

STATUTORY INSTRUMENTS SUPPLEMENT

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

2017 No. 53.

**THE PREVENTION AND PROHIBITION OF TORTURE
REGULATIONS, 2017.**

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

2017 No. 53.

The Prevention and Prohibition of Torture Regulations, 2017
*(Under section 24 of the Prevention and Prohibition of Torture Act, 2012,
Act No. 3 of 2012)*

IN EXERCISE of the powers conferred on the Minister responsible for justice by section 24 of the Prevention and Prohibition of Torture Act, 2012, these Regulations are made this 1st day of October, 2016.

PART I—PRELIMINARY

1. Title.

These Regulations may be cited as the Prevention and Prohibition of Torture Regulations, 2017

2. Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Prevention and Prohibition of Torture Act, 2012;

“Commission” means the Uganda Human Rights Commission established by article 51 of the Constitution;

“court” means the Chief Magistrates Court;

“currency point” has the meaning assigned to it in the Act;

“family” means spouse, father, mother, child, grandchild, brother, sister or dependants;

“electronic communication” means a communication by means of data messages;

“Minister” means the Minister responsible for justice;

“relevant institution or body” includes—

- (a) the Inspectorate of Government;
- (b) the Directorate of Public Prosecutions;
- (c) the Directorate for Ethics and Integrity;
- (d) the Uganda Peoples Defence Force;
- (e) the Uganda Prisons Service;
- (f) local councils; or
- (g) any other public institution or body to whom a report of torture may be made under the Act.

“victimisation” means punishing or threatening to punish a person who has made or is believed to have made or supported, a complaint under the Act or these Regulations and includes—

- (a) dismissal;
- (b) suspension;
- (c) denial of promotion;
- (d) demotion;
- (e) redundancy;
- (f) harassment;
- (g) negative discrimination measures;
- (h) intimidation; or
- (i) any physical or verbal threats.

3. Forms

(1) The forms for use under the Act and these Regulations shall be those set out in the Schedule.

(2) The forms set out in the Schedule shall be used in all cases to which they are applicable and may be modified as directed by the Minister to meet any other case.

4. Duty to investigate.

The police, commission or any relevant institution or body having jurisdiction under the Act, which suspects or has reasonable grounds to suspect that an offence under the Act, is or is about to be committed or has been committed by a public official, person acting in official capacity or private capacity may commence an investigation.

5. Right to complain.

(1) A person alleging that an offence under the Act or these Regulations has been committed, whether the person is the victim of the offence or not, has a right to complain to the police, commission or any relevant institution or body having jurisdiction over the offence.

(2) A complaint under subregulation (1) shall be in Form 1 in the Schedule.

(3) The complaint shall be accompanied by relevant evidence, if any.

(4) The complaint shall be filed in duplicate and the person receiving the complaint shall endorse a stamp or signature on the filed complaint as proof of submission.

(5) The person receiving the complaint shall retain one copy and give back an endorsed copy of the complaint to the complainant.

6. Handling the complaint.

(1) The police, commission or any relevant institution or body shall investigate every complaint to ascertain whether there is a prima facie case.

(2) Where the complaint is lodged with the Police and there is a prima facie case, the Police may institute criminal proceedings by—

- (a) bringing a person arrested with or without a warrant before a magistrate upon a charge; or

(b) laying a charge against a person before a magistrate and requesting the issue of a warrant or summons.

(3) Where the complaint is lodged with the commission or any relevant institution or body and there is a *prima facie* case, the commission or any other relevant institution or body shall handle the complaint in accordance with the relevant laws or regulations applicable to the commission, institution or body.

(4) Subject to subregulation (2) and (3), where the police, commission or any relevant institution or body ascertains that it has no jurisdiction to handle the complaint, the complaint shall be referred to the institution or body with jurisdiction to handle the complaint immediately.

(5) Where no *prima facie* case is established and the Police, Commission or any relevant institution or body having jurisdiction over the offence has established that the complaint is frivolous or vexatious, the complaint shall be dismissed.

(6) Where the complaint is dismissed under subregulation (5), the Police, Commission or any relevant institution or body shall immediately notify the complainant in Form 2 and give the complainant a detailed investigation report.

7. Assistance in investigations of complaint.

(1) The complainant or any other person relevant to the investigations may be required to assist in investigations of the complaint.

(2) The police, commission or relevant institution or body having jurisdiction over the offence may give notice of the assistance required to the complainant or any other person.

