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United Nations Transitional Administration  
in East Timor



**UNTAET**

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Administration Transitoire des Nations  
Unies au Timor Oriental

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**REGULATION NO. 2001/24**

**ON THE ESTABLISHMENT OF A LEGAL AID SERVICE IN EAST TIMOR**

The Special Representative of the Secretary-General (hereinafter: Transitional Administrator),

Pursuant to the authority given to him under United Nations Security Council Resolution 1272(1999) of 25 October 1999, as reaffirmed in United Nations Security Council Resolution 1338 (2001) of 31 January 2001,

Taking into account United Nations Transitional Administration in East Timor (UNTAET) Regulation No.1999/1 of 27 November 1999 on the authority of the Transitional Administration in East Timor,

Taking into account the obligations of the Transitional Administration to ensure access to legal assistance for persons who do not have the financial ability to pay for it,

After consultation with the National Council,

For the purposes of establishing a Legal Aid Service in East Timor and for organizing and regulating the activities of the Service,

Promulgates the following:

**Section 1**  
**Definitions**

For the purposes of this Regulation, the following words or expressions shall have the following meaning:

(a) “*Cabinet Officer or Cabinet Member for Justice*” means the officer of the Cabinet of the Transitional Administration appointed pursuant to UNTAET Regulation No. 2000/23 who is responsible for Justice.

- (b) “*Criminal investigations*” means any matter that is being investigated by the Police;
- (c) “*Criminal proceedings*” means:
- (i) proceedings before any investigating Judge or court for dealing with a person accused of an offence or person convicted of an offence; or
  - (ii) proceedings on an appeal; or
  - (iii) proceedings for contempt committed or alleged to have been committed by a person in the face of a court;
- (d) “*Director*” means the head of the *Legal Aid Service*, appointed under Section 4;
- (e) “*Legal Aid Service*” or “*Service*” means the service established by the present Regulation.
- (f) “*Principal Officer*” means the officer responsible in the Legal Aid Office for determining that a person is in need under Sub-section 25.2 of the present Regulation.
- (g) “*Paralegal*” means non-lawyers, appointed to the Service for the purpose of providing legal assistance and advice, other than representation in court.

## **Section 2** **Establishment of the Service**

- 2.1 There is hereby established a *Legal Aid Service* in East Timor.
- 2.2 The *Service* shall be composed of the Legal Aid Offices that are established in the various Districts in East Timor and the Public Defenders appointed thereto under the present Regulation.

## **Section 3** **Organ of the Administration**

- 3.1 The *Service* shall be an independent statutory body.
- 3.2 The Commission shall have responsibility for the administration of the present Regulation and of such policy matters as are necessary for the effective functioning of the *Service* and the Cabinet Member for Justice shall ensure the effective implementation of the Regulation.

#### **Section 4** **Structure of Service**

The *Service* shall be headed by a *Director*, to be appointed by the Commission in consultation with the *Cabinet Member for Justice*.

- 4.2 The *Director* shall be East Timorese with proven legal and management experience.
- 4.3 The *Director* shall report and be accountable to the Commission.
- 4.4 The *Director* shall be assisted by a Deputy Director to be appointed by the Commission.

#### **Section 5** **Funding**

- 5.1 The *Legal Aid Service* shall be funded through appropriations from the ETTA budget and other contributions made to the Legal Aid Fund established under Subsection 5.3.
- 5.2 The *Legal Aid Service* may also receive money from donors for the purpose of legal aid.
- 5.3 There is hereby established a Legal Aid Fund in which shall be paid all contributions.
- 5.4 The *Director* shall be responsible for administering the fund in accordance with general guidelines on budget administration established under the Regulation on Budget and Financial Management.

