

LEGAL AID AND ADVICE ACT

CHAPTER 7:07

Act

25 of 1976

Amended by

15 of 1979

46 of 1979

18 of 1994

11 of 1999

18 of 1999

3 of 2012

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LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

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Note

1. This Act has effect notwithstanding the provisions of sections 1 and 2 of the 1962 Constitution and has been certified by the Clerk of the Senate and the Clerk of the House of Representatives to have been enacted in compliance with section 5(2) of the said Constitution.

2. References to County Court in this Chapter have been deleted since the proposed legislation to establish County Courts never became law.

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2012

CHAPTER 7:07

LEGAL AID AND ADVICE ACT

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CHAPTER 7:07

LEGAL AID AND ADVICE ACT

25 of 1976. **An Act to make legal aid and advice in Trinidad and Tobago readily available for persons of small or moderate means, to enable the cost of legal aid or advice granted to persons to be defrayed wholly or partly out of moneys provided by Parliament, and for purposes connected therewith.**

Commencement.
98/1976.

[1ST JULY 1976]

Preamble.

WHEREAS it is enacted by subsection (1) of section 13 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect notwithstanding sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect notwithstanding sections 4 and 5 of the Constitution:

Short title.

1. (1) This Act may be cited as the Legal Aid and Advice Act.

Act inconsistent
with
Constitution.

(2) This Act shall have effect notwithstanding sections 4 and 5 of the Constitution.

PART I

PRELIMINARY

Interpretation.
[18 of 1999].

2. In this Act—
“aided person” means a person who has been granted a certificate that he is entitled to legal aid under Part IV and, where such a person is a minor, includes his guardian;

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- “Attorney-at-law” means a person whose name is entered on the Roll in accordance with the Legal Profession Act; Ch. 90:03.
- “Authority” means the Authority established and incorporated by section 3;
- “Director” means the Director of Legal Aid appointed under section 3;
- “guardian” in relation to a minor, includes any person who, in the opinion of the Director, having cognisance of any case in relation to the minor or in which the minor is concerned, has for the time being the charge or control over the minor;
- “mediation” means a voluntary dispute resolving process in which a third party, the mediator, facilitates and co-ordinates the negotiations of disputing parties, in order to develop options, consider alternatives and reach a consensual settlement to accommodate the needs of the disputing parties;
- “Minister” means the Minister to whom responsibility for the Legal Aid and Advisory Authority is assigned;
- “minor” means a person who is under the age of eighteen years;
- “Secretary” means the Secretary to the Authority appointed under section 3A;
- “summary Court”, “Court of summary jurisdiction” means a Court established by the Summary Courts Act. Ch. 4:20.

PART II

ESTABLISHMENT OF LEGAL AID AND ADVISORY AUTHORITY

3. (1) There is hereby established a Legal Aid and Advisory Authority for the purposes of this Act and the Authority is a body corporate. Establishment and incorporation of the Authority. [18 of 1999 3 of 2012].

(2) The Authority shall consist of eight members appointed by the President as follows:

- (a) an Attorney-at-law of not less than seven years standing who shall be designated Director of Legal Aid and Advice and who shall be Chairman of the Authority;

- Ch. 90:03.
- (b) four Attorneys-at-law nominated by the Law Association of Trinidad and Tobago, established under the Legal Profession Act, or in default of such nomination, by the Chief Justice, and at least one of whom has a resident practice in Tobago and is also nominated by the Tobago House of Assembly;
- (c) the person for the time being holding the office of Chief Probation Officer;
- Ch. 32:01.
- (d) a member of the Board established by the National Insurance Act;
- (e) a member, being a public officer attached to the Ministry.

(2A) In nominating persons for appointments to the Authority due regard shall be given to regional representation.

(3) Where any member of the Authority is for some reason unable to perform his functions under the Act, the President may, if he thinks it desirable or necessary, appoint a member temporarily to carry out those functions.

(4) A member of the Authority may at any time resign his office by instrument in writing addressed to the Director who shall forthwith cause it to be forwarded to the Ministry.

(5) The Director may at any time resign his office by instrument in writing addressed to the Minister who shall forthwith cause it to be forwarded to the President.

Appointment of Secretary.
[18 of 1999].

3A. The Authority shall appoint a suitably qualified person to be its Secretary.

Preparation and maintenance of panels of Attorneys-at-law.
[18 of 1999
3 of 2012].

4. (1) The Director shall prepare and maintain panels of Attorneys-at-law willing to investigate, report and give an opinion upon applications for the grant of legal aid, to act for persons receiving legal aid, to give legal advice under this Act at such remuneration as may be prescribed or agreed upon; and there may be separate panels for different purposes and for different Courts.

(2) Every Attorney-at-law shall be entitled to have his name on the panels or any of them unless there is good reason for excluding him arising out of his conduct when acting or assigned to act for persons receiving legal aid or his professional conduct generally.

(3) Where an Attorney-at-law is aggrieved by any decision excluding him (whether permanently or temporarily) from the panels or any of them, he may appeal against the decision to a Judge and the Judge may confirm or quash the decision appealed against or may substitute such decision as he thinks fit.

(4) Subject to section 32(2) any Attorney-at-law may at any time request the Director to remove his name from the panels or any of them and the Director shall comply with the request.

(5) Subject to this Act, the Director shall pay to an Attorney-at-law, investigating and reporting or giving an opinion upon application for the grant of legal aid or acting for a person receiving legal aid or giving legal advice under this Act, such fees as the Director in his discretion may determine.

4A. (1) The Director shall prepare and maintain panels of Attorneys-at-law to be known as Duty Counsel who are willing to— Duty Counsel.
[3 of 2012].

- (a) provide legal representation for a minor as soon as possible after the minor is detained on suspicion of having committed an offence; or
- (b) provide legal representation for persons detained on suspicion of having committed a capital offence or such other indictable offence as the Minister may, by Order, subject to negative resolution of Parliament, specify.

(2) Every Duty Counsel shall be entitled to have his name on the panels or any of them unless there is good reason for excluding him arising out of his conduct when acting or assigned to act for persons receiving legal representation or his professional conduct generally.

(3) Where a Duty Counsel is aggrieved by any decision excluding him, whether permanently or temporarily, from the panels or any of them, he may appeal against the decision to a Judge and the Judge may confirm or quash the decision appealed against or may substitute such decision as he thinks fit.

(4) A Duty Counsel may, at any time, request the Director to remove his name from the panels or any of them and the Director shall comply with the request.

Panel of mediators. [18 of 1999 3 of 2012].

4B. The Director shall establish and maintain a panel of skilled mediators.

Establishment of Legal Aid and Advice Fund and application of moneys of Fund.

5. (1) There is hereby established a Legal Aid and Advice Fund which shall consist of—

- (a) such amounts as may be appropriated therefor annually or otherwise by Parliament;
- (b) such other amounts as may from time to time be paid in to the Authority in accordance with the provisions of this Act or for any purposes connected therewith.

(2) The moneys of the Fund in any financial year shall be applied in defraying the following charges:

- (a) the remuneration and allowances of the Director, the Secretary and the staff of the Authority and the out-of-pocket and travelling expenses of the other members of the Authority;
- (b) the working operations and establishment expenses and expenditure on, or provisions for, the proper discharge of the functions and duties of the Authority;
- (c) any other expenditure authorised by the Authority.

Exemption from tax. [18 of 1999].

5A. (1) The Authority is exempt from all taxes, duties, fees, charges, assessments, levies and imposts on its profit or on assets which it acquires for its own use.

(2) Where—

- (a) goods are imported by the Authority for and on behalf of the Authority; or
- (b) the commercial sale of goods or services to the Authority is in the opinion of the Board of Inland Revenue, required for the purposes of the Authority,

the goods and services shall be exempt from Value Added Tax.

6. (1) The accounts of the Authority shall be audited annually by auditors appointed by the Authority or under the supervision of the Auditor General in accordance with the Exchequer and Audit Act.

Accounts of the Authority.

Ch. 69:01.

(2) As soon as the accounts of the Authority have been audited, the Authority shall forward to the Minister a copy of the audited statements of accounts and any report made on these accounts by the Auditors.

(3) The Minister shall cause a copy of every such statement and report to be laid before Parliament at the same time as the annual report referred to in section 12 is so laid.

7. (1) The Seal of the Authority shall be kept in the custody either of the Director or of the Secretary, as the Authority may determine, and may be affixed to instruments in the presence of the Director and the Secretary.

Custody and use of Seal.

(2) The Seal of the Authority shall be attested by the signature of the Director and the Secretary.

(3) All documents, other than those required by law to be under seal made by, and all decisions of, the Authority may be signified under the hand of the Director or the Secretary.

(4) Service upon the Authority of any notice, order or other document shall be executed by delivering the same or by sending it by registered post addressed to the Secretary at the office of the Authority.

8. (1) The Authority shall meet at least once a month and at such other times as may be necessary or expedient for the transaction of business, and the meetings shall be held at such place and time and on such days as the Authority may determine.

Meetings and procedure at meetings of the Authority.

(2) The Director may at any time call a special meeting of the Authority and shall call a special meeting within seven days of the receipt of a requisition for that purpose addressed to him by any three members.

(3) The Director, or in his absence, a member elected by the Authority, shall preside at all meetings of the Authority.

(4) Four members of the Authority shall form a quorum.

(5) The Director shall have a casting vote only.

(6) Minutes in proper form of each meeting shall be kept by the Secretary and shall be confirmed by the Director, or in his absence the person elected to act in his place, at a subsequent meeting. Certified copies of the minutes when so confirmed shall be forwarded to the Minister.

(7) The Authority may co-opt any one or more persons to attend any particular meeting of the Authority for the purpose of assisting or advising the Authority, but no such co-opted person shall have any right to vote.

(8) Subject to this section, the Authority may by standing orders regulate its own proceedings and procedure at meetings.

Policy
directions.

9. In the exercise and performance of its functions under this or any other written law, the Authority shall act in accordance with any general directions of the Minister; but subject to this section, the Authority shall, when exercising and performing its functions, be subject to the control or direction of no other person or authority.

Out-of-pocket
grants to
members of the
Authority.

10. For the purpose of defraying the reasonable out-of-pocket and travelling expenses incidental to his office every member of the Authority shall be paid such allowances as may be approved by the Minister.

Execution of
documents.

11. (1) Any document requiring to be executed by the Authority shall be deemed to be duly executed if signed by the Director or the Secretary.

(2) Any cheque, bill of exchange or order for the payment of money required to be executed by the Authority shall be deemed to be duly executed if signed by a person or persons authorised by this Act or by resolution of the Authority.

Financial year
and annual
report of
Authority.
[3 of 2012].

12. (1) The financial year of the Authority shall be a twelve-month period ending 30th September.

(2) Subject to subsection (3), the Authority shall within three months of the end of each financial year make a report of its proceedings and of the operation of this Act in respect of that financial year to the Minister who shall within two months of the receipt of the report lay it before Parliament.

(3) The first report under this section shall be in respect of the period ending on 31st December 1976.

13. (1) The Authority may, with the approval of the Minister, appoint on such terms and conditions as it thinks fit, an Accounts Officer, auditors and such other officers and staff for the purpose of carrying out the provisions of this Act.

Appointment
of staff.

(2) All officers charged with the receipt, accounting for, or disbursement of moneys belonging to the Authority shall be individually responsible for the due and efficient discharge of their respective duties and the exercise of the proper supervision of the accounts kept and controlled by them and of all property entrusted to their care, and for the due observance of all rules and regulations, and of all orders and instructions prescribed for their guidance.

(3) The Authority may require any officer or servant in its service to give security to its satisfaction for the due execution of his duties.

13A. (1) An officer in the Public Service or in the Authority may, with the approval of the appropriate Service Commission and the Authority, consent to be appointed on transfer or consent to be seconded to the service of the Authority or the Public Service as the case may be.

Transfer and
secondment of
officers.
[18 of 1999].

(2) The officer shall, upon transfer, have preserved his superannuation and pension rights accruing at the time of transfer.

(3) The provisions of regulation 31 of the Civil Service Regulations apply to officers on secondment.

Ch. 23:01.
Sub. Leg.

(4) A period of secondment shall not exceed five years.

Cash deposits
and payments.

14. (1) All moneys of the Authority accruing from its operations under this Act shall be paid into the prescribed bank or banks and the moneys shall, as far as practicable, be paid into the bank from day to day, except such sums as the Accounts Officer may be authorised by Rules of the Authority to retain to meet petty disbursements for immediate use.

(2) All payments out of the funds of the Authority except petty disbursements not exceeding such sums fixed by the Rules, shall be made by the Accounts Officer or on his behalf by any other officer appointed by the Authority in accordance with the Rules.

(3) Cheques against any banking account required to be kept or withdrawals from any savings bank account and bills of exchange or orders for payment of money shall be signed by the Accounts Officer or on his behalf by an officer appointed by the Authority and countersigned by the Director or any member of the Authority or any officer of the Authority appointed by resolution of the Authority for the purpose; and a copy of any such resolution shall be certified by the Chairman of the meeting at which the resolution was passed and forwarded to the bank or banks concerned.

Rules made by
the Authority.

15. For the purpose of regulating and controlling its financial procedures, the Authority may with the approval of the Minister of Finance make Rules in respect of all matters necessary for the proper keeping and control of the finances of the Authority and in particular in respect of—

- (a) the manner in which and the officers by whom payments are to be approved;
- (b) the bank or banks into which the moneys of the Authority are to be paid, the title of any account with any such bank, and the transfer of one fund from one account to another;
- (c) the appointment of a member of the Authority to countersign cheques on behalf of the Director or in the absence of the Director;
- (d) the sum to be retained by the Accounts Officer to meet petty disbursements for immediate payments and the maximum sum that may be so disbursed for any one payment; and

- (e) the method to be adopted in making payments out of the funds of the Authority.

15A. (1) The Authority may develop and operate programmes for the purpose of improving its efficiency.

Power of Authority to set up programmes. [18 of 1999].

(2) A programme made under this section may be varied or revoked by a subsequent programme.

(3) The Authority may, with the approval of the Minister and subject to negative resolution of Parliament, make Regulations for the purpose of administering any programme made pursuant to this section.

PART IIA

LEGAL REPRESENTATION FOR SUSPECTS BY DUTY COUNSEL

15B. (1) Where a suspect is detained, the senior officer in charge of the police station or other place of detention shall, as soon as possible inform the authority of—

Legal representation for suspects by Duty Counsel. [3 of 2012].

- (a) the name of the suspect and, where the suspect is a minor, the age of the suspect;
- (b) the nature of the offence; and
- (c) the location where the suspect is being detained.

(2) Immediately upon being informed under subsection (1), the Director shall, without reference to the Court or the Authority, make arrangements for an Attorney-at-law referred to in section 4A (“the Duty Counsel”) to provide legal representation for the suspect until such time as—

- (a) the suspect, or his parent or guardian, has appointed an Attorney-at-law and has signed in the appropriate place the Duty Counsel Certificate in Form 3 of the Third Schedule to signify that he has discharged the Duty Counsel;
- (b) the Duty Counsel, with the leave of the Director, discontinues his services to the suspect;
- (c) the suspect is released without being charged; or

Form 3.
Third Schedule.

(d) the suspect is charged with an offence and, where applicable, legal aid is granted to him under this Act.

(3) Where arrangements are made under subsection (2), the Director shall forthwith inform the police officer referred to in subsection (1) of the name of the Duty Counsel assigned to the suspect.

(4) As soon as practicable after making arrangements under subsection (2), the Director shall, without reference to the Court or the Authority, issue a Duty Counsel Certificate in the form set out as Form 3 in the Third Schedule.

Form 3.
Third Schedule.

(5) The Director shall establish and maintain a register of all Duty Counsel Certificates issued under subsection (4).

(6) The Director shall forward a copy of each Duty Counsel Certificate to the suspect, the Duty Counsel, a First Division Officer of the relevant police station and to the Commissioner of Police.

(7) A Duty Counsel may commence the provision of legal representation for a suspect before the issuance of a Duty Counsel Certificate.

(8) A Duty Counsel Certificate shall remain in force until the occurrence of an event referred to in subsection (2)(a) to (d).

(9) A Duty Counsel shall notify the Director in writing of the date on which he ceased to provide legal representation for a suspect under this section and the Director shall endorse the date on the relevant Duty Counsel Certificate.

(10) A Duty Counsel shall not, without the leave of the Director, discontinue his provision of legal representation for a suspect while the relevant Duty Counsel Certificate is in force, but any other Attorney-at-law may appear on behalf of the Duty Counsel.

(11) The fees payable to a Duty Counsel are those set out in the Fourth Schedule.

Fourth
Schedule.

(12) In this section, “suspect” means a person required to be provided with legal representation under section 4A.

(13) The Minister may by Order, subject to negative resolution of Parliament, amend the Fourth Schedule.

Fourth
Schedule.

PART III

LEGAL AID IN SUMMARY MATTERS

16. (1) Subject to subsection (6), this section applies to the giving of legal aid in connection with proceedings of a description mentioned in Part I of the First Schedule.

Legal aid in
Courts of
summary
jurisdiction.
[18 of 1994
18 of 1999].

(2) Where a person is charged before a Court of summary jurisdiction with an offence to which this section applies, the Court may order that he shall, subject to this section, be given legal aid for the purpose of the proceedings before the Court or in the circumstances mentioned in paragraph 5 of Part I of the First Schedule, for the purpose of so much of those proceedings as relates to the grant of bail.

Part I.
First Schedule.

Part I.
First Schedule.

(3) Where—

(a) a minor is charged with any offence before a Court of summary jurisdiction; or

(b) a person is a party, to or in the circumstances mentioned in paragraph 5 of Part I of the First Schedule, for the purpose of so much of those proceedings as relates to the grant of bail, to any proceeding described in Part I of the First Schedule,

Part I.
First Schedule.

he may apply to the Court for legal aid and the Court may order that the person shall be granted legal aid for the purpose of the proceedings to which he is a party.

(4) Where a party desires to appeal to the Court of Appeal against the order of a Court of summary jurisdiction, that Court or the Court of Appeal may order that either party to the proceedings be given legal aid for the purpose of the appeal.

(5) Where a Court of summary jurisdiction is of the opinion, on the facts brought before it, which may include a report

by the Director, that the person making the application is without adequate means to obtain legal aid and that it is desirable in the interest of justice that such legal aid should be supplied, it shall certify this to the Director, who may thereupon cause arrangements to be made for the representation of that person and payment for the preparation and conduct of the trial or appeal and, where necessary for the payment of the expenses of all material witnesses.

(5A) Any doubt whether the means of an applicant are sufficient to enable him to obtain legal aid or whether it is desirable in the interest of justice that he should have free legal aid shall be resolved in favour of the applicant.

Part I.
First Schedule.

(5B) Nothing in subsection (3) shall require a Court of summary jurisdiction, in the circumstances mentioned in paragraph 5 of Part I of the First Schedule, to order that the person charged before it be given legal aid for the purposes of the proceedings before that Court and any juvenile Court as distinct from legal aid for the purpose of so much of those proceedings as relates to the grant of bail or, in those circumstances, to make an order for the giving of legal aid after the conviction of that person.

Ch. 46:01.

(5C) Paragraphs (B) and (C) of subsection (5) shall have effect in their application to a person who has not attained the age of sixteen years as if the references to a remand in custody and to being remanded, committed or kept in custody included references to being committed under section 74 of the Children Act to custody in a place of detention provided under Part IV of that Act and named in the commitment.

Part II.
First Schedule.

(6) The fees payable to an Attorney-at-law are those set out in Part II of the First Schedule.

Emergency
Certificate for
domestic
violence
applications.
[18 of 1999].
Ch. 45:56.

16A. (1) Where a person desires legal aid as a matter of urgency in respect of proceedings for and in relation to an application made under the Domestic Violence Act, the Director shall have power without reference to the Court or the Authority to issue an Emergency Certificate.

(2) An applicant for an Emergency Certificate shall give such information as may be required to enable the Director to determine whether—

- (a) the applicant is likely to fulfil the conditions under which legal aid may be granted under the Act and these Regulations; and
- (b) it is in the interest of justice that the applicant should, as a matter of urgency, be granted legal aid,

and shall furnish such additional information and documents as may be sufficient to constitute an application for a legal aid certificate under the Act.

(3) Where it appears to the Director that an applicant cannot at the time of the application reasonably furnish the information, or any part of it, the Director shall nevertheless have power to issue an Emergency Certificate subject to such conditions as to the furnishing of additional information as he thinks reasonable.

(4) An application for an Emergency Certificate shall be in the form set out as Form 1 in the Third Schedule and the said certificate shall be in the form set out as Form 2 of the Third Schedule.

Form 1.
Form 2.
Third Schedule.

(5) An Emergency Certificate shall have the same effect in all respects as a legal aid certificate.

(6) An Emergency Certificate shall remain in force for a minimum period of six weeks and a maximum period of three months, as the Director in his discretion shall decide, and unless a legal aid certificate is issued within that period in respect of the said proceedings the Emergency Certificate shall be deemed to have been revoked.

(7) Notwithstanding subsection (6), where it appears to the Authority that the circumstances of any particular application so warrant, the Authority may extend an Emergency Certificate for such further period as it thinks fit.

(8) If within any period during which an Emergency Certificate is in force the Magistrate refuses the application for a legal aid certificate the Director shall forthwith revoke the Emergency Certificate.

(9) Upon an Emergency Certificate being extended or being deemed to be revoked under subsection (8), the Director shall forthwith issue a notification to the Court and to the applicant to that effect.

LEGAL AID IN CRIMINAL PROCEEDINGS IN THE HIGH COURT AND APPEAL THEREFROM

Applications for legal aid for defence of persons before the High Court. Ch. 12:01. [15 of 1979 18 of 1999 3 of 2012].

17. (1) Any person committed for trial under the Indictable Offences (Preliminary Enquiry) Act, may, at any time after committal apply in the prescribed form to a Judge of the High Court of Justice for legal aid for his defence.

(2) *(Repealed by Act No. 3 of 2012).*

(3) Every application under this section shall be accompanied by an affidavit verifying the facts stated in the application.

Application for legal aid for criminal appeals. [18 of 1999].

18. (1) Any person convicted of and sentenced for an offence by the High Court who desires to appeal to the Court of Appeal against the conviction or sentence may apply in the prescribed form to the Judge of the High Court or a Judge of the Court of Appeal for legal aid for the preparation and conduct of such appeal.

(2) Any person making an application for legal aid under this section may be required to furnish an affidavit verifying any facts stated in the application.

Legal aid certificate. [15 of 1979 18 of 1999].

19. (1) Where application is made to a Judge under section 17 or 18 the Judge may refer the application to the Director for a report on the means of the applicant.

(2) If the Judge is of opinion on the facts brought before him, which may include a report by the Director, that the person making the application is without adequate means to obtain legal

aid and that it is desirable in the interest of justice that such legal aid should be supplied, he shall certify this to the Director, who may thereupon cause arrangements to be made for the representation of that person and payment for the preparation and conduct of the trial or appeal and, where necessary, for the payment of the expenses of all material witnesses.

(3) Any doubt whether an applicant's means are sufficient to enable him to obtain legal aid or whether it is desirable in the interest of justice that he should have free legal aid shall be resolved in favour of the applicant.

(4) The fees and expenses payable to an Attorney-at-law assigned to any applicant in the High Court of Justice or the Court of Appeal are those set out in Part III of the First Schedule.

Part III.
First Schedule.

19A. The Minister may, by Order, amend Parts I, II and III of the First Schedule and such Order shall be subject to negative resolution of Parliament.

Amendment to
First Schedule.
[18 of 1999].

PART IV

LEGAL AID IN CIVIL ACTIONS IN THE SUPREME COURT

20. (1) The proceedings in connection with which legal aid may be given are any proceedings of a description mentioned in Part I of the Second Schedule except proceedings mentioned in Part II of the Second Schedule.

Scope and
general
conditions of
legal aid and in
civil actions.
Part I & Part II.
Second
Schedule.
[18 of 1999].

(2) The Minister may, by Order, amend the Second Schedule and such Order shall be subject to negative resolution of Parliament.

(3) An Order made for the purpose of this section shall not provide for giving legal aid in connection with any proceedings before any Court or tribunal before which persons have no right and are not normally allowed to be heard by an Attorney-at-law.

21. (1) Any person who, whether in his own right or in a representative capacity, desires to be granted legal aid under this

Application for
legal aid.
[18 of 1999
3 of 2012].

Part shall make application in that behalf to the Director. Every such application shall be in the prescribed form and accompanied by an affidavit verifying the facts in the application.

(2) Where the person who desires to be granted legal aid is a minor or a person under disability, the application under this section shall be made on behalf of the minor or the person under disability, by his guardian.

(3) Where any application is made on behalf of a minor under subsection (2) then—

(a) a reference in section 22 or in section 23(2)(a) to an applicant shall be construed as a reference to the guardian and the minor jointly or to either of them severally; and

(b) a reference in section 23(2)(b) as modified by section 25(2), to an applicant shall, in any case where the minor is unmarried and the guardian is a near relative (as defined in subsection (4) of this section) of the minor, be construed as a reference to both the guardian and the minor and in every other case shall be construed as a reference to the minor only.

(4) In subsection (3) the expression “near relative” means—

(a) in the case of a minor other than an adopted minor, the father, mother or guardian;

(b) in the case of an adopted minor, an adopted parent.

(c) *(Deleted by Act No. 3 of 2012).*

(5) Where an application is made on behalf of a person under disability under subsection (2) then a reference in—

(a) section 22 to an applicant shall be construed as a reference to the person under disability;

(b) section 23(2)(a) to an applicant shall be construed as a reference to the person under disability;

(c) sections 23(2)(b) and 25 to an applicant shall be construed as a reference to the person under disability.

(6) In this section “person under disability” means a person not being a minor who is a person under disability pursuant to Order 77 of the Supreme Court of Judicature Rules.

22. Where an application is made under the provisions of section 21, the Director may—

Power of Director to make inquiries.

- (a) make such inquiries as he thinks fit as to the means and condition of the applicant and as to the merits of the case;
- (b) require the applicant to furnish such information and such documents as the Director may require for the purpose of considering the application;
- (c) require the applicant to attend personally;
- (d) refer the application or any matter arising out of the application to any Attorney-at-law whose name is on the appropriate panel maintained pursuant to section 4 to investigate the facts and make a report thereon or to give any opinion thereon or on any question of law arising out of the application;
- (e) take or cause to be taken such steps as may be necessary to conserve the interests of the applicant pending determination of his application;
- (f) defray expenses incidental to any of the foregoing matters out of any funds in his control which are available for the purpose.

23. (1) Before approving an application for legal aid the Director shall refer the application to the Authority.

Grant of legal aid certificates. [46 of 1979 18 of 1999 3 of 2012].

(1A) Where a legal aid certificate is granted the Director may require the applicant to submit to mediation as a means of resolving the matter, if, in the opinion of the Director, mediation is considered to be appropriate, in the circumstances.

(1B) The cost of mediation shall be paid for by the Authority.

(2) The Director may thereupon grant to the applicant a certificate (in this Act referred to as a “legal aid certificate”) that the applicant is entitled under this Act to legal aid in connection with any proceedings where—

- (a) the Authority is of the opinion that the applicant has reasonable grounds for taking, defending, continuing or being a party thereto; and
- (b) he is satisfied—
 - (i) that the applicant is not possessed of or entitled to disposable capital of a total value of more than twenty thousand dollars; and
 - (ii) that the disposable income of the applicant does not exceed thirty-six thousand dollars a year.

(3) The Minister may, by Order, amend subsection (2) and such Order shall be subject to negative resolution of Parliament.

Extenuating
circumstances.
[3 of 2012].

24. (1) Where there are extenuating circumstances, the Director may approve an application for legal aid even though the applicant does not meet the necessary requirements.

(2) An approval given by the Director under subsection (1) shall be ratified by the Authority at its next meeting.

“Disposable
capital” and
“disposable
income”.
[18 of 1999
3 of 2012].

25. (1) For the purposes of section 23—
“disposable capital” means the property of which the applicant is possessed or to which he is entitled exclusive of—

- (a) the subject matter of the proceedings;
- (b) wearing apparel of the applicant;
- (c) tools of trade of the applicant;
- (d) household furniture used by the applicant in his house;
- (e) a dwelling house owned, used and exclusively occupied by the applicant and his family as his house assessed at an annual value of not more than one hundred and fifty dollars;

“disposable income” means the income of the applicant together with the income (if any) of the spouse of the applicant, during the period of twelve months next preceding the making of the application, after deducting therefrom—

- (a) an amount equal to two thousand, four hundred dollars a year for each person totally or partially dependent on the applicant or spouse up to a maximum of seven thousand, two hundred dollars;
- (b) an amount equal to four thousand, three hundred and twenty dollars a year for the applicant;
- (c) rent not exceeding nine thousand, six hundred dollars a year;
- (d) contributions being made to the National Insurance Board;
- (e) any income tax payments;
- (f) National Insurance Board pensions;
- (g) old age pensions;
- (h) public assistance benefits; and
- (i) disability benefits.

(2) For the purposes of section 23(2)(b) the Director may, in any case where an applicant is living in the same property with, or separate or apart from, his or her spouse, as the case may be, and where it appears to him in his absolute discretion to be reasonable to do so to relieve hardship, disregard the income of the spouse.

(3) Notwithstanding the provisions of section 23 the Director may refuse legal aid if it appears to him unreasonable that the applicant should receive it in the particular circumstances of the case.

(4) For the purposes of this section, “spouse” includes a cohabitant as defined in the Cohabital Relationships Act.

Ch. 45:55.

26. (1) The contribution payable to the Director by any person to whom a legal aid certificate is granted under the provisions of section 23 in respect of any proceedings may include—

Contributions from aided persons. [3 of 2012].

- (a) a contribution in respect of property not greater than the amount, if any, by which his disposable capital exceeds fifteen thousand dollars; and

(b) a contribution in respect of income not greater than half the amount, if any, by which his disposable income exceeds thirty thousand dollars a year.

(2) Any such person may be required to make any contribution in one sum or by instalments.

(3) If the total contribution made by a person in respect of any proceedings is more than the net liability of the Director on his account, the excess shall be repaid by him.

(4) Except so far as Regulations otherwise provide, any sums remaining unpaid on account of a person's contribution in respect of any proceedings and, if the total contribution is less than the net liability of the Director on his account, a sum equal to the deficiency shall be a first charge on any property (wherever suitable) which is recovered or preserved for that person in the proceedings.

(5) The reference in subsection (4) to property recovered or preserved for any person, shall include his rights under any settlement or compromise arrived at to avoid or bring to an end the proceedings and any sums recovered by virtue of an order for costs made in favour of the proceedings (not being sums payable to the Director under section 31 or 33).

(6) The charge created by subsection (4) on any damages or costs shall not prevent a Court allowing them to be set-off against other damages or costs in any case where an Attorney's-at-law lien for costs would not prevent it.

(7) References in this section to the net liability of the Director on any person's account in relation to any proceedings refer to the aggregate amount of the sums paid or payable by the Director on that person's account and where the person has been represented in the proceedings by the Director, such sums as would in the opinion of the Director have been payable on that person's account had he been represented by an Attorney-at-law assigned to him, in respect of those proceedings, and not recouped by sums which are recovered by virtue of an order or agreement for costs made in his favour with respect to those proceedings.

27. (1) The Director may, at any time and whether or not application has been made for the purpose, cancel any legal aid certificate issued under section 23 and subject to subsection (2) as from the date of the cancellation, the person to whom the legal aid certificate was granted shall cease to be an aided person.

Cancellation of certificate.
[3 of 2012].

(2) Where the legal aid certificate so cancelled has been filed in the registry of any Court, the Director shall file in Court a notification of the cancellation, and, as from the date of filing of the notification, the person to whom the legal aid certificate was granted shall cease to be an aided person.

(3) Upon the filing in Court of the notification, then, unless otherwise ordered by a Judge of the Court in which the litigation is pending, all proceedings in the litigation shall, by virtue of this subsection, be stayed for a period of fourteen days and, subject as aforesaid, during such period, time fixed by or under any Act or by or under any Rules of Court, Regulations or otherwise for the doing of any act or the taking of any step in the proceedings shall not run.

(4) The time during which proceedings are stayed by virtue of subsection (3) may be reduced or extended by order of a Judge of the Court in which litigation is pending.

(5) The Director shall take such steps as seem to him reasonable or necessary to inform the person to whom a legal aid certificate has been granted of the cancellation of any such certificate.

28. If, in relation to any proceedings to which a person who has made an application for legal aid under this Part or an aided person is a party, any other party makes application for legal aid under this Part, this Act shall apply to both such parties; but the Director shall not himself act for either such party but shall assign an Attorney-at-law whose name is on the appropriate panel of Attorneys-at-law maintained pursuant to section 4 to act for each aided person.

Application for aid by more than one party.

29. (1) Where a legal aid certificate is granted pursuant to section 23 the Director may act for the aided person or may

Assignment of an Attorney-at-law.
[18 of 1999
3 of 2012].

assign an Attorney-at-law from the appropriate panel, maintained pursuant to section 4, so to act and the Director may, in assigning an Attorney-at-law, take into account the wishes of the aided person and in such a case shall endorse on the legal aid certificate the name of the Attorney-at-law so assigned.

(1A) In any case where an Attorney-at-law is assigned to act after the certificate is filed in Court, or in any case where a new assignment is made in lieu of an Attorney-at-law assigned previously, the Director shall not be required to endorse on the certificate the name of the Attorney-at-law so assigned or newly assigned as the case may be, but may, instead, give notice of the assignment or new assignment by letter to the proper officer of the Court in which proceedings are pending.

(2) Before taking any other step in the proceedings the Director or the Attorney-at-law so assigned shall file the legal aid certificate in the Registry of the Court in which the proceedings are pending or are to be taken and no Court fee shall be charged in respect of the filing of the certificate.

(3) Where any legal aid certificate is so filed the aided person—

- (a) shall not be liable in respect of any proceedings to which the certificate relates for Court fees or for such fees payable for the service of process or for any fees due to the Registrar in connection with the execution of process;
- (b) shall be entitled to be supplied free of charge with a copy of the Judge's notes of evidence in any proceedings to which the certificate relates; and
- (c) shall not, except where express provision is made in this Act, be liable for costs to any other party in any proceedings to which the certificate relates.

(4) Subject to the provisions of sections 26 and 30, no person who, pursuant to any reference under this Act, makes any investigation or report or gives any opinion or who pursuant to any assignment under this Act conducts any proceedings, shall take or agree to take or seek from an aided person any fee, profit or reward (pecuniary or otherwise) in respect thereof.

(5) Any person who contravenes the provisions of subsection (4) shall be liable, in the case of an Attorney-at-law to have his name removed from the panel by the Authority, and in the case of an employee shall be subject to such disciplinary action as the Authority deems fit.

30. (1) The Director may require any applicant for legal aid under this Part, or any person to whom a legal aid certificate has been granted under section 23, to deposit with him such amounts at such times as the Director may think fit to be used in or towards meeting out-of-pocket expenses (not including office expenses) incurred in connection with the application or with any proceedings to which the application or the legal aid certificate relates.

Deposit in respect of out-of-pocket expenses.

(2) Any amounts so deposited shall be used only for the payment of such out-of-pocket expenses and any part of any such amount not so expended shall be refunded.

(3) In any case where the Director is satisfied that the making of a deposit under subsection (1) would occasion hardship, the Director may, out of any funds in his control which are available for the purpose, from time to time, meet any out-of-pocket expenses (not including office expenses) or make such advances to meet such out-of-pocket expenses as he may consider necessary.

(4) Any advance so made shall be used only for payment of such out-of-pocket expenses and any part of such amount not so expended shall be refunded to the Director.

31. (1) Where it appears to a Court or Judge that a legal aid certificate granted under section 23 has been obtained by fraud or misrepresentation, the Court or Judge may so declare and order the aided person to pay the costs of the Director or of the Attorney-at-law who acted for him or the costs of the other party, or the costs of the Director or such Attorney-at-law and such party.

Court may order payment of costs by aided person in certain event. [18 of 1999 3 of 2012].

(2) In subsection (1) a reference to an “aided person” shall include, in any case where the legal aid certificate has been cancelled before the making of the order, the person who immediately before the cancellation was the aided person.

(3) Where it appears to a Court or Judge that an aided person has acted improperly in bringing or defending any legal proceedings or in the conduct of them the Court or Judge may so declare and order the aided person to pay the costs of the Director or of the Attorney-at-law who acted for him or the costs of the other party, or the costs of both the Director or such Attorney-at-law.

(4) Where an order is made under subsection (1) or subsection (3) the costs shall be taxed as if the party ordered to pay them were not an aided person.

(5) The costs so ordered to be paid shall, unless otherwise directed by the order, include—

- (a) fees and charges of the nature referred to in section 29(3)(a) and (b); and
- (b) any sums which, pursuant to section 30(3) were expended by the Director in meeting out-of-pocket expenses or were advanced by the Director for that purpose.

(6) Where the costs of the Director or the Attorney-at-law who acted for the aided person ordered to be paid under subsection (1) or subsection (3) include any of the fees, charges or sums referred to in subsection (5), then if any amount is recovered by the Director in respect of the costs the same shall be applied in the first instance in or towards the satisfaction of such fees, charges or sums.

Legal aid not to
discontinue
without leave.
[18 of 1999].

32. (1) An aided person shall not without the leave of the Director discharge any Attorney-at-law assigned to act under this Part for him.

(2) Where an aided person discharges the Attorney-at-law assigned to act for him the Director may in his discretion revoke the legal aid certificate granted pursuant to section 23.

(3) Any Attorney-at-law assigned to act for an aided person shall not discontinue his services without the leave of the Director, but any Attorney-at-law may be represented by any other Attorney-at-law.

33. (1) The Court in which proceedings are taken to which an aided person is a party shall make, in favour of the aided person, the like order for costs (except against another aided person) as that Court would have made had he not been an aided person, and in proceedings in which costs follow the event an aided person shall (except against another aided person) be entitled to costs in like manner as if he were not an aided person, notwithstanding that no amount is or will be payable by the aided person, or that the costs are in excess of the amount which is or will be payable by the aided person.

Costs.
[46 of 1979
18 of 1999
3 of 2012].

(2) Subject to subsection (2A) where any money is recovered by an aided person (whether in proceedings or by virtue of a settlement or compromise) he is liable to pay to the Authority so much of the money as is recovered in respect of costs.

(2A) Where, however, the Authority has paid or is liable to pay sums greater than the moneys recovered in respect of costs the Authority may retain money from the judgment sum, such amount to be limited to that which the Authority has expended over and above the award of costs or the formula in subsection (4), whichever is the smaller.

(3) For the purposes of subsection (2) the moneys recovered in respect of costs shall be deemed to be so much of the total amount so recovered as exceeds the amount (if any) recoverable by the aided person otherwise than as costs.

(4) Where—

- (a) the amount recovered does not exceed four thousand dollars, no sum shall be payable by the aided person under subsection (2);
- (b) the amount recovered exceeds four thousand dollars, the sum payable by the aided person under this subsection shall not exceed—
 - (i) one-fourth of the amount recovered; or
 - (ii) the difference between the amount received and the amount of four thousand dollars,whichever is less.

(5) Without prejudice to the generality of subsections (1) to (4) the expression “costs” includes—

- (a) Attorney’s-at-law fees whether or not they have been paid; and
- (b) fees and charges of the nature referred to in section 29(3)(a) and (b); and
- (c) any sums which, pursuant to section 30(3), are expended by the Director in meeting out-of-pocket expenses or are advanced by the Director for that purpose.

(6) Where the costs recovered by the Director under this section include any of the fees, charges or sums referred to in subsection (5)(a) and (b), such costs shall be applied, in the first instance, in and towards satisfaction of such fees, charges or sums.

Stay of proceedings upon making of application for legal aid.

34. (1) Where litigation has been instituted and any party makes an application for legal aid under this Act, the Director shall, as soon as practicable after the application is made, notify by memorandum the other party or each of the other parties, and file the memorandum in the Court in which the litigation is pending; and no fee shall be charged in respect of the filing of the memorandum.

(2) Subject to subsections (3) and (4), where any memorandum is so filed, then, unless otherwise ordered by a Judge of the Court in which the litigation is pending, all proceedings in the litigation shall, by virtue of this section be stayed for a period of fourteen days, and during the period (unless otherwise ordered by any such Judge) time fixed by or under any Act or by or under any Rules of Court, Regulations or otherwise for the doing of any act or the taking of any step in the proceedings shall not run.

(3) The filing of the memorandum shall not operate to prevent the making of—

- (a) an interlocutory order for an injunction or for the appointment of a receiver or manager or receiver and manager;

- (b) an order to prevent the lapse of a caveat against dealings with land; or
- (c) any other order which, in the opinion of a Judge of the Court in which the litigation is pending, is necessary to prevent an irremediable injustice.

(4) Unless otherwise ordered by a Judge of the Court in which the litigation is pending, the filing of the memorandum shall not operate to prevent the institution or continuance of proceedings to obtain, enforce or otherwise carry into effect any such order as is mentioned in subsection (3)(a) or a decree to the like effect.

(5) The time during which proceedings are stayed by virtue of this section may be reduced or extended by order of a Judge of the Court in which the litigation is pending.

35. (1) Where a legal aid certificate granted pursuant to section 23 has been filed in any Court, and the proceedings to which the certificate relates have been heard in that Court, and the aided person desires to prosecute any appeal or proceedings in the nature of an appeal therefrom, he shall not be entitled to prosecute the appeal or proceedings in the nature of an appeal as an aided person unless he files in the Court in which the appeal or proceedings are to be heard a certificate from an Attorney-at-law (not being the Attorney-at-law who acted for the aided person in the proceedings) nominated by the Director stating that the Attorney-at-law has thoroughly examined the appellant's case and is of the opinion that the appellant has good grounds of appeal, which grounds, together with the reasons therefor, shall be set out in detail in the certificate.

Prosecuting an appeal or proceedings. [3 of 2012].

(2) If any aided person prosecutes any such appeal or proceedings in the nature of an appeal without having filed the Attorney's-at-law certificate referred to in subsection (1) he shall be deemed not to be an aided person.

36. Where it is necessary or convenient to do so for carrying out or giving effect to this Part or any Regulations made thereunder, the Rules Committee may under section 78 of the Supreme Court of Judicature Act make Rules regulating the practice and procedure of any Court in which proceedings may be taken by an aided person.

Rules of Court.

Ch. 4:01.

PART V

LEGAL ADVICE

Right to and
nature of legal
advice.
[18 of 1999
3 of 2012].

37. (1) Subject to this Part legal advice shall be available to persons resident in Trinidad and Tobago.

(2) Legal advice shall consist of oral advice on legal questions given by the Director or an Attorney-at-law whose name is on the appropriate panel of Attorneys-at-law maintained pursuant to section 4 and shall include help in preparing an application for legal aid and in supplying information required in determining the disposable capital and disposable income of the applicant but shall not include advice on any law other than the law of Trinidad and Tobago.

(3) Provision may be made by Regulations under this Act for further defining or restricting the questions on which legal advice may be given and for regulating all matters relating to fees, charges and costs in relation to the giving of legal advice.

(4) A person seeking legal advice shall apply to the Director and may be required—

- (a) to satisfy the Director that he cannot afford to obtain it in the ordinary way; and
- (b) to pay to the Director a fee not exceeding five hundred dollars, except where the Director is satisfied that the person is unable to afford the payment.

(5) The Minister may, by Order, amend the fee prescribed in subsection (4)(b) and such Order shall be subject to negative resolution of Parliament.

PART VI

SUPPLEMENTARY

False
statements.
[18 of 1999].

38. Any person seeking or receiving legal aid or advice who, in furnishing any information in his application, knowingly makes any false statement or false representation is liable on summary conviction to a fine of one thousand dollars and imprisonment for six months.

39. (1) The like privileges and rights as those which arise from the relationship of client and the Attorney-at-law acting in his professional employment shall arise from the following relationships:

Privileges attaching to certain relationships. [18 of 1999 3 of 2012].

- (a) the relationship between a person granted legal aid under the Act and the Director and the Attorney-at-law (if any) assigned to act for him;
- (b) the relationship between an applicant for legal aid under this Act and the Director and Attorney-at-law (if any) to whom the application is referred;
- (c) the relationship between an aided person and the Director and the Attorney-at-law (if any) assigned to act for him in any proceedings to which a legal aid certificate under section 23 relates;
- (d) the relationship between a person seeking legal advice and the Director and the Attorney-at-law (if any) by whom the advice is given.

(2) Notwithstanding anything contained in subsection (1), the privileges therein referred to shall not arise in relation to any information tendered to the Director concerning the property or income of the applicant for a legal aid certificate under this Act.

(3) Save as provided by this Act the rights conferred by this Act on a person receiving legal aid or legal advice shall not affect the rights or liabilities of other parties to the proceedings or the principles on which the discretion of any Court or tribunal is normally exercised.

40. (1) The Minister may make Regulations prescribing all matters (other than the rules regulating the practice and procedure of any Court referred to in section 36) which by this Act are required or permitted to be prescribed or which are necessary or convenient for carrying out or giving effect to this Act.

Regulations. [3 of 2012].

(2) Without prejudice to the generality of subsection (1), the Regulations may—

- (a) regulate all matters relating to fees, charges and costs in relation to proceedings to which an aided person or a person to whom legal aid is supplied under Part III is a party;

- (b) remit or provide for the remission of any fees or charges in any such proceedings;
- (c) provide for the communication of the provisions of Part III to persons committed for trial;
- (d) make provision as to the cases in which a person may be refused legal aid or advice by reason of his conduct when seeking or receiving legal aid or advice (whether in the same or in a different matter);
- (e) make provision for the recovery of sums due in respect of legal aid and for making effective the charge created by this Act on property recovered or preserved for a person receiving legal aid, including provision—
 - (i) for the enforcement of any order or agreement for costs made in favour of a person who has received legal aid; and
 - (ii) for making an Attorney's-at-law right to payment wholly or partly dependent on his performance of any duties imposed on him by regulation made for the purpose of this paragraph;
- (f) make any provision necessary to meet the special circumstances where—
 - (i) a person seeks legal aid in a matter of special urgency;
 - (ii) a person begins to receive legal aid after having consulted an Attorney-at-law in the ordinary way with respect to the same matter, or ceases to receive legal aid before the matter in question is finally settled;
- (g) provide for all matters that are required to give effect to sections 4 and 15B; and
- (h) prescribe any forms to be used pursuant to this Act.

(3) The Regulations may apply generally to all legal matters, whether relating to proceedings in Court or otherwise, or may apply to any specified class of matters, proceedings, or to all matters or proceedings other than matters or proceedings of a specified class.

(4) Regulations made by the Minister shall be subject to negative resolution of Parliament and may prescribe in respect of any contravention a fine of five hundred dollars.

(5) The Legal Aid and Advice Regulations (formerly contained in the Third Schedule to this Act) shall be deemed to be made under this section and may be amended or revoked under subsection (1).

FIRST SCHEDULE

**PROCEEDINGS FOR WHICH LEGAL AID MAY
BE GIVEN UNDER SECTION 16**

Section 16(1).
[46 of 1979
18 of 1994
11 of 1999
18 of 1999
3 of 2012].

PART I

DESCRIPTION OF PROCEEDINGS

1. Criminal proceedings in respect of—
- (a) indictable offences whether or not determined summarily;
 - (b) all offences, except motor vehicle offences charged in a Court of summary jurisdiction;
 - (c) contempt proceedings in the Magistrates' Court;
 - (d) plea discussions and plea agreements under the Criminal Procedure (Plea Discussion and Plea Agreement) Act. Ch. 13:07.

1A. Proceedings falling within the jurisdiction of the Petty Civil Court in which the liquidated damages claimed is not less than two thousand, five hundred dollars so, however, that the applicant shall be required to make a contribution unless he can show that payment of such contribution shall cause him hardship.

2. Proceedings for and in relation to an application under the Status of Children Act, the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, the Domestic Violence Act, the Attachment of Earnings (Maintenance) Act, and the Cohabital Relationships Act. Ch. 46:07.
Ch. 46:08.
Ch. 45:56.
Ch. 45:52.
Ch. 45:55.

3. Proceedings under the Summary Ejectment Ordinance and the Rent Restriction (Dwelling Houses) Act. Ch. 27. No. 17.
(1950 Ed.).
Ch. 59:55.

4. Proceedings before a Coroner's Court under the Coroners Act. Ch. 6:04.

5. An application for bail by a person who is charged with an offence before a Court of summary jurisdiction and who is brought before the Court in pursuance of a remand in custody.

Section 16(6).

PART II

The fees and expenses to an Attorney-at-law assigned to a person under section 16(6) shall be as follows:

1. There may be allowed to an Attorney-at-law—
 - (a) appearing for a minor in proceedings described in paragraph 1(b) of Part I of this Schedule;
 - (b) appearing for the complainant or defendant in proceedings described in paragraphs 2 and 3 of Part I of this Schedule; or
 - (c) appearing in proceedings described in paragraph 4 of Part I of this Schedule,

a fee not exceeding one thousand, five hundred dollars.

2. There may be allowed to an Attorney-at-law appearing in indictable proceedings where the Court is of the view that the case is of a grave or difficult nature a fee not exceeding three thousand dollars.

In any other indictable proceedings, fee to an Attorney-at-law shall not exceed two thousand dollars. The above sums become due and payable by the Director on the written authority of a Court of summary jurisdiction.

Section 19(4).

PART III

The fees and expenses to an Attorney-at-law assigned to an applicant under section 19(4) shall be as follows:

The Authority shall pay to an Attorney-at-law in respect of non-capital offences a fee not exceeding five thousand dollars but the presiding Judge after the conclusion of the trial, may, if he thinks fit, certify that the case was of unusual length or difficulty and increase the fee of the Attorney-at-law to a sum not exceeding ten thousand dollars.

In respect of capital offences, the Authority shall pay a fee not exceeding fifteen thousand dollars; but the presiding Judge after the conclusion of the trial, may, if he thinks fit, certify that the case was of unusual length or difficulty and increase the fee of the Attorney-at-law to a sum not exceeding twenty thousand dollars and, in exceptional circumstances, allow the Attorney-at-law an additional fee not exceeding ten thousand dollars.

These sums become due and payable by the Director on the written authority of the presiding Judge.

SECOND SCHEDULE

Section 20.
[18 of 1999
3 of 2012].

PART I

**PROCEEDINGS FOR WHICH LEGAL AID MAY
BE GIVEN UNDER SECTION 20**

DESCRIPTION OF PROCEEDINGS

1. Proceedings in the Supreme Court.
2. Proceedings before any person to whom a case is referred in whole or in part by the Supreme Court.
3. Proceedings before the Environmental Commission.
4. Applications for the Grant of Probate and Letters of Administration where the value of the Estate is more than four thousand eight hundred dollars but does not exceed one hundred thousand dollars; the applicant shall be required to pay to the Director a fee, not exceeding 0.5 per cent of the value of the Estate.

PART II

EXCEPTED PROCEEDINGS

1. Proceedings wholly or partly in respect of—
 - (a) defamation;
 - (b) breach of promise of marriage;
 - (c) the loss of the services of a woman or girl in consequence of her rape or seduction;
 - (d) the inducement of one spouse to leave or remain apart from the other.
2. Relator actions.
3. Election petitions.
4. In a Supreme Court, proceedings for or consequent on the issue of a judgment summons and, in the case of a defendant, proceedings where the only question to be brought to the Court is as to the time or mode of payment by him of a debt (including liquidated damages) and costs.
5. Proceedings incidental to any proceedings mentioned in this Part.

Section 16A (4).
18 of 1999.
[3 of 2012].

THIRD SCHEDULE

FORM I

**APPLICATION FOR EMERGENCY CERTIFICATE IN
RESPECT OF PROCEEDINGS FOR AND IN RELATION
TO AN APPLICATION MADE UNDER
THE DOMESTIC VIOLENCE ACT, CH. 45:56**

I, (Mr., Mrs. or Miss) of
.....
(address in block letters)

whose permanent address is [as above or (address)], apply for an Emergency Certificate for the purpose of

.....
(State briefly the kind of claim to be made or resisted, making quite clear if it be the case that Court proceedings have begun or that an appeal is involved).

I (enclose or have already lodged) an Application Form for an ordinary Certificate for Legal Aid in respect of this matter.

2. The reason why my case is urgent necessitating an Emergency Certificate is

3. The Attorney-at-law whom I wish to act for me is named in the Application Form (I submit herewith or have already submitted), and she/he has agreed to act for me in this matter.

4. I agree that if I am granted an Emergency Certificate which is revoked by the Authority, or becomes revoked because I do not take the steps necessary to obtain an ordinary certificate to replace it, I may become liable—

- (i) to pay the Authority the expense to which the Legal Aid Fund has been put as a consequence of the work done by my Attorney-at-law; and
- (ii) to pay such Attorney-at-law the difference between what they receive from the Fund and the costs and fees to which they would have been entitled if I had been a private client without a Certificate.

5. I understand that if, after an Emergency Certificate has been issued to me I am offered an ordinary certificate to replace it, the offer will set out the financial terms upon which I can obtain such a certificate, those terms being based upon an assessment of my resources of income and capital by the Authority. I shall have

an opportunity of making up my mind whether to accept a certificate on those terms and if I do not accept the offer my Emergency Certificate will be revoked with the consequences explained in the preceding paragraph.

6. I undertake without delay to give any further information needed by the Authority in respect of my application, and understand clearly that the failure to comply will result in the revocation of my Emergency Certificate.

.....
Signature of Applicant

FORM 2

Section 16A(3).

EMERGENCY CERTIFICATE

THIS IS TO CERTIFY that of
.....
(address)

(hereinafter called “the assisted person”) is entitled, in accordance with the Legal Aid and Advice Act, Ch. 7:07 made thereunder, to Legal Aid as (plaintiff, defendant, petitioner or intervener or as the case may be) in connection with the following proceedings:

.....
(describe the proceedings)
.....

THIS IS TO CERTIFY that:

1. The assisted person’s Attorney-at-law is
.....
of
(address)

2. This certificate, being an Emergency Certificate, remains in force for a period of three months from the date hereof, or such other period not exceeding three months as the Authority may allow, unless it is previously revoked or is replaced by an ordinary certificate.

3. Add any special conditions, including one limiting the certificate to part of the proceedings.

Section 15B(4).

FORM 3

DUTY COUNSEL CERTIFICATE

THIS IS TO CERTIFY that of

.....
(address)

(hereinafter called "the suspect") is entitled, in accordance with the Legal Aid and Advice Act, Ch. 7:07, to legal representation by Duty Counsel in connection with the following:

.....
(describe the circumstances)

.....

THIS IS TO CERTIFY that:

1. The suspect's Duty Counsel is

of
(address)

2. This Certificate, being a Duty Counsel Certificate, remains in force until such time as—

- (a) the suspect, or his parent or guardian, as the case may be, has appointed an Attorney-at-law and has signed in the appropriate place below to signify that he has discharged the Duty Counsel;
- (b) the Duty Counsel, with the leave of the Director, discontinues his services to the suspect;
- (c) the suspect is released without being charged; or
- (d) the suspect is charged with an offence and legal aid is granted to him under this Act.

Issued this day of , 20 .

.....
Director

This is to certify that I,, the suspect/parent or guardian of the suspect have appointed an Attorney-at-law and hereby discharge the Duty Counsel named in this Certificate.

Dated this day of, 20 .. .

.....
Signature

FOURTH SCHEDULE

Section 15B(11).
3 of 2012.

DUTY COUNSEL FEES

The fees and expenses payable to a Duty Counsel assigned to a suspect under section 15B shall be not less than one thousand dollars and not more than two thousand, five hundred dollars.

SUBSIDIARY LEGISLATION

LEGAL AID AND ADVICE REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Interpretation.
3. Applications for legal aid certificate.
4. Application on behalf of minors.
5. Issue of certificate.
6. Amendment of certificates.
7. Application for Emergency Certificate.
8. Discharge and revocation of certificates.
9. Effect of discharge and revocation of certificate.
10. Legal aid granted after commencement of proceedings.
11. Repeated refusal of certificates.
12. Conduct of proceedings by Attorneys-at-law on behalf of aided persons.
13. Service of notices, etc.
14. Property recovered or preserved for and costs awarded to an aided person.
15. Remuneration of Attorneys-at-law giving legal aid and advice.
16. Miscellaneous provisions.
17. Rules of Procedure.
18. Applications for legal aid under Part III of the Act.

SCHEDULE.

LEGAL AID AND ADVICE REGULATIONS

25 of 1976.
[46 of 1979
55/1979].

deemed to be made under section 40

1. These Regulations may be cited as the Legal Aid and Advice Regulations. Citation.

2. In these Regulations— Interpretation.

“certificate” means a certificate issued in accordance with these Regulations entitling a person to legal aid under Part IV of the Act and includes an Emergency Certificate issued under these Regulations;

“civil proceedings” has the same meaning assigned to it by the Rules of the Supreme Court and includes proceedings under the Matrimonial Proceedings and Property Act; Ch. 45:51.

“the Fund” means the fund established under section 5 of the Act.

3. (1) Any person desiring legal aid in civil actions may apply to the Secretary of the Authority for a legal aid certificate in the form set out as Form 1 in the Schedule. Applications for legal aid certificate. Form 1. Schedule.

(2) Every application for legal aid shall contain such information and shall be accompanied by such documents as may be requisite to enable—

(a) the Authority to determine—

(i) the nature of the proceedings in relation to which legal aid is sought and the circumstances in which legal aid is required; and

(ii) the question whether it is reasonable that a certificate should be granted; and

(b) the Director or the Authority to determine the disposable income and disposable capital of the applicant,

and the applicant shall (for the purpose of providing additional information), if required by the Secretary or the Authority, attend for an interview or supply such further information or documents as he or they may require.

Application on behalf of minors. Form 2. Schedule.

4. (1) An application for legal aid for a minor shall be made on his behalf by a person of full age and capacity and shall be in the form set out as Form 2 in the Schedule; and where the application relates to proceedings which are required by any rule of Court to be brought or defended by the next friend or guardian *ad litem*, that person shall be the next friend or guardian *ad litem*, or, where proceedings have not actually begun, the person intending to act as next friend or guardian *ad litem*.

(2) Every application for legal aid for a minor shall contain such information and shall be accompanied by such documents as may be requisite to enable—

(a) the Authority to determine—

(i) the nature of the proceedings in relation to which legal aid is sought and the circumstances in which legal aid is required; and

(ii) the question whether it is reasonable that a certificate should be granted; and

(b) the Director to determine the disposable income and disposable capital of the applicant.

(3) The Director shall not issue a certificate applied for by a person on behalf of a minor unless that person has signed an undertaking to pay to the Director (if called upon to do so) any sum which, by virtue of any provision of the Act or these Regulations, the Director may require an aided person of full age and capacity to pay upon the issue or during the currency or upon discharge or revocation of the certificate.

(4) Any certificate issued by virtue of this regulation shall be in the name of the minor, stating the name of the person by whom he has applied.

(5) In any matter relating to the issue, amendment, revocation or discharge of a certificate issued by virtue of this regulation, and in any other matter which may arise as between an aided person and the Director, the person by whom the minor has applied for a certificate shall be treated for all purposes (including the receipt of notices) as the agent of the minor.

5. (1) A certificate may be issued in respect of the whole or a part of—

Issue of certificate.

- (a) proceedings in a Court of first instance; or
- (b) proceedings in the Court of Appeal.

No certificate shall relate to proceedings (other than interlocutory appeals) both in a Court of first instance and in the Court of Appeal.

(2) A certificate shall not relate to more than one action, cause or matter, but may include proceedings for the enforcement of any such order or agreement as is referred to in regulation 14(3).

(3) In assessing the amount of contribution, if any, payable in respect of any proceedings, the Director shall have regard to their probable cost and, save as is hereinafter provided, shall not assess an amount in excess of any maximum amount of contribution provided for by the Act. Where the probable cost of the proceedings exceeds the maximum amount of contribution, the Director shall, save as aforesaid, assess that maximum amount as the amount of contribution payable in respect of the proceedings.

(4) Where an application is approved relating to—

- (a) proceedings (other than interlocutory proceedings) in the Court of Appeal in any action, cause or matter, in which the applicant was an aided person in the Court below; or
- (b) proceedings in the High Court by way of a new trial ordered by the Court of Appeal before whom the applicant was an aided person,

the Director shall not re-determine the applicant's disposable income and disposable capital, but shall, save as hereinafter provided, assess the amount of contribution, if any, payable in respect of the proceedings at an amount not greater than the maximum contribution determined by the Director in relation to the previous proceedings less any amount assessed by him in respect of those proceedings, but if, since the last determination by the Director of the disposable income and disposable capital of the applicant, his circumstances have altered otherwise than as

a result of the payment of a contribution in respect of the previous proceedings, the Director shall re-determine his disposable income and disposable capital and shall take into account any increase or decrease in the amount of his disposable income by an amount greater than three hundred dollars and any increase in the amount of his disposable capital by an amount greater than nine hundred dollars.

(5) In fixing the method by which any contribution shall be paid, the Director shall have regard to all the circumstances, including the probable length of time which any certificate issued as a result of the application will be in force, and may order the contribution to be paid in instalments or the whole or a part of it to be paid before a certificate is issued.

(6) After the Director has approved an application for a certificate he shall notify the applicant—

- (a) of the maximum amount of his contribution as determined by him; and
- (b) of the terms upon which a certificate will be issued to him.

(7) An applicant who desires that a certificate should be issued to him on the terms notified to him by the Director shall, within fourteen days of being so notified, signify his acceptance of those terms in the form set out as Form 3 in the Schedule and shall lodge it with the Director.

Form 3.
Schedule.

(8) If those terms require a contribution to be paid, the applicant shall lodge with the Director an undertaking to pay the contribution by the method stated in the terms and if the contribution or any part of it is required to be paid before the certificate is issued, shall make that payment accordingly.

(9) When an applicant has complied with such of the provisions of subregulations (7) and (8) as are relevant to his case the Director shall issue a certificate in the form set out as Form 4 in the Schedule.

Form 4.
Schedule.

6. The Director may amend a certificate—

Amendment of certificates.

- (a) where it appears to him that there has been some error or mistake in a certificate;
- (b) when, in the opinion of the Authority, it has become desirable either for the certificate to extend to other proceedings, being part of the same action, cause or matter to which the certificate relates, or proceedings for the enforcement of any such order or agreement as is referred to in regulation 14(3), or for the certificate not to extend to certain of the proceedings in respect of which it was issued; or
- (c) when an aided person desires to change his Attorney-at-law who is acting for him or when an Attorney-at-law gives up an aided person's case.

7. (1) Any person who desires legal aid as a matter of urgency may apply for an Emergency Certificate in the form set out as Form 5 in the Schedule. The Director shall have power to issue an Emergency Certificate in accordance with this regulation without reference to the Authority.

Application for Emergency Certificate. Form 5. Schedule.

(2) An application for an Emergency Certificate shall give such information as may be requisite to enable the Director to determine whether—

- (a) the applicant is likely to fulfil the conditions under which legal aid may be granted under the Act and these Regulations; and
- (b) it is in the interest of justice that the applicant should, as a matter of urgency, be granted legal aid,

and shall furnish such additional information and documents (if any) as may be sufficient to constitute an application for legal aid certificate under the Act and these Regulations but, if it appears to the Director that the applicant cannot at the time of the application reasonably furnish that information, or any part of it, the Director

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shall nevertheless have power to issue an Emergency Certificate subject to such conditions as to the furnishing of additional information as he thinks reasonable.

Form 6.
Schedule.

(3) An Emergency Certificate shall be in the form set out as Form 6 in the Schedule.

(4) An Emergency Certificate shall have the same effect in all respects as a legal aid certificate.

(5) An Emergency Certificate shall remain in force for a period of six weeks or such longer period not exceeding three months as the Director may allow, and unless within that period a legal aid certificate is issued in respect of the proceedings to which the Emergency Certificate relates it shall at the end of that period be deemed to have been revoked.

(6) Notwithstanding subregulation (5), where it appears to the Authority that the circumstances of any particular application so warrant, the Authority may, from time to time, extend an Emergency Certificate for such further period as it thinks fit.

(7) If within any period during which an Emergency Certificate is in force, the Authority refuses the application for a legal aid certificate in respect of proceedings to which the Emergency Certificate relates, the Director shall forthwith revoke the Emergency Certificate.

(8) Upon an Emergency Certificate being extended or being deemed to be revoked under subregulation (7), the Director shall forthwith issue a notification to all parties to that effect.

Discharge and
revocation of
certificates.

8. (1) A certificate may be either discharged or revoked by the Director in the circumstances specified in this regulation.

(2) The Director may discharge a certificate—

- (a) at any time at the request of the person to whom it is issued;
- (b) where an aided person has been required to make a contribution and any payment in respect thereof is more than thirty days in arrears;
- (c) if he is satisfied that the proceedings to which the certificate relates have been disposed of;

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- (d) where the Authority is satisfied that the aided person has required the proceedings to be conducted unreasonably so as to incur an unjustifiable expense to the Fund or has required unreasonably that the proceedings be continued,

but a certificate shall not be discharged under this subregulation until the aided person has been given an opportunity to show cause why the certificate should not be discharged;

- (e) if he is satisfied—

- (i) that the aided person has died; or
- (ii) that the aided person has had a receiving order made against him.

- (3) The Director shall discharge a certificate if—

- (a) as a result of a further determination he is satisfied that—

- (i) the disposable income of an aided person exceeds three thousand dollars a year; or
- (ii) the disposable capital of an aided person exceeds three thousand, five hundred dollars and the probable costs which might reasonably be incurred by him in continuing the proceedings, otherwise than as an aided person, would not exceed the maximum contribution payable under the determination;

- (b) as a result of any information coming to their knowledge the Authority consider that the aided person no longer has reasonable grounds for taking, defending or being a party to the proceedings or, as the case may be, that it is unreasonable in the particular circumstances for him to continue to receive legal aid.

A certificate shall not be discharged under this subregulation until the aided person has been given an opportunity to show cause why the certificate should not be discharged.

(4) Where the Director is satisfied that an aided person has wilfully failed to comply with any regulations as to information to be furnished by him, or, in furnishing any such information has knowingly made a false statement or false representation, he may if he thinks fit—

- (a) where the omission or act occurred prior to the issue of a certificate, revoke the certificate; or
- (b) where the omission or act occurred after the issue of the certificate, discharge the certificate from the date upon which the omission or act occurred.

(5) At any time during the hearing of any proceedings to which an aided person is a party the Court may, upon application by or on behalf of any other party to the proceedings or by the Director, consider whether the aided person—

- (a) has wilfully failed to comply with any regulation as to the information to be furnished by him; or
- (b) in furnishing any such information has knowingly made a false statement or false representation,

and on any such application the Court may make an order revoking the certificate or discharging it from such date as may be appropriate and the Court's decision shall be final. No order shall be made under this subregulation until the aided person has been given an opportunity to show cause why the certificate should not be discharged or, as the case may be, revoked.

(6) When the Director discharges or revokes or cancels an aided person's certificate he shall forthwith issue a notice of discharge or revocation to the aided person.

(7) Where the certificate so discharged or revoked has been filed in the Registry of any Court, the Director shall forthwith file a notification in the form set out as Form 7 in the Schedule with the Registry of such Court.

(8) When the Court makes an order revoking or discharging an aided person's certificate, the officer of the Court shall forthwith inform the Director.

9. (1) Subject to this regulation, a person whose certificate is revoked shall be deemed never to have been an aided person in the proceedings to which the certificate related, and a person whose certificate is discharged shall, from the date of discharge, cease to be an aided person in these proceedings.

Effect of discharge and revocation of certificate.

(2) Upon receipt by him of notice of revocation or a discharge of certificate by the Director or upon revocation or discharge of a certificate by the Court, the retainer of any Attorney-at-law, if any, acting for the aided person in proceedings to which the certificate relates shall forthwith determine.

(3) Upon determination of proceedings under this regulation—

- (a) the costs of the proceedings to which the certificate related, incurred by or on behalf of the person to whom it was issued, shall, as soon as practicable thereafter, be taxed or, as the case may be, assessed in accordance with these Regulations;
- (b) the Fund shall remain liable for the payment of any costs so taxed or assessed.

(4) Where a certificate has been revoked or discharged, the provisions of section 26 of the Act, which provide for a charge upon property recovered or preserved for an aided person shall apply to any property recovered or preserved as a result of the person whose certificate has been revoked or discharged continuing to take, defend or be a party to the proceedings to which the certificate related.

(5) Where a certificate has been revoked—

- (a) the Director shall have the right to recover from the person to whom the certificate was issued the costs paid or payable under subregulation (3)(b) less any amount received from him by way of contribution; and

(b) the Director or Attorney-at-law who has acted in the proceedings shall have the right to recover from that person the difference between the amount paid or payable out of the Fund and the full amount of the Director or his Attorney-at-law and own client costs as taxed or agreed.

(6) Where a certificate has been discharged the person to whom the certificate was issued shall remain liable for the payment of his maximum contribution, if any, as determined by the Director up to the amount paid or payable by the Director under subregulation (3)(b), and where he continues to take, defend or be a party to the proceedings to which the certificate related—

- (a) the provisions of section 33 of the Act which relate to sums recovered by virtue of a settlement or compromise relating to costs made in favour of an aided person shall apply in so far as the costs were incurred while he was an aided person; and
- (b) the provisions of section 31 of the Act which relate to an aided person's liability by virtue of an order for costs made against him shall apply in so far as the costs were incurred while he was an aided person.

Legal aid granted after commencement of proceedings.

10. (1) Where, after proceedings have been instituted in any Court, any party becomes an aided person in regard to those proceedings, the Fund shall only be liable to so much of the costs of the proceedings as are incurred while a certificate is in force.

(2) Any Attorney-at-law who has acted in the proceedings on behalf of the aided person before the date of the certificate, and any Attorney-at-law who has by law a lien on any documents necessary for the proceedings to which the certificate relates and who has delivered them up subject to his lien, may give notice of the fact to the Director.

(3) If damages or costs are recovered for the aided person in the proceedings, the Director shall pay to such Attorney-at-law

out of the sum so recovered the costs to which he would have been entitled on a taxation between Attorney-at-law and client; but in any case where the sums so recovered are insufficient to pay these costs in full in accordance with this subregulation and also to meet the net liability of the Fund on the aided person's account, the sum recovered in the proceedings shall be divided between the Fund and the Attorney-at-law in proportion to the amount owing to each, and the first charge for the benefit of the Fund imposed by virtue of section 26(4) of the Act on property recovered or preserved in the proceedings shall take effect accordingly.

(4) In any case where there has been no order for taxation, the amount of the costs shall be fixed by the Director.

11. (1) Where a person has applied for and has been refused a certificate on more than four occasions and it appears to the Director that his conduct has amounted to an abuse of the facilities provided by the Act, the Director may order that no consideration shall be given to any future application by that person for a certificate with regard to any particular matter.

Repeated refusal of certificates.

(2) No such direction shall—

- (a) apply to any application by that person on behalf of a minor; or
- (b) remain in force for a period longer than three years.

12. (1) Every set of papers delivered by the Director to an Attorney-at-law shall be marked "Legal Aid" .

Conduct of proceedings by Attorneys-at-law on behalf of aided persons. [55/1979].

(2) Where it appears to the aided person's Attorney-at-law necessary for the proper conduct of the proceedings to take or apply to the Court for leave to take any one or more of the following steps:

- (a) to add any further party to the proceedings;
- (b) to bespeak any transcript of shorthand notes of any proceedings;
- (c) to lodge any interlocutory appeal;

- (d) to instruct more than one Attorney-at-law; or
- (e) to set up or set off any right or claim having the same effect as a cross-action (other than a counter-claim or set-off arising out of the same transaction and capable of being pleaded as a defence), or to reply to any right or claim so set off by any other party,

he shall (unless the certificate provides for the act in question to be done) apply to the Director for authority to do so, and no payment shall be allowed on taxation for any such step taken without the approval of the Director.

(3) The Director may give general authority to Attorneys-at-law acting for aided persons in any particular class of case to obtain experts' opinion and to tender expert evidence, and if so he shall state the maximum fee to be paid for any report or opinion or expert witness.

(4) Where it appears to an aided person's Attorney-at-law necessary for the proper conduct of the proceedings either—

- (a) to obtain a report or opinion of one or more experts or to tender expert evidence in the case of a class not included in any general authority under subregulation (3); or
- (b) in the case of a class so included, to pay a higher fee than that stated by the Director or to obtain more reports or opinions or to tender more experts as witnesses than have been authorised,

he may apply to the Director for authority to do so, and if the Director gives authority, he shall state the maximum number of reports or opinions that may be obtained or the maximum number of persons who may be tendered to give expert evidence and the maximum total fee to be paid therefor.

(5) Save as provided by this regulation, no payment shall be made for the report or opinion of any expert or for expert's evidence tendered by or on behalf of an aided person.

(6) Where it appears to the aided person's Attorney-at-law necessary for the proper conduct of the proceedings for an act to be done, but that act is either unusual in its nature or involves unusually large expenditure, he may request the Director's prior approval of the act, and, where the prior approval has been obtained, no question as to the propriety of the act shall be raised on taxation as between Attorney-at-law and client in accordance with the provisions of regulation 15.

(7) Without prejudice to the right of an Attorney-at-law to give up a case for good reason, any Attorney-at-law may give up an aided person's case if, in his opinion, the aided person has required the proceedings to be conducted unreasonably so as to incur an unjustifiable expense to the Fund or has required unreasonably that the proceedings be continued.

(8) Where any Attorney-at-law exercises the right to give up an aided person's case—

- (a) under the provisions of subregulation (7); or
- (b) on the ground that the aided person has wilfully failed to provide the information to be furnished by him or in furnishing such information has knowingly made a false representation,

the Attorney-at-law shall make a report to the Director of the circumstances in which the right was exercised.

(9) An aided person's Attorney-at-law shall give the Director such information regarding the progress and disposal of proceedings to which the certificate relates as the Director may from time to time require for the purpose of performing his function under the Act and without prejudice to the generality of the preceding words, an Attorney-at-law who has acted or is acting for an aided person, on being satisfied that the aided person has died or has had a receiving order made against him shall report the facts to the Director.

(10) An Attorney-at-law shall not be precluded by reason of any privilege arising out of the relationship between

Attorney-at-law and client from disclosing to the Director any information or from giving any opinion which may enable the Director to perform his functions under the Act or these Regulations.

Service of
notices, etc.

13. (1) Any notice or notification required to be served under any provision of the Act or these Regulations shall be served either personally or by registered post to the last known address of the person required to be served.

Form 8.
Schedule.

(2) Whenever an aided person becomes a party to proceedings, or a party to proceedings becomes an aided person, the Director shall forthwith serve all other parties with a notice in the form set out as Form 8 in the Schedule and shall if at any time thereafter any other person becomes a party to the proceedings, forthwith serve similar notice upon such person.

(3) The Director shall forthwith serve copies of any legal aid certificate or Emergency Certificate issued by him on all parties to the proceedings.

(4) Copies of notices referred to in this regulation shall be filed in the appropriate Court office or Registry and shall form part of the papers for the use of the Judge at the trial.

Property
recovered or
preserved for
and costs
awarded to an
aided person.

14. (1) Subject to subregulation (8) all moneys payable to an aided person—

- (a) by virtue of any agreement or order made in connection with the action, cause or matter to which his certificate relates, whether the agreement is made before or after proceedings are actually begun;
- (b) being moneys paid into Court by him or on his behalf and ordered to be repaid to him; or
- (c) being moneys standing in a Court to the credit of any proceedings to which his certificate relates,

shall be paid or repaid, as the case may be, to the Director and no other person shall be capable of giving a good discharge for moneys so payable.

(2) Upon receipt of moneys paid to him by virtue of this regulation the Director shall—

- (a) pay to the Fund or the aided person's Attorney-at-law, as the case may be, the costs of the proceedings as determined by virtue of regulation 16; and
- (b) pay any other moneys to the aided person.

(3) Where in any proceedings to which an aided person is a party—

- (a) an order or agreement is made providing for the recovery or preservation of property for the benefit of the aided person and, by virtue of the Act, there is a first charge on the property for the benefit of the Fund; or
- (b) an order or agreement is made for the payment of costs to the aided person,

the aided person shall, subject to the provisions of subregulation (4), take such proceedings, being proceedings which may be taken under section 20 of the Act, as may be necessary to enforce or give effect to such order or agreement.

(4) Any aided person may apply to the Director for a direction that subregulation (2) shall not apply to him on the ground that, having regard to the probable cost of any proceedings referred to or to the likelihood of their being successful, it would be unreasonable to take them and, if the Director agrees, he shall direct that the proceedings be not taken and shall amend the aided person's certificate so as to exclude such proceedings therefrom. The power conferred on the Director by this subregulation may be exercised without an application being made by an aided person.

(5) Where the Director, having directed that proceedings be not taken by the aided person, is of the opinion that it is expedient to do so he may enforce any order for the payment of money by the issue in his name of a judgment summons in a Court.

(6) Upon receipt of moneys paid to him by virtue of this regulation the Director shall retain—

- (a) any sum paid by virtue of an order or agreement for costs made in the aided person's favour;
- (b) a sum equal to the amount (if any) by which any property recovered or preserved is charged for the benefit of the Fund by virtue of section 26(4) of the Act; and
- (c) any costs of proceedings taken by the Director under the provisions of subregulation (5) in so far as such costs have not been recovered from the person against whom the proceedings have been taken, and shall pay the balance to the aided person.

(7) The Director may defer the payment to an aided person's Attorney-at-law of his profit costs in connection with the proceedings until he has, in his opinion, given effect to any provision of this regulation.

Ch. 45:50.

(8) Where a certificate relates to a matrimonial cause and an application under the Married Persons Act is made in that cause, the Director may, if he thinks fit, treat the application as a separate proceeding for the purpose of section 26(4) of the Act.

Remuneration of Attorneys-at-law giving legal aid and advice. [46 of 1979].

15. (1) The sums allowed to an Attorney-at-law acting for an aided person in connection with proceedings in the Court of Appeal and the High Court shall be the full amount of disbursements allowable on taxation of the costs plus seventy-five per cent of the Attorney's-at-law costs so allowed on taxation, the remaining twenty-five per cent to be paid to the Director towards the legal aid fund.

(2) For the purpose of these Regulations costs shall be taxed according to the ordinary rules applicable on a taxation as between Attorney-at-law and client where the costs are to be paid out of a common fund in which the client and others are interested; in other cases, on the basis of party and party costs. No question shall be raised as to the propriety of any act for which prior approval was obtained under these Regulations.

(3) The sum payable to an Attorney-at-law investigating and reporting or giving an opinion upon applications for the grant of legal aid or giving legal advice shall not exceed the sum of one hundred and twenty-five dollars.

16. Where in any proceedings to which an aided person is a party—

Miscellaneous provisions.

- (a) judgment is signed in default of appearance or defence, the judgment must also show the amount of the costs to which the aided person is entitled;
- (b) proceedings are, or have been, brought to an end without a direction having been given as to the aided person's costs,

an order that the aided person's costs be taxed as between Attorney-at-law and client shall be made on *ex parte* application in Chambers or to the Registrar, as the case may be, by his Attorney-at-law or the Director and the cost of the application and taxation shall be deemed to be costs in the proceedings to which the certificate relates or related.

17. Save as is otherwise provided by these Regulations, in any proceedings in any Court to which an aided person is a party the procedure shall be regulated by the rules of procedure for that Court.

Rules of Procedure.

18. A person who desires to apply for the grant of legal aid under Part III of the Act may do so in the form set out as Form 9 in the Schedule with such amendments, alterations or modifications as the nature of the case may require.

Applications for legal aid under Part III of the Act.
Form 9.
Schedule.

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Legal Aid and Advice Regulations

Regulation 3.
[46 of 1979].

SCHEDULE

FORM 1

APPLICATION FOR LEGAL AID

To the Director of Legal Aid

1. I, of
(name in block letters) (permanent address in block letters)
....., born on the day of 20,
..... apply for Legal Aid to
(occupation) (state briefly the kind of
.....
claim to be made or resisted, and make it quite clear if it be the case that Court
.....
proceedings have begun or that an appeal is involved)

2. My opponent is..... (name of opponent)
of (address and if known, occupation)
.....

3. I send herewith the following papers (list and send statements of witnesses letters and papers relating to the matter and, if Court proceedings have begun, all Court papers in the applicant's possession).

4. The Attorney-at-law I wish to act for me is of
(address)

5. (i) Have you previously applied for Legal Aid or Advice in this or in any other matter? If so, give details and result

(ii) Are you entitled to receive assistance from any Trade Union, Friendly Society or other similar body? If so, give details

(iii) Are you covered by Insurance in respect of the matter? If so, give details

(iv) Has any attempt been made to settle the matter? If so, give details and enclose all correspondence

6. I understand that if Legal Aid is granted I may be required to make a contribution towards my costs but that I shall have an opportunity to consider the

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FORM 1—Continued

terms upon which Legal Aid will be given before making up my mind to accept.

7. I undertake to supply any further information needed by the Authority or the Probation Division in connection with my case.

8. I authorise the Authority to take any steps deemed necessary (including communicating with my opponent or his Attorney-at-law or a Court) to enable this application to be dealt with in its normal course and without the need to make use of the emergency procedure.

9. The following is a statement of my financial circumstances:

Full name (block letters)

Address

Date of birth

Occupation

(*Married or Single or Widow or Widower or Divorced)

(NOTE—If you are married you must state not only your own income but that of your husband or wife UNLESS he or she is your opponent in the case OR you are living apart. If this applies write OPPONENT or APART in the appropriate places below).

INCOME OF APPLICANT

Amount
\$

Put down what you receive after deduction of income tax and National Insurance contributions. State all sources of income below.

1.

2.

INCOME OF [HUSBAND OR WIFE]

Amount
\$

(OPPONENT OR APART OR

1.

2.)

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*Delete where inappropriate.

CAPITAL OF APPLICANT

Value \$

(NOTE—Do not include the house in which you live, your household furniture and effects or the tools or implements of your trade).

CAPITAL OF [HUSBAND OR WIFE]

Value \$

(OPPONENT OR APART)

DEPENDANTS

(NOTE—A husband or a single person should set out persons actually dependant upon him or her, but a wife living with her husband should include her husband and children dependant on him. If not living with him, she should include only such children as she is actually supporting. If receiving maintenance for herself or a minor, this should be included in her income above).

Name Relationship Age if under 16

10. I declare that the information set out above and the statement of my case which follows, are to the best of my knowledge, information and belief, true and correct.

Usual Signature

Dated this day of 20

FULL STATEMENT OF MY CASE

[Give dates where possible. If personal injuries are involved give full details of the accident and enclose Police Report where applicable and available. If you have difficulty in stating your case clearly, you may obtain help by applying to the Director herefor under section 37(4) of the Act].

Usual Signature

Dated this day of 20

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FORM 2

Regulation 4(1).

1. I,
(here insert name of next friend or guardian ad litem)
born on of
(here insert name of next friend or guardian ad litem)
being a person of full age and capacity, that is to say
(here insert relationship to
.....
minor and in case of guardian ad litem the date on which and the Court appointing him/her
..... apply for Legal Aid on behalf of
as such) *(here insert name of minor)*
born 20 of
(here insert address of minor)
.....
to (state briefly the kind of claim the applicant wishes to make or resist).

2–10. (Continue as in Form 1, deleting such parts as may be inappropriate).

.....
Usual Signature

Dated this day of 20

FORM 3

Regulation 5(7).

ACCEPTANCE OF OFFER OF LEGAL AID

I, A.B. of
(address)

understand that the Legal Aid and Advice Authority is prepared to issue to me a certificate upon the terms and conditions set out hereafter. I accept this offer and agree to comply with its terms and conditions. I enclose \$..... as required by paragraph 4 below.

.....
Usual Signature

Dated this day of 20

TERMS AND CONDITIONS

1. The scope of my Certificate will be defined as follows:

.....
.....
(Describe the proceedings or the nature of the claim)

2. The Attorney-at-law acting for me will be
(name)
of
(address)

who will conduct my case in accordance with the Legal Aid and Advice Regulations.

3. My Certificate will include a statement of my means as determined in accordance with the Regulations, that is to say—

Disposable income \$ Disposable capital \$
Maximum Contribution \$

4. I am required to make an actual contribution of \$
towards the cost of my case, payable as follows:
.....

5. I clearly understand—
- (a) that if my actual contribution mentioned in paragraph 4 is less than the maximum contribution mentioned in paragraph 3, the Authority is entitled to increase my actual contribution to the maximum or up to that limit as may be required to meet the costs of my case;
 - (b) that if my means are for any reason reassessed in accordance with the Regulations then in force, I shall be liable to pay up to the maximum contribution so reassessed whether this is more or less than the amount stated as the maximum in paragraph 3;
 - (c) that if my certificate does not extend to taking, defending or being a party to Court proceedings but is later amended at my request to do so, my means may be reassessed and conditions set out in subparagraph (b) shall apply;
 - (d) that this acceptance form deals only with my liability for my own costs. If proceedings take place, the Court may make an Order against me in favour of another party to the proceedings. This additional liability (which is quite distinct from any

FORM 3—Continued

contribution payable by me to the Authority) will not exceed the amount (if any) determined by the Court as reasonable, having regard to all the circumstances including the means of all the parties to the proceedings and their conduct in connection with the dispute. This applies if my certificate covers proceedings now or is later amended to do so.

6. I undertake to inform the Authority of any change in my means which may occur while my Certificate is in force, if—

- (a) my income increases or decreases by more than fifteen dollars a week or eight hundred dollars a year; or
- (b) my capital increases by more than two thousand dollars.

7. If I recover damages or property, or preserve property in the matter to which my Certificate relates, I understand that the Authority will have a first charge upon such damages or property to meet the expenses of my case to the Authority to the extent that such expense is not covered by the total amount of my contribution (if any) and any costs recovered by another party.

8. If I receive from a body, of which I am a member, financial help towards the costs of my case, I am to pay to the Authority the amount that I receive in addition to any contribution I am required to pay.

9. Special conditions (if any).

.....
Usual Signature

Dated this day of 20

FORM 4

Regulation 5(9).

CIVIL AID CERTIFICATE

THIS IS TO CERTIFY that A.B. of
(address)

(hereinafter called “the assisted person”) is entitled, in accordance with the Legal Aid and Advice Act, and the Regulations made thereunder, to legal aid to

.....
.....
(describe proceedings)

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IT IS FURTHER CERTIFIED that:

1. The assisted person's Attorney-at-law is..... of (address)

2. The disposable income, disposable capital and maximum contribution have been determined, the actual contribution assessed and the method of payment fixed, as shown below.

Table with 2 columns: Disposable income \$, Disposable capital \$, Maximum contribution \$ and Actual contribution \$, payable by, (state mode and time of payment)

(The said instalments are payable on the day of each month commencing on the day of, 20))

3. Add any special conditions, including one limiting the Certificate to part of the proceedings or to particular steps in asserting or disrupting the claim.

Issued this day of, 20.....

Secretary to the Legal Aid and Advice Authority

Regulation 7.

FORM 5

APPLICATION FOR EMERGENCY CERTIFICATE

1. I, (Mr., Mrs. or Miss) of (whose permanent address is [as above or (address)]), apply for an Emergency Certificate to (State briefly the kind of claim to be made or resisted, making quite clear if it be the case that Court proceedings have begun or that an appeal is involved).

I (enclose or have already lodged) an Application Form for an ordinary Certificate for Legal Aid in respect of this matter.

2. The reason why my case is urgent necessitating an Emergency Certificate is..... (State the reason)

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3. The Attorney-at-law I wish to act for me is named in the Application Form 1 (submit herewith or have already submitted), and he has agreed to act for me in this matter.

4. I agree that if I am granted an Emergency Certificate which is revoked by the Authority, or becomes revoked because I do not take the steps necessary to obtain an ordinary Certificate to replace it, I shall become liable—

- (i) to pay the Authority the expense to which the Legal Aid Fund has been put as a consequence of the work done by my Attorney-at-law; and
- (ii) to pay to such Attorney-at-law the difference between what they receive from the Fund and the costs and fees to which they would have been entitled if I had been a private client without a Certificate.

5. I understand that if, after an Emergency Certificate has been issued to me I am offered an ordinary certificate to replace it, the offer will set out the financial terms upon which I can obtain such a Certificate, those terms being based upon an assessment of my resources of income and capital by the Authority. I shall have an opportunity of making up my mind whether to accept a certificate on those terms and, if I do not accept the offer, my Emergency Certificate will be revoked with the consequences explained in the preceding paragraph.

6. I undertake without delay to give any further information needed by the Authority in respect of my application, and understand clearly that failure to comply will result in the revocation of my Emergency Certificate.

FORM 6

Regulation 7(3).

EMERGENCY CERTIFICATE

THIS IS TO CERTIFY that
of
(address)

(hereinafter called “the assisted person”) is entitled, in accordance with the Legal Aid and Advice Act and the Regulations made thereunder, to Legal Aid as (plaintiff or defendant or petitioner or intervener or as the case may be) in connection with the following proceedings:

.....
(describe the proceedings)
.....

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THIS IS TO FURTHER CERTIFY that:

1. The assisted person's Attorney-at-law is of (address)

2. This certificate, being an Emergency Certificate, remains in force for a period of six weeks from the date hereof, or such other period not exceeding three months as the Authority may allow, unless it is previously revoked or is replaced by a civil aid certificate.

3. Add any special conditions, including one limiting the certificate to part of the proceedings.

(Conclude as in Form)

Regulation 8(7).

FORM 7

NOTIFICATION OF DISCHARGE/REVOCAION OF CERTIFICATE

No. of 20

IN THE HIGH COURT OF JUSTICE

between

A.B. (Plaintiff or as the case may be)

and

C.D. (Defendant or as the case may be)

TAKE NOTICE that a (Civil Aid or an Emergency) Certificate dated the day of 20..... has been issued in respect of the proceedings hitherto covered by an Emergency Certificate* or issued to the above-named (Plaintiff or as the case may be) has, on the day of 20 been (discharged or revoked).

TAKE FURTHER NOTICE that, in consequence thereof, the (Plaintiff or as the case may be) in these proceedings is from the date first hereinabove mentioned no longer an assisted person.

Dated this day of 20.....

(SIGNED) Secretary, Legal Aid and Advice Authority

TO THE REGISTRAR OF THE SUPREME COURT.

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FORM 8

Regulation
13(2).

NOTICE OF ISSUE OF CERTIFICATE

No. of 20

IN THE HIGH COURT OF JUSTICE

between

A.B. (Plaintiff or as the case may be)

and

C.D. (Defendant or as the case may be)

TAKE NOTICE that (an Emergency)/(a Civil Aid) Certificate No. dated the day of 20 has been issued to *A.B.* of
(*address*)

in connection with the following proceedings
(*describe the proceedings*)

TAKE FURTHER NOTICE that, in consequence thereof, the said in these proceedings is and has been from the first date hereinabove mentioned (become) an assisted person.

Dated this day of 20

(Signed).....
Director of Legal Aid and Advice

To the Registrar of the Supreme Court.

and

To (other parties to the proceedings)

(*or their Attorneys-at-law*).

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Regulation 18.

FORM 9

APPLICATION FOR LEGAL AID UNDER PART III OF THE ACT

To (*the Honourable Mr. Justice)(*His Worship Mr.)

I, A.B. of (address)

hereby apply for legal aid in the following proceedings:

..... (here insert a brief account of the nature of the proceedings and a statement indicating the complaint*/defence which the applicant seeks to rely on).

I send herewith the following papers (*list and send statements of witnesses, letters and papers relating to the matter, and if Court proceedings have begun, all Court papers in the applicant's possession).

I attach hereto an affidavit in support of my application.

AFFIDAVIT

REPUBLIC OF TRINIDAD AND TOBAGO

I, (name) of (address)

make oath and say:

- 1. That I am the person named in the application hereto annexed.
2. That the statements contained therein are to the best of my knowledge, belief and recollection, true and correct.
3. That apart from my wearing apparel and tools of trade, I am worth a sum of
4. That my usual income from all sources (including that of my spouse), does not exceed

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5. That may be referred
(name referees)
to regarding my means and sources of income.

Sworn to at
this day of
20..... }
Applicant

Before me,

.....
Commissioner of Affidavits

*Delete whichever is inapplicable.