(3) The notice shall be in Form 3 of the Schedule.

(4) The notice shall specify the nature of the assistance required from a complainant or any other person.

8. Investigation procedures.

(1) The police, commission or any relevant institution or body having jurisdiction over the offence shall investigate the allegations **within twenty-one** days from the date of the complaint.

(2) The police, commission or any relevant institution or body having jurisdiction over the offence while conducting an investigation of a complaint under section 11(2), of the Act and these Regulations shall have power—

- (a) to access detention places;
- (b) to access any other place where torture is suspected to have taken place or is taking place;
- (c) to confiscate any item or weapon suspected to have been used to commit torture;
- (d) to refer the complainant for a medical examination;
- (e) to compel any person to give evidence; or
- (f) to do any other act that is relevant to investigations of torture.

(3) Where the police, commission or any relevant institution or body having jurisdiction over the offence refers the complainant for medical examination, under sub regulation (2) (d), the medical report shall be in Form 4 in the Schedule or any other relevant police form.

(4) The police, commission or any relevant institution or body conducting investigations under the Act or these Regulations shall, make a detailed investigation report that shall be used in court before the Commission or any other institution as evidence.

9. Private prosecutions

(1) Subject to section 12 of the Act, private prosecutions may be instituted by any person, other than a public prosecutor or a Police officer by making a complaint before a magistrate.

(2) Where the complaint is made orally, it shall be reduced into writing, read over, interpreted and explained to the person making the complaint in a language the person understands and the person shall certify that the information contained in the complaint is true and correct before signing.

(3) Where the person making the complaint is under any disability making him or her unable to make a complaint, the magistrate shall record the complaint in a presence of a person who understands the complainant.

(4) Where the complaint is in writing, it shall be in Form 5 of the Schedule.

(5) The complaint shall be accompanied by relevant evidence, if any or an affidavit or be made on oath.

10. Inadmissibility of evidence obtained by torture.

Where in any proceedings under the Act and these Regulations, the issue of admissibility of evidence arises, the trial court shall order for a trial within a trial before the evidence is admitted.

PART III—REPORTING OF TORTURE

11. Duty to report torture.

(1) A person who suspects or has reasonable grounds to suspect that torture is being committed by a public official, person acting in official capacity or private capacity, has a duty to report to the police or the commission of his or her suspicion of the torture.

(2) Where a person is unable to report torture to the Police or commission he or she shall report torture to any relevant institution or body.

(3) A report of torture made under subregulation (2) shall be forwarded to the police, or the commission by the relevant institution or body within five working days from the date of receipt of the report.

(4) Where the person reporting is under any disability making him or her unable to effectively report the the police, the commission or the relevant institution or body, shall record and receive the report in a presence of a person who understands the person reporting.

12. Procedure for reporting torture.

(1) A report of torture may be made orally or in writing.

(2) A report of torture shall contain, as far as practicable—

- (a) the full name, sex, nationality, address and occupation of the person reporting;
- (b) the nature of the torture in respect of which the report is made;
- (c) the relationship between the victim and the perpetrator if any;
- (d) the name and particulars of the person alleged to have committed, who is committing or is about to commit the torture or any offence under the Act;
- (e) the time and place where the alleged torture is taking place, took place or is likely to take place;
- (f) the full name, address and description of a person who witnessed the commission of the torture; and
- (g) any other relevant information that the person reporting torture deems necessary.

(3) Where a report of torture is made in a language other than English, the report shall be translated into English and a copy of the translation attached to the report.

(4) Subject to regulation 13, the report of torture shall be made in duplicate and accompanied with evidence, if any or an affidavit.

(5) The person receiving a report of torture shall give the person reporting an acknowledgment of receipt of the report in prescribed in Form 6 of the schedule.

13. Reduction of report of torture in writing.

(1) Where a person reporting torture makes an oral report, the person to whom the report is made shall cause the report to be reduced into writing containing the same particulars as are specified in regulation 12(2).

(2) The writing required to be made under sub-regulation (1), shall be read over, interpreted and explained to the person making the report of torture in a language the person understands and the person shall certify that the information contained in the statement is true and correct before signing the report.

14. Reporting torture by electronic communication.

(1) Notwithstanding any provision in these Regulations, a person may report torture by using electronic communication to the Police, Commission or relevant institution or body.

(2) Where report of torture is made by electronic communication, the person making the report may make a formal report within a reasonable time, if necessary.

(3) The police, the commission or the relevant institution or body receiving the report by electronic communication shall, acknowledge receipt of the report by using the same electronic means.

15. Anonymous reporting of torture.

(1) A person may make an anonymous report of torture to the police, commission or relevant institution or body without disclosing his or her personal details.

(2) Where a person makes an anonymous report, the report shall contain, as far as practicable the following—

- (a) the nature of the torture in respect of which the report is made;
- (b) the name and particulars of the person alleged to have committed, who is committing or is about to commit the torture or any offence under the Act;
- (c) the time and place where the alleged torture is taking place, took place or is likely to take place;
- (d) the full name, address and description of a person who witnessed the commission of the torture; and
- (e) any other relevant information that the person reporting the torture deems necessary.

16. Investigations.

(1) Where a report of torture is made to the police or commission the police or commission shall investigate or cause an investigation into the matter and take appropriate action.

(2) Any investigation under subregulation (1) shall be carried out expeditiously and in any case not later than twenty-one days from the date of making the report.

(3) Where the commission determines that it does not have the capability or mandate to undertake the investigation, the commission shall, within two working days, refer the report to a competent authority or police.

17. Protection from victimisation.

(1) A person shall not be subjected to any victimisation by any person on account of, or partly on account of, having made a report of torture.

(2) A person who honestly and reasonably believes that he or she has been victimised as a result of his or her report of torture may make a complaint to the police, commission or any other relevant institution or body for redress.

(3) The complaint under subregulation (2), shall be in Form 7 in the Schedule.

18. Victimisation of a person reporting torture

A person who, either by himself or herself or through another person, victimises a person reporting torture, commits an offence and is liable on conviction to imprisonment not exceeding five years or a fine not exceeding one hundred and twenty currency points or both.

19. Protection of victim, witnesses and persons reporting torture.

(1) Subject to section 21 of the Act, a victim, witness or a person reporting torture who believes that his or her life, or property or the life or property of a member of the person's family is in danger or likely to be endangered as a result of being a victim, witness or a person reporting torture may, file a complaint and seek protection from the state.

(2) The complaint in subregulation (1) shall be in Form 7 in the Schedule.

20. Disclosing the identity of person reporting torture.

A person, who unlawfully discloses, directly or indirectly, the identity of a person reporting torture, a victim of torture or witness, commits an offence and is liable on conviction to imprisonment not exceeding five years or a fine not exceeding one hundred and twenty currency points or both.

21. Application of the Civil Procedure Act.

For purposes of execution, where court or commission makes an order for restitution, compensation, rehabilitation or any payment ordered under section 6 of the Act, the Civil Procedure Act shall apply, with necessary modification.

SCHEDULE

FORMS

FORM 1

THE REPUBLIC OF UGANDA

THE PREVENTION AND PROHIBITION OF TORTURE ACT, 2017.

Reg, 5(2)

COMPLAINT FORM

I/We the complaint (s) hereby complain against an offence under the Act within my/our knowledge as stated hereunder—

PARTICULARS OF THE COMPLAINANT (S)

First Name : _____
Surname Name : _____
Address : _____
Occupation : _____
Sex : _____
Identification No. : _____
Place of employment : _____
Date : _____
Telephone Number : _____

PARTICULARS OF THE PERSON COMPLAINED AGAINST

First Name : _____
Surname Name : _____
Sex : _____
Address : _____
Occupation : _____
Place of employment : _____

**NATURE OF THE COMPLAINT, TIME AND PLACE OF
COMMISSION**

¹(use a separate sheet if the space is not enough).

PARTICULARS OF WITNESS (if any)

First Name : _____
Surname Name : _____
Address : _____
Occupation : _____
Place of employment : _____
Telephone Number : _____

ANY OTHER PENDING COMPLAINT.

Has the complainant made any similar pending complaint to any other institution or body? (Tick)

Yes: _____

No: _____

If yes, give particulars of previous complaint and to whom the complaint was made.

(use a separate sheet if the space is not enough).

For official use only

Received by _____

Complaint No. _____

Date of receipt: _____

DECLARATION

I/ we hereby declare that to the best of my/ our knowledge and belief all the particulars furnished in this complaint are true and correct.

Date _____

Signature of complainant (s)

¹ Where applicable attach any relevant evidence

FORM 2

THE REPUBLIC OF UGANDA

THE PREVENTION AND PROHIBITION OF TORTURE ACT, 2017.

