the case. The entering of a guilty plea must not be taken lightly and Form 4 of the Schedule must be filled out in all criminal cases.
- (2) When taking instructions for criminal cases, the following applies:
  - (a) the Office must provide the relevant advice to a client on a plea of guilty and a plea of not-guilty. The possible outcome for both options must be explained to the client and must be recorded in writing in the Instruction Form;
  - (b) the client's choice to plead not-guilty must be voluntary and reasonable, taking into account the possible available defences; or
  - (c) the client's choice to plead guilty must be voluntary and the applicant must not be forced, induced, coerced or threatened to plead guilty by the Office;
  - (d) the client must be advised of the possible sentences that arise out of a guilty plea, which may include a custodial sentence; and
  - (e) the client must indemnify the Office of any liabilities, complaints or issues arising from taking a guilty plea, provided that these steps have been followed accordingly.
- (2) When taking instructions for family and civil cases, the following applies:
  - (a) the Office must provide the relevant advice to the client on the nature of the application and the possible outcomes;
  - (b) the client must, upon request, provide material documents and

- evidence to the Office;
- (c) the client must be advised of the possible outcomes of a matter, which may include loss of income, costs, eviction and being committed to prison;
- (d) all costs incidental to the orders of the court are borne by the client, not the Office; and
- (e) the client must indemnify the Office of any liabilities, complaints or issues arising from the decision of the court, provided that legal representation was provided with due diligence and in good faith.

## 17. Prohibition on accepting gifts

- (1) In all cases, clients and Applicants are generally not required to make any form of financial contribution towards the costs of the carriage of their cases by the Office. They are required however to make payments for court filing fees and other costs incidental to the orders of the court.
- (2) All staff members of the Office are not to charge any legal fees to any client or Applicant and there must not be any exchange of monies at any time. All payments of filing fees and other incidental costs must be made by the client or Applicant at the Nauru Revenue Office or at the court registry.
- (3) Where any client, Applicant or member of the public offers benefits such as cash, goods or services to a staff member of the Office to show their appreciation, the staff member must refuse the benefit and explain that it is against the policy of both the Nauru Public Service and the Office to receive such benefits. If refusal of the benefit may cause insult or offence to the client, Applicant or member of the public accept the benefit and explain that he or she will inform the Director and the Secretary of such benefit.
- (4) Where a staff member of the Office accepts a benefit, he or she must inform the Director and the Secretary. The actions of the staff member are dependent on the type of benefit:
  - (a) if the benefit is cash, it must be attached and submitted to the Secretary;
  - (b) if the benefit is food or drink, it may be consumed by the staff member; or

(c) if the benefit is any other product or item, it must be submitted to the Secretary.

(5) It is in the best interests of the Office's integrity to avoid any perception of corruption that the Office does not accept any gifts in any form or manner whatsoever.

## 18. Situations to 'brief out' a case to private legal practitioners

- (1) Where the Office has granted legal aid to an Applicant but is not able to represent him or her, the Office may brief out that case to a private legal practitioner.
- (2) Briefing out of cases shall be for criminal cases only.
- (3) Situations that may result in the file being briefed out are as follows:
  - (a) where two or more Defendants are implicating or blaming each other for the commission of an offence or offences;
  - (b) where staffing and resources of the Office are inadequate to handle that matter;
  - (c) where staff members of the Office are well acquainted with the complainant or witness; or
  - (d) where the defendant gives conflicting instructions that raises ethical issues.
- (4) The decision to brief out a file will be the sole prerogative of the Director and not the client or any other legal practitioner.

## 19. Fees for a case being 'briefed out' to private legal practitioners

- (1) All briefing out of cases by the Office shall have a maximum limit imposed on them.
- (2) The professional fees payable to a private legal practitioner for a brief out file shall be as follows:

	Item	Fee
1	Call overs or mentions	\$50.00 for each such appearance
2	Appearances for trial	\$300.00 per day
3	Maximum legal fee and disbursement to be charged for each case each case inclusive of mentions, call overs and trial	\$3,000.00
4	Appeal in Supreme Court or the Nauru Court of Appeal – each case inclusive of mentions, call overs and trial	shall not exceed \$3,000.00

## 20. Amendments to the Guidelines

These Guidelines may be amended by the Office to reflect changes in Nauru not envisaged at the time of its making. Any such amendment shall be endorsed by the Secretary and approved by the Minister.