#### **Section 6** **Purposes and Objects**

The purposes of the *Service* shall include:

- (a) ensuring that persons involved in *criminal investigations* or *criminal proceedings* that are entitled to legal assistance under the provisions of the present Regulation, have access to such legal advice, assistance and as appropriate representation as the interest of justice requires.
- (b) ensuring that litigants who are entitled to legal aid under the present Regulation have access to legal assistance;
- (c) to accredit persons or organizations to provide on behalf of the *Service* gratis expert legal assistance or expert legal assistance funded by the *Service* for a particular case or for a particular duration; and
- (d) to establish programmes for legal education designed to ensure greater public awareness and understanding of the legal system;

**Section 7**  
**Establishment and Composition of Commission**

- 7.1 There is hereby established a Legal Aid Commission in East Timor (hereinafter: the Commission) which shall be the governing body of the *Service*.
- 7.2 The Commission shall comprise five persons of good character and appropriate educational qualifications, at least two of whom shall be women.
- 7.3 The Transitional Administrator shall appoint the members of the Commission who shall serve for a term of one year which may be renewed to further terms as the Transitional Administrator deems fit, provided that the members first appointed may serve for varying periods of not less than one year and not more than two years.
- 7.4 The members of the Commission shall be entitled to such remuneration and such allowances as the Transitional Administration may determine.
- 7.5 The members of the Commission shall elect the Chairperson and Deputy Chairperson from among themselves, at the first meeting of the Commission.
- 7.6 The Commission shall meet at least once every month.
- 7.7 The quorum of the Commission shall be four members, provided that the Commission cannot hold a meeting without the presence of the Chairperson or the Deputy Chairperson.
- 7.8 The decisions of the Commission shall be by majority vote. The Chairperson, or the Deputy Chairperson whenever he or she presides over a meeting, shall have a casting vote.
- 7.9 At each meeting of the Commission, the Chairperson shall ensure that minutes of the meeting are kept.

**Section 8**  
**Functions of the Commission**

The Commission shall be responsible for:

- (a) ensuring the proper and effective administration of the present Regulation;
- (b) monitoring the performance and conduct of Public Defenders and as appropriate taking disciplinary measures;
- (c) appointment of suitable and qualified persons as Public Defenders and terminating the services of any Public Defender in accordance with the provisions of the present Regulation;
- (d) providing policy guidance for the *Service* in consultation with the *Cabinet Member for Justice* and the *Director*;
- (e) raising funds for the effective functioning of the *Service* and overseeing the administration of the Legal Aid Fund;
- (f) providing quarterly reports to the *Cabinet Member for Justice* on the performance of the *Service* including the financial situation of the *Service*.

- (g) providing a course of practical legal training and certification for the purpose of appointing Paralegals to the Service.

**Section 9**  
**Oath or Solemn Declaration**

9.1 Upon appointment, the members of the Commission shall, before the Transitional Administrator or any person designated by him or her, take the following oath or solemn declaration:

“I swear (solemnly declare) that in carrying out the functions entrusted to me as a member of the Legal Aid Commission, I will perform my duties independently and impartially. I will act, at all times, in accordance with the dignity required by this office.

In performing my functions, I will act subject to the law, without discrimination on any ground such as sex, race, colour, language, religion, political, or other opinion, national or social origin, association with a national minority, property, birth or other status.”

9.2 Upon taking the prescribed oath or declaration in Subsection 9.1, each member of the Legal Aid Commission shall sign a transcription of the oath or solemn declaration which shall be retained by the Transitional Administrator.

**Section 10**  
**Removal of Members of the Commission**

10.1 The Transitional Administrator may remove from office any member of the Commission for reason of incompetence, physical or mental incapacity which is sufficiently grave to affect the output of the member, or for violation of any of the principles contained in the oath or solemn declaration.

10.2 The Transitional Administrator may appoint a replacement for any member of the Commission who ceases to be a member by reason of death, resignation, removal or expiry of appointment.

**Section 11**  
**Rules of Procedure**

The Commission shall adopt its own rules of procedure.

**Section 12**  
**Jurisdiction**

The *Director*, the Deputy Director and Public Defenders shall be competent to appear in all courts in East Timor as legal counsel.

**Section 13**  
**Legal Aid Offices**

There shall be established the following Legal Aid Offices in East Timor:

- (a) the office of the *Director*, which shall be the head office for the *Service* with its seat in Dili; and
- (b) District Legal Aid offices corresponding to the territorial jurisdiction of the District Courts as established by law, and other Legal Aid Offices in such other places that the *Cabinet Member for Justice* may determine after consultation with the *Director*.

