



GOVERNMENT MOTION NO. 12/2016-2017

THE LEGAL AID LAW 2015 (LAW 17 OF 2015)

The Legal Aid Regulations, 2016

WHEREAS section 42(1) of the Legal Aid Law, 2015 provides that the Cabinet, after consultation with the Chief Justice, may make regulations, consistent with the Legal Aid Law, 2015 to prescribe anything which by that Law is to be or may be prescribed and generally for the better carrying out of its purposes and provisions;

AND WHEREAS section 42(3) provides that regulations made under the Legal Aid Law, 2015 are subject to an affirmative resolution procedure;

AND WHEREAS the Legal Aid Regulations, 2016 were made by the Cabinet on 20th day of October, 2016;

AND WHEREAS the Legal Aid Regulations, 2016 were laid on the Table of the Legislative Assembly;

BE IT NOW THEREFORE RESOLVED THAT the Legal Aid Regulations, 2016 be affirmed by the Legislative Assembly pursuant to section 42(3) of the Legal Aid Law, 2015.

MOVED BY:

Honourable Samuel Bulgin Q.C. J.P
Attorney General

Received in the Office of the Clerk this 10th day of February, 2017.

Passed by the Cayman Islands Legislative Assembly this 27th day of March, 2017.

A handwritten signature in blue ink, appearing to read "Zafar", written over a horizontal line.

Clerk of the Legislative Assembly

CAYMAN ISLANDS



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THE LEGAL AID LAW, 2015

THE LEGAL AID REGULATIONS, 2016

THE LEGAL AID REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

PART 1 - PRELIMINARY

1. Citation
2. Definitions
3. Duty of attorney-at-law and choice of attorney-at-law

PART 2 - LEGAL AID IN CRIMINAL CASES

4. Application for legal aid in respect of criminal charges
5. Grant of certificate in criminal cases
6. Applicants jointly charged

PART 3 - LEGAL AID IN CIVIL CASES

7. Application for legal aid in civil proceedings
8. Grant of certificate in civil proceedings
9. Duty of attorney-at-law in civil proceedings
10. Party and party costs

PART 4 - LEGAL AID GENERALLY

11. Issue of certificate
12. Amendment of certificate
13. Temporary certificate
14. Discharge and revocation of certificate
15. Effect of discharge and revocation
16. Legal aid after commencement of proceedings
17. Certificates; general provisions
18. Service

PART 5 - ASSIGNMENT OF LEGAL AID WORK

19. Roster of attorneys-at-law

PART 6 - REMUNERATION