## 21. SCHEDULE

### FORMS

Form 1: Application for Legal Aid

Form 2: Application for Review of Decision

Form 3: Withdrawal of Representation

Form 4: Plea Declaration

Form 5: Agreement on Briefing Out

### FORM 1



REPUBLIC OF NAURU  
OFFICE OF THE PUBLIC LEGAL DEFENDER

### APPLICATION FOR LEGAL AID

[Please fill the form and attach any relevant document to help us determine your request for legal aid]  
[IF YOU PROVIDE FALSE OR MISLEADING INFORMATION IN THIS FORM, YOUR APPLICATION MAY BE REJECTED]

#### A. PERSONAL DETAILS

1.	<b>Full Name</b>		
2.	<b>Title</b>	<input type="checkbox"/> Mr	<input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Miss
3.	<b>Sex</b>	<input type="checkbox"/> Male	<input type="checkbox"/> Female
4.	<b>Nationality</b>		
5.	<b>Date of Birth</b>		
6.	<b>Address</b>		
7.	<b>Contact Details</b>	Tel: _____	Email: _____
8.	<b>Employment Status</b>		
9.	<b>Have you applied for OPLD assistance before?</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
10.	<b>What is your occupancy status?</b>	<input type="checkbox"/> At Home <input type="checkbox"/> Detention <input type="checkbox"/> Remand If detained or remanded, since when? _____	
11.	<b>Do you need an interpreter?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, which language? _____	
12.	<b>What is your marital status?</b>	<input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Defacto <input type="checkbox"/> Engaged <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Other	
13.	<b>What is your level of education</b>	<input type="checkbox"/> Primary <input type="checkbox"/> Secondary <input type="checkbox"/> Tertiary	
14.	<b>Who do you live with?</b>	<b>Name</b>	<b>Relation to You</b>
		_____	_____
		_____	_____
		_____	_____
		_____	_____







**FORM 3**



**REPUBLIC OF NAURU**  
OFFICE OF THE PUBLIC LEGAL DEFENDER

**WITHDRAWAL OF LEGAL REPRESENTATION**

I ..... of ..... District:-

Do hereby wish to engage my counsel of choice.

I wish to engage the services of ..... to appear on my behalf, until the final determination of this matter.

I was not forced, coerced, assaulted or threatened in any way by anyone to engage the services of ..... I make this decision of my own accord.

Following the above advice and my understanding of the same, I indemnify the Office of the Public Legal Defender and its staff, including my counsel of any liabilities, issues or complaints arising from my withdrawal of legal aid.

.....  
Client Name: \_\_\_\_\_

.....  
Counsel: \_\_\_\_\_

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

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

**FORM 4**



**REPUBLIC OF NAURU**  
OFFICE OF THE PUBLIC LEGAL DEFENDER

**PLEA DECLARATION**

I ..... of ..... District am charged with the offence(s) of .....

I have been advised on the charge(s) against me and have also been advised on the maximum penalty and the tariff for the charge(s).

I have been advised on the plea options available to me and the meaning of each plea. I have also been advised on the consequences of the plea, which may include a custodial sentence.

In addition, the available evidence in the file has been explained to me as well. I understand the explanation and advice as they were made to me in the ..... language.

After the explanation and advice, I wish to enter a Guilty / Not Guilty plea. I was not forced, coerced, assaulted or threatened in any way by anyone to make this plea. I am pleading Guilty / Not Guilty on my own free will with full understanding of its consequences.

Following the above advice and my understanding of the same, I indemnify the Office of the Public Legal Defender and its staff, including my counsel of any liabilities, issues or complaints arising from my plea.

.....  
Client Name: \_\_\_\_\_

.....  
Counsel: \_\_\_\_\_

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

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

**FORM 5**



**REPUBLIC OF NAURU**  
OFFICE OF THE PUBLIC LEGAL DEFENDER

**AGREEMENT ON BRIEFING OUT**

**THIS AGREEMENT ON BRIEFING OUT** is entered into this ..... day of ....., 20... by and between THE OFFICE OF THE PUBLIC LEGAL DEFENDER hereinafter referred to as “the Principal” and ..... hereinafter referred to as “the Agent”.

**WHEREAS** the Principal is authorised and required to brief out cases to private legal practitioners;

**WHEREAS** the Agent is a registered law firm that employs legal practitioners duly admitted to practice law in the Republic;

**WHEREAS** the parties hereto desire to formally provide for the terms and conditions of the services being rendered;

**NOW THEREFORE** in consideration of the above recitals, the representations and agreements contained in this Agreement and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

**1. Agreement**

The Agent hereby agrees to act as the legal representative of ....., who is currently charged for the offence(s) of ..... in the District Court/Supreme Court/Nauru Court of Appeal.

**2. Services provided**

- (a) The Principal shall notify the Agent of the decision to brief out the case.
- (b) The Principal shall disclose all disclosures and other relevant material to the Agent.
- (c) Briefing out of cases shall be for criminal cases only.
- (d) The Agent shall provide quality legal representation of clients who qualify for free legal assistance but cannot be represented by the Principal due to conflicting situations.
- (e) The Agent shall represent the client until the completion of the matter.

**3. Remuneration**

- (a) The Principal shall remunerate the Agent following the completion of the case in that particular court.
- (b) The rate of remuneration shall be for a client only.
- (c) The remuneration shall be deposited in a bank account of the Agent’s choosing.
- (d) The rate of remuneration shall have a maximum limit imposed, as follows:

	<b>Item</b>	<b>Fee</b>
1.	Call overs or mentions	\$50.00 for each such appearance
2.	Appearances for trial	\$300.00 per day
3.	Maximum legal fee and disbursement to be charged for each case each case inclusive of mentions, call overs and trial	\$3,000.00

**4. Duration**

- (a) The duration of this Agreement shall be for a maximum period of 2 years.
- (b) Where the matter has exceeded the maximum period, the parties may mutually agree to an extension.
- (c) A matter that has exceeded the maximum period does not alter the remuneration rate.

**5. Further briefing-out**

- (a) The Agent shall not brief-out this case to another legal practitioner at another law firm without first notifying the Principal.
- (b) The Agent must notify the Principal on the reasons for further briefing-out.
- (c) Where the Agent has encountered a conflict of interest with the client, the Agent shall notify the Principal and the Principal shall remunerate the Agent for the work completed at the time.
- (d) Where the client’s case has been briefed out to two or more legal practitioners in different law firms, the maximum legal fee for the client remains at \$3,000.00.
- (e) Where the client chooses to engage another legal practitioner at another law firm, the client will no longer be entitled to brief-out funds and the Principal shall remunerate the Agent for the work completed at the time the client engages the other legal practitioner.

**6. Appeal**

- (a) The Principal will only provide remuneration for the matter that was briefed-out, not for any subsequent appeal.
- (b) Where the client expresses his or her desire to lodge an appeal following the completion of their case, the client will have to apply for legal assistance again to the Principal.

7. **Termination**

- (a) Where the Principal, Agent or client chooses to terminate the Agreement for whatever reason, the Principal shall pay remuneration to the Agent for the work done until that stage.
- (b) Following termination of the Agreement, the client is no longer entitled to brief-out funds.

8. **Amendment**

- (a) This Agreement may be amended by mutual consent of the Parties.
- (b) Where there is an amendment, it shall be expressly written and signed by all Parties.

9. **Severability**

- (a) Where a clause in this Agreement is or becomes invalid, illegal or unenforceable, that shall not affect the validity, legality and enforceability of this Agreement.

Signed on behalf of the Principal:

Signed on behalf of the Agent:

.....

.....

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

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

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

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

Signature by client:

.....

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

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