**Section 14**  
**Appointment and conditions of service**

14.1 The Commission shall appoint:

- (a) Public Defenders who shall be both East Timorese and internationals after taking into consideration the recommendations made by *the Director*
- (b) *Paralegals* who shall be East Timorese.

14.2 The East Timorese Public Defenders and *Paralegals* appointed under this Section shall serve for a probationary period of one year.

14.3 During the probationary period mentioned in Subsection 14.2 above, the Commission shall continually monitor the performance of every Public Defender and *Paralegal* including, but not limited to, professional conduct, integrity, dedication to work, suitability for the position of Public Defender, work ethics, professional honesty, and responsiveness to training.

14.4 On the expiration of the probationary period, the Commission may, if it is satisfied based on an evaluation of the performance of the Public Defender or *Paralegal*, confirm the appointment of the Public Defender or *Paralegal* concerned or if it is dissatisfied, terminate the services of that Public Defender or *Paralegal*.

14.5 Any Public Defender whose appointment is confirmed by the Commission shall continue to hold office subject to full compliance with the provisions of the present Regulation and the provisions of any other Regulation relating to the practice of law, the schedule thereto and diligent performance of the functions of Public Defender, and shall retire compulsorily at the age of sixty-five.

14.6 Every Public Defender and *Paralegal* shall be bound by the Code of Conduct provided in the schedule attached to the present Regulation and non-compliance with any of its provisions shall be reasonable cause for dismissal from the *Service* or other appropriate disciplinary measure.

**Section 15**  
**Qualifications for Appointment**

15.1 The minimum qualifications for appointment as Public Defender shall be:

- (a) with regard to East Timorese, a Degree in Law;
- (b) with regard to internationals, relevant qualifications to practice law in any country, a valid certificate of admission to practice law in such country and a minimum of three years working experience as a Trial Lawyer.

15.2 The minimum qualification for appointment of a *Paralegal* shall be:

- (a) to be East Timorese
- (b) to have a High School Certificate
- (c) certification of satisfactory completion of course of practical legal training provided by the Service.

15.3 The Commission shall ensure that the qualifications of the applicants for appointment referred to in Subsection 15.1 and 15.2 are verified before appointment.

**Section 16**  
**Prior Appointments**

The Public Defenders who were appointed prior to the coming into force of this Regulation shall be deemed to have been appointed under the provisions of this Regulation and shall hold office and have benefits, privileges and obligations in accordance with the terms of the present Regulation.

**Section 17**  
**Remuneration**

17.1 The East Timorese Public Defenders shall be remunerated in accordance with a scheme to be established by the Civil Service and Public Employment Service and approved by the Transitional Administration.

17.2 The remuneration of the East Timorese Public Defenders shall not be varied to their disadvantage and shall not be subjected to any reduction other than on account of general taxes and levies imposed equally upon all persons.

**Section 18**  
**Privileges**

No Public Defender shall be liable in either criminal or civil action for any act or omission done in good faith in the exercise of the functions of a Public Defender.

**Section 19**  
**Functions of Director**

19.1 The *Director* shall perform the following functions:

- (a) ensure that those persons who are subjected to *criminal investigations* or *criminal proceedings* and are entitled to legal assistance under the provisions of the present Regulation are provided with legal assistance;
- (b) ensure that any person who is involved in any litigation and is entitled to legal assistance under the provisions of the present Regulation has access to such legal assistance that person may need;
- (c) direct and supervise the work of the Deputy Director and as appropriate, the work of the *Service* and all its personnel;
- (d) develop such programmes as are necessary to achieve the purposes and objects of the present Regulation;
- (e) cooperate with both local and international Non-Governmental Organizations and persons who may propose to provide legal assistance to persons in need on behalf of the *Service*, where under the circumstances, the *Service* cannot provide the legal assistance required;
- (f) establish a framework for the accreditation of such local and international Non-Governmental Organizations and persons referred to in Subsection 19.1 (e) for the purpose of appearing in particular cases, class of cases or for a defined duration.
- (g) Where the circumstances so justify and the interest of justice so require, to hire private legal practitioners to provide legal assistance to persons who are in need of legal assistance;
- (h) ensure that the legal assistance provided by the *Service* or any person or body on behalf of the *Service* is up to the standards required;
- (i) maintain a list of lawyers who may be available to provide legal assistance services on behalf of the *Service*;
- (j) establish procedures that may be necessary for the recovery of the costs of legal assistance services provided to persons who do not qualify for the service;
- (k) establish a mechanism to ensure that Public Defenders are available to provide legal assistance as and when required;
- (l) administer the Legal Aid Fund and keep proper books of accounts of the Fund and other funds that may be appropriated to the *Service* through the ETTA Budget;
- (m) submit quarterly financial reports to the Commission and Cabinet Member for Justice;



(n) submit to the Commission quarterly reports on the implementation of the provisions of the present Regulation; and

(o) from time to time determine the categories or types of criminal and civil cases in respect of which legal aid services may be provided.

19.2 The *Director* may delegate any one or more of his or her functions to any one or more Public Defenders.

## **Section 20** **District Public Defenders**

20.1 The District Legal Aid Offices established pursuant to Section 13 shall each be headed by a Public Defender and shall consist of such Public Defenders as are assigned to that Office.

20.2 The District Legal Aid Offices shall each be provided with such support staff as are necessary for the effective functioning of the office.

20.3 The District Public Defenders shall ensure that persons within their jurisdiction who are in need of legal assistance and are entitled to it have access to such assistance.

20.4 The District Public Defenders shall ensure that the programmes that may be put in place by the *Director* are implemented in their respective areas of jurisdiction.

## **Section 21** **Cross District Practice**

21.1 Whenever a Public Defender is briefed about a case which does not fall within the territorial jurisdiction of the Office of the Public Defender to which he or she is assigned, he or she shall, with the consent of the person concerned, provide legal assistance to that person and as soon as practicable refer the matter to the Office of the Public Defender who has jurisdiction over the matter.

21.2 Whenever a case is referred by one Public Defender to another in pursuance of Subsection 21.1, the Public Defender referring the matter shall provide to the other all information and documentation that he or she may possess.

## **Section 22** **Designation of a Public Defender by Police or by an Investigating Judge**

22.1 In any *criminal investigations* in which the suspect is arrested, the Police or the Investigating Judge shall, pursuant to the provisions of Section 6.2 of UNTAET Regulation No. 2000/30, inquire from the suspect whether he or she wishes to be provided with legal counsel and whether he or she has the financial ability to pay for such services.

22.2 Where a suspect claims that he or she does not have the financial ability to pay for the services of legal counsel, the police officer or the Investigating Judge as the case may be, shall contact the relevant Legal Aid Office and request that a Public Defender be provided for the suspect.

22.3 Where a suspect does not wish to be provided with legal assistance, the suspect shall be required to sign a written declaration waiving his or her rights to be provided with legal assistance after being advised of his or her rights in terms of Section 6 of UNTAET Regulation No. 2000/30 or any other law.

22.4 A waiver of the right to legal assistance under Subsection 22.3 shall not prejudice the right to any subsequent legal assistance that the suspect may request.

### **Section 23** **Designation of a Public Defender by Court**

23.1 In any proceedings before any court in which a party to the proceedings is not represented by legal counsel, the court shall first inquire from that person whether he or she wishes to be represented by legal counsel and whether he or she is in a position to pay for such services.

23.2 Where the person claims that he or she does not have the financial ability to pay for the services of a legal counsel, the court shall contact the relevant Legal Aid Office and request it to assign a Public Defender for the person.

### **Section 24** **Designation of a Public Defender by the Legal Aid Office**

24.1 Any person who has a civil claim against any other person, natural or otherwise, any person against whom a civil claim is made, or any person against whom *criminal investigations* or *criminal proceedings* have been commenced who does not have the financial ability to pay for the services of a legal counsel may approach the relevant Legal Aid Office, and request to be provided with legal assistance.

24.2 Whenever a request is received by a Legal Aid Office, the Principal Officer of that office shall ensure that the person making the request submits a written declaration under oath setting out his or her means and expenses.

24.3 The Principal Officer shall make an initial assessment of the financial ability of the person in accordance with the procedure laid down in Section 25 of the present Regulation.

24.4 If the Principal Officer is satisfied that the person making the request is entitled to such legal assistance in terms of the present Regulation, he or she shall assign a Public Defender for that person.

**Section 25**  
**Test to Determine Person in Need**

25.1 Any person who is subjected to *criminal investigations* or *criminal proceedings* or is a party in a civil claim and does not have the financial ability to pay for the services of legal counsel shall be deemed to be a person in need and shall under the present Regulation be entitled to the services of a Public Defender free of charge or at minimum financial contribution by that person.

25.2 The determination that a person is in need shall only be made before the *Principal Officer* in terms of Section 24 of the present Regulation or in a suit for payment or reimbursement of costs of legal services provided, under Section 27.

25.3 In determining whether a person is in need and the extent of the ability of the person to pay for his or her legal fees, the *Principal Officer* shall take into consideration such factors as the income, property owned, outstanding obligations, and the number and ages of the dependents of that person.

25.4 In determining whether a person is in need and the extent of the person's ability to pay, the *Principal Officer* shall require that person to make a declaration under oath setting out his or her means and expenses.

25.5 Where the *Principal Officer* is satisfied that a person is in need and is eligible for the services of a Public Defender, it may order that such services be provided free of charge or that the person concerned make a minimum financial contribution for the provision of the service.

(a) Any person who has been denied legal assistance may make an application for judicial review of the decision by a *Principal Officer*.

25.7 In cases where the person subjected to *criminal investigations* or *criminal proceedings* is a minor, the test for determining whether that person is in need shall be based on the financial ability of the parents, guardians or those legally responsible for the support of that person.

**Section 26**  
**Investigation of Means**

26.1 The Legal Aid Office shall investigate into the financial means of all persons who benefit from legal aid by virtue of an assignment by the relevant Legal Aid Office and determine whether such persons had, at the time such services were provided, the financial ability to pay for the services.

26.2 In making an investigation under Subsection 26.1, the Legal Aid Office shall have access to all public and private records, which are not confidential and shall have the authority to request any person who is in possession of information relevant to making such determination to provide the information.

26.3 The fact that the prospective legal aid beneficiary's interests are adverse to the interests of the Administration or an organ thereof shall not disqualify such prospective beneficiary from legal aid.

**Section 27**  
**Recovery of Cost of Legal Services**

27.1 Where a Public Defender pursuant to an investigation under Section 26 discovers that a beneficiary of the services of the Legal Aid Office was not eligible to receive such services, he or she may:

(a) give that person notice that he or she shall terminate the provision of the services of the Legal Aid Office and give the person reasonable time to hire a private legal counsel;

(b) if the matter involving the person is already in court, file a motion with the court to withdraw his or her appearance for that person and request the court for an order requiring the person to pay for the cost of the services already provided; or

(c) if the matter involving the person has already been disposed of, file a suit with the court for the recovery of the cost of the services provided.

27.2 If the court is satisfied that the beneficiary of the services of the Legal Aid Office was not eligible under the provisions of the present Regulation, it may order that:

(a) such services be terminated;

(b) the beneficiary pays to the *Service* the cost of the legal services provided based on a schedule of fees provided by the Commission and approved by the *Cabinet Member for Justice*.

**Section 28**  
**False Declaration**

Any person who knowingly makes a false declaration or false statement of means for the purposes of obtaining the services of the Legal Aid Office under the provisions of the present Regulation commits an offence and shall upon conviction be liable to the penalty provided under Article 242 of the Penal Code of Indonesia.

**Section 29**  
**Repeal**

All Indonesian laws applicable to East Timor in relation to the provision of legal aid hereby stand repealed.

**Section 30**  
**Entry into Force**

This Regulation shall enter into force on 5 September 2001.

Sérgio Vieira de Mello  
Transitional Administrator

## **SCHEDULE**

### **Code of Conduct for Public Defenders**

This Code is made pursuant to Section 14.6 of the present Regulation and shall apply to all Public Defenders, Organizations or other persons contracted or allowed to provide legal aid services in East Timor.

#### **Section 1**

##### **Duty to Protect Interests of Clients**

1.1 Every Public Defender shall in compliance with the duties of a lawyer promote and work for the best interests of his or her client and ensure that the client receives a fair hearing.

1.2 Every Public Defender shall provide his or her client with high standard of quality service as well as fearless, vigorous and effective defence and may use all lawful and proper means to secure the best outcome for the client.

1.3 When representing a client, a Public Defender shall:

(a) abide by a client's decisions concerning the objectives of representation if such are not inconsistent with the Public Defender's ethical duties.

(b) consult with the client about the means by which those objectives are to be pursued.

1.4 A Public Defender shall keep his or her client informed about the status of the case and must promptly comply with all reasonable requests for information.

#### **Section 2**

##### **Duty of Confidentiality**

Every Public Defender shall keep confidential all information in his or her possession about his or her client and the client's case and shall unless otherwise provided by law be bound by all rules of professional privilege.

#### **Section 3**

##### **Duty to the Court**

3.1 A Public Defender shall not deceive or mislead the court, either recklessly or knowingly.

3.2 When a Public Defender is required to give evidence in the trial or case of his or her client pursuant to Section 35 of Regulation No. 2000/30 on the Transitional Rules on Criminal Procedure or any other applicable law, he or she shall not continue to represent that client in that case and shall forthwith withdraw his or her representation.

**Section 4**  
**Duty to Act with Independence**

4.1 In discharging his or her responsibilities, every Public Defender shall act with honesty, integrity and due diligence.

4.2 Every Public Defender shall at all times maintain his or her independence and shall not allow this to be compromised by clients, prosecuting authorities, the courts or any other source.

**Section 5**  
**Duty to Avoid Conflict of Interests**

5.1 A Public Defender may represent more than one client in the same proceedings, provided that no conflict of interest exists. A conflict of interest arises where the interests of a client require the Public Defender to act in a manner, which is contrary to the interest of another client.

5.2 A Public Defender shall not represent a client with respect to a matter where:

(a) such representation will be or is likely to be adversely affected by the representation of another client;

(b) representation of another client will be or is likely to be adversely affected by such representation;

(c) the Public Defender's professional judgment on behalf of the client will be, or may reasonably be expected to be adversely affected by:

(i) the Public Defender's responsibilities to, or interests in, a third party;

or

(ii) the Public Defender's own financial, business, property or personal interests.

5.3 Where a Public Defender provides advice, assistance or representation to a client and a conflict of interest or a significant risk of a conflict of interest arises between the interests of two or more clients or the Public Defender and a client, then the Public Defender must forthwith cease to act for the client concerned and promptly and fully inform each affected client of the nature and extent of the conflict and report the matter to his or her Principal Officer.

**Section 6**  
**Duty to Act Impartially and without Discrimination**

6.1 Every Public Defender shall treat his or her clients fairly, reasonably and without discrimination. In carrying out his or her responsibilities, a Public Defender shall not discriminate directly or indirectly against any person on the grounds of race, sex, sexual

orientation, language, religion, colour, national, ethnic or social origin, political or other opinion, property, disability, birth or other status.

6.2 A Public Defender shall in accordance with the provisions of the present Regulation accept instructions from any qualified person unless there is some reason why the best interest of the client would not be served and in which case such reasons shall be communicated to the Public Defender's Principal Officer and as appropriate to the client.

6.3 Except for compelling reasons and with the approval of the Principal Officer, a Public Defender shall not refuse to advice, assist or represent a client because of the nature of the case or the client or because of the personal views of the Public Defender.

6.4 A Public Defender shall only provide advice, assistance or representation to a client where he or she is competent to do so. Competence under this Section means such legal knowledge, skill and preparation as is reasonably necessary to properly represent the interests of the client.

### **Section 7** **Duty not to Accept Payments**

A Public Defender shall not accept any fee, commission, inducement, gratuity, gift, benefit or other form of compensation, whether directly or indirectly, in the course of his or her employment, unless otherwise provided by any other UNTAET Regulation.

### **Section 8** **Change of Legal Representative**

8.1 Whenever it becomes desirable for any reason to change a legal representative, the Public Defender shall advise the client about the relevant procedures to make that change.

8.2 Whenever there is a change of legal representatives, the Public Defender previously handling the matter shall make a full disclosure of all the information he or she has to the new legal representative of the client.

### **Section 9** **Withdrawal of Legal Representative**

9.1 A Public Defender shall cease to act for a client where:

(a) a conflict or a significant risk of conflict of interest or breach of confidentiality arises;

(b) a conflict or a significant risk of conflict arises between the interest of the client and the Public Defender's duty to the court;

(c) the Public Defender is a witness in the proceedings;



(d) the client withdraws instructions.

9.2 A Public Defender may cease to act for a client where:

(a) the client's behaviour towards the Public Defender is violent, threatening, abusive or disrespectful;

(b) there is some other substantial reason for withdrawal, approved by the *Director*.

### **Section 10** **Excessive Caseload**

Whenever a Public Defender considers that due to excessive caseload the acceptance of further instructions from new clients might reasonably lead to inadequate representation of existing clients, the Public Defender shall report this to his or her Principal Officer who should bring it to the attention of the *Director*.

### **Section 11** **Public Interest Disclosure**

A Public Defender must report to the *Director* in accordance with the procedure laid down by him or her, whenever the Public Defender believes that he or she is being required to act in a way which:

(a) is illegal, improper or unethical;

(b) is in breach of professional rules and the present Code of Conduct; or

(c) may involve maladministration, fraud or misuse of public funds.

### **Section 12** **Standards of Conduct**

12.1 A Public Defender shall not do anything to bring the *Legal Aid Service* or the Commission into disrepute or to diminish the public confidence in the criminal justice system in the course of his or her employment or otherwise.

12.2 Every Public Defender shall comply with the rules of ethics and all the rules of the professional bodies to which he or she is a member.

12.3 A Public Defender shall not misuse his or her position or information acquired in the course of his or her duties to further his or her own private interests or those of others.

12.4 A Public Defender shall not advise or assist a client to engage in conduct, which the Public Defender knows is in breach of the law, the provisions of this Code and the applicable rules relating to the practice of law.

**Section 13**  
**Relationship with Legal Profession**

13.1 A Public Defender shall not practice law other than in the performance of his or her duties as an employee of the *Legal Aid Service* or engage in any other occupation without the express written permission of the *Director*.

13.2 A Public Defender shall constantly strive to improve his or her professional skills through continuing legal education, research, or training.

**Section 14**  
**Complaints**

14.1 A complaint against any Public Defender shall be lodged with the Legal Aid Commission.

14.2 Upon receipt of the complaint, the Legal Aid Commission shall direct the *Director* to examine the matters raised therein and if they are not frivolous or vexatious, take the steps mentioned in this Section.

14.3 The *Director* shall bring the complaint to the attention of the relevant Public Defender with a request to send a written response regarding the complaint to him or her.

14.4 The *Director* shall launch an investigation into the matters complained about and submit a written report thereof with the written statement of the Public Defender to the Legal Aid Commission.

14.5 The Commission shall consider the report and the written statement of the Public Defender and if it is satisfied that there is a case to answer, it shall arrange for a hearing of the complaint.

14.6 The Public Defender shall be given an opportunity to prepare a defence and to be represented by counsel of his or her choice at such hearing, to call and to cross examine witnesses.

14.7 If the Commission at such hearing is satisfied that the allegations are true, it shall reprimand, suspend with or without pay, remove or take other appropriate disciplinary measure against the Public Defender.

14.8 The *Director* shall keep the complainant informed of developments at all stages of the proceedings.