Reg 6(6)

NOTICE OF DISMISSAL OF A COMPLAINT

TAKE NOTICE that complaint Number _____ of _____
(state full name and address, relating to _____ (insert summary of
the complaint) has been dismissed because of the following reasons.

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

Dated this _____ day of _____, 20 ____

.....

FORM 3

THE REPUBLIC OF UGANDA

THE PREVENTION AND PROHIBITION OF TORTURE ACT, 2017.

Reg. 7(4).

NOTICE OF ASSISTANCE IN INVESTIGATIONS.

To:

This to request the above mentioned person to offer the necessary cooperation in the investigations of complaint of torture filed by _____ of _____ (*state full name and address, of the complainant*).

You are required to offer the following assistance:

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

Dated this _____ day of _____, 20 ____

.....
Signed by person giving notice

FORM 4.

THE REPUBLIC OF UGANDA

THE PREVENTION AND PROHIBITION OF TORTURE ACT, 2017.

Reg, 8(4).

**MEDICAL EXAMINATION FORM FOR THE VICTIMS OF
TORTURE**

PART 1: To be completed by the victim/ complainant.

PARTICULARS OF THE COMPLAINANT (S)

First Name : _____
Surname Name : _____
Address : _____
Occupation : _____
Place of employment : _____
Date : _____
Telephone Number : _____

The nature of the complaint and the item or weapon used on the victim.

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Date...../...../.....

Signature.....

Part II: To be completed by the medical officer

Any relevant detail on acts constituting torture.....
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Is there any evidence of physical torture
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Is there any evidence of mental or psychological torture:
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Is there any evidence of pharmacological torture:
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Are there any defects, e.g. hernia that may require attention? An x-ray examination of the chest has/has not been made (such an examination should be carried out where possible
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Does the victim require any special attention e.g. rehabilitation (*if any specify*)
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X-ray report.

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Report on the sexual organs:

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Other observations or relevant findings:

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Date...../...../.....

Signature.....

FORM 5.

THE REPUBLIC OF UGANDA

THE PREVENTION AND PROHIBITION OF TORTURE ACT, 2017.

Reg, 9(4).

**IN THE MATTER OF A COMPLAINT FOR THE ACTS OF
TORTURE.**

In the Chief Magistrate Court at _____

In the matter of _____ (*name of complainant*), a torture
victim

Vs.

In the matter of _____ (*name of the accused*).

COMPLAINT ON OATH.

I, _____ (*name of complainant*),
file a complaint against _____ (*name of the accused*)
for the acts of torture.

This complainant is based on the following grounds:

Sworn at _____ this _____ day of _____, 20 _____

Complainant _____

Before me _____

Commissioner for Oaths/Magistrate

FORM 6.

THE REPUBLIC OF UGANDA

THE PREVENTION AND PROHIBITION OF TORTURE ACT, 2017.

Reg, 12(5)

ACKNOWLEDGEMENT OF RECEIPT

This to Acknowledge receipt of complaint from _____

_____ (state full name and address of the complainant(s))

The subject matter to which the complaint relates is _____

(state briefly).

Received by _____

Disclosure No. _____

Date of receipt: _____

FORM 7

THE REPUBLIC OF UGANDA

THE PREVENTION AND PROHIBITION OF TORTURE ACT, 2017.

Reg, 17(3) and 19 (2)

COMPLAINT OF VICTIMISATION

I, the complainant of victimisation hereby file my complaint to the Court, Commission of any other relevant institution or body having jurisdiction over the offence (*delete whichever is in applicable*) for redress—

PARTICULARS OF THE COMPLAINANT

First Name : _____
Surname Name : _____
Address : _____
Occupation : _____
Place of employment : _____
Date : _____
Telephone Number : _____

PARTICULARS OF THE ALLEGED PERPETRATOR

First Name : _____
Surname Name : _____
Address : _____
Occupation : _____
Place of employment : _____

NATURE OF THE COMPLAINT, TIME AND PLACE OF COMMISSION

_____ ²(use a separate sheet if the space is not enough) .

² Where applicable attach any relevant evidence

Does the complainant or any family require any state protection and if any describe the nature of protection:

DECLARATION

I, hereby declare that to the best of my knowledge and belief all the particulars furnished in this complaint are true and correct.

Date _____

Signature of complainant.

For official use only

Received by _____

Disclosure No. _____

Date of receipt: _____

KAHINDA OTAFIIRE
MAJ.GEN. (RTD)
Minister of Justice and Constitutional Affairs.