



CATHOLIC UNIVERSITY COLLEGE OF MBEYA (CUCoM)

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DIPLOMA IN LAW (DL₂)

COURSE TITLE : LEGAL WRITING AND DRAFTING

COURSE CODE : DLT 06205.

COURSE INSTRUCTOR : MR. WILLIAM MAMBO.

NATURE OF THE WORK : GROUP ASSIGNMENT. (NO.3)

No.	FULL NAME.	REGISTRATIONNUMBER.	SIGNATURE.
01.	UPENDO BUNDALA	CM/DL/2020/58075.	
02.	DANCAN MWAMBETE	CM/DL/2020/58086.	
03.	SHABANI SHABANI	CM/DL/2020/58070.	
04.	JULITHA JOHN	CM/DL/2020/58090.	
05.	MUSHOBOZI MUTEMANKAMBA	CM/DL/2020/60290.	
06.	KHADIJA ALLY	CM/DL/2020/58040	
07.	HUSNA ALLY	CM/DL/2020/58098	
08.	AGNES NDARO	CM/DL/2020/67964	

DATE OF SUBMISSION : 27TH MAY, 2022.

QUESTION;

Write The Rules and Elements of Legal Opinion/Advice and thereafter Draw It

Legal Opinion (Opinion Letter) is a verbal or written objective interpretation or analysis of a legal position by a professional legal practitioner which is intended to be relayed on by the person to whom it is addressed. In other words, a legal opinion is the opinion of particular legal practitioner about the application of the law to the particular set of facts and usually contains conclusion or recommendations. A legal Opinion is defined in the dictionary to mean, "A statement of advice by an expert on a professional matter".¹ The following are the rules of legal opinion;

Focus on your Audience, in the case of legal opinion, your reader will usually be either an individual who does not have a great deal of legal knowledge or another lawyer, perhaps your client's general counsels, who is legally sophisticated client often request "formal" opinion letters that involve analysis of, and citation to relevant legal authority, each client is different. the goal must be to write a letter that will help the individual client in a particular case. the better you know your client, the more likely it is that you will be able to achieve that goal.²

Be Concrete, the clients want to know what is likely to happen in their cases. A lengthy, abstract discussion of the law without applying it to the client's case will have very little meaning for the client. Explain the applicable rules to the client. But do it in the context of the case at issue.³

Avoid Sounding Colloquial, even when you are writing for lay clients and want to use language they can understand, maintain a formal tone. The rules for opinion letters are the same as for other legal documents. Avoid contractions, slang and other colloquialisms. You do not want to sound

¹ <https://www.michalson.com/legal-services/legal-opinion> (accessed on 24th May 2022, at 9:12am)

² Nancy L. Schultz and Louis J. Sirico, Jr, (2004), Legal Writing and Other Lawyering Skills (4th Edition) Matthew & Company, Inc., a member of the Lexis Nexis group

³ Ibid

stuffy or cold, but you do want to sound professional. Avoid sentences like; I don't see any problem with this. We have several things going in our favor.⁴

Avoid Jargon and Stilted Language, you should avoid using unnecessary legal jargon and stilted construction. Again, remember your audience. If you are writing to a lay person, avoid legal terminology altogether if possible. But where you are writing to another attorney. Use of appropriate legal terminology is expected.⁵

Use Correct Spelling and Grammar, it is just as important to spell correctly when you write to a client as it is when you write to the courts or to other lawyers. Avoid the grammatical errors. Failure to write proper English will destroy your credibility as a professional. A client quite rightly will wonder about the impression you will make on judges and other attorneys if it appears that you cannot write grammatically or spell accurately. A few extra minutes will help you avoid this problem.⁶

Must Reflect Proper Preparation, the opinion must be based on thorough and accurate analysis of the facts. It must be based on comprehensive legal research.⁷

The Context Must Be Clear, the opinion must clearly reflect who it is written to, the solicitor, and the client. It should clearly appreciate in the case that has been reached. Also it should clearly reflect which side it is written for.⁸ The elements of legal opinion are as follows;

Title or Heading, which shows the subject matter of the opinion. Introduction. A summary of facts. legal issues involved. The law applicable and specific opinion or advice.⁹

⁴Ibid

⁵ Ibid

⁶ Ibid

⁷ <https://sherianajamii.com/2020/02/legal-opinion-letter-writing.html> (accessed on 24th May 2022, at 9:06am)

⁸ Ibid

⁹ <https://sherianajamii.com/2020/02/legal-opinion-letter-writing.html> (accessed on 26th May 2022, at 16:59pm)

Here is the sample of legal opinion;

[insert header]

Date.....

The Company Secretary

ABC CO.

P.O. Box.....

.....

Dear Sir/Madam

RE: LEGAL OPINION CHALLENGING THE MINISTER OF.....
DECISION ON THE MATTER OF..... AND.....

1.0 INTRODUCTION

We, the undersigned EDB and KDD Advocates are rendering this Legal Opinion in compliance with your letter of instructions dated....., bearing Reference No....., in which you duly informed us that you have been verbally notified by the Ministry of that you are required to obtain s for services.

Secondly, that you wish to be notified of the existence of legislation if any, on the issue of

2.0 LEGAL ISSUES: (Framed from the letter of instructions)

1. whether the Minister has a mandate of, under the Act.
2. Whether Minister's.....is time-barred and therefore illegal

3.0 THE LAW

3.1 Issue No. 1 whether the Minister has a mandate of, under the Act.

Functions and powers of the Minister are clearly provided for under Section xx of the Act. Having studied the Section, there is no section that provides the Minister may

The Section further explains that, after the matter had been referred to the Minister, the Minister shall, as soon as practicable “give the decision thereon”, this phrase shows that the Minister has wide powers in giving decisions but the Section does not directly state that the Minister may

The Section goes further to state that, in performing his functions, given under S. xx, the Minister may exercise the powers conferred on a Board, which are provided under Sections and.....of the Act. The Board, in exercising its powers, may the powers which the Minister also has, if the matter has been referred to the Minister for reference.

If the phrase “give decision thereon” should be taken to mean agree or disagree with the Board’s decision. There is room for us to take the matter

before a Court to seek its direction on whether or not the Section provides this avenue that the Minister has taken.

3.2 Issue No. 2 Whether Minister's.....is time-barred and therefore illegal

The matter referred by the Minister of is time bared, hence contravene the provisions of S. xx and S..... of the Act, which provides that any matter referred to the or Minister shall be exercised within days.

4.0 OPINION

Having examined the relevant legislation, we are of the opinion that. The law

(.....Act) does not state that the Minister may, so the available solution is to seek to leave to apply for prerogative orders to quash the decision of the Minister of

5.0 CONCLUDING REMARKS

This opinion is limited to matters of the[name of state] Laws and Practices stated herein and may not be read as extending by implication to any matters not specifically referred to.

Nothing in this opinion should be taken as expressing an opinion in respect of any representations or warranties or other information, or any other document examined in connection with this opinion except as expressly confirmed herein.

This opinion is addressed to you solely for the benefit of ABC CO. alone and may not be relied upon, used by, or shown to any other person or for any other purpose.

We hereby opine and advise.

Respectfully,

.....

EDB and KDD Advocates

c.c. (To those whom the letter of instructions was copied to)

Sample 2.

Managing Director

Good International Co. Limited

P.O. Box.....

Dar es Salaam

REFERENCES

BOOK

Nancy L. Schultz and Louis J. Sirico, Jr, (2004), Legal Writing and Other Lawyering Skills (4th Edition) Matthew & Company, Inc., a member of the Lexis Nexis group.

INTERNET SOURCES

<https://sherianajamii.com/2020/02/legal-writing.html#> (accessed on 24th May 2022, at 9:06am) opinion-letter-

<https://wwwi.michalson.com/legal-services/legal-opinion> (accessed on 24th May 2022, at 9:12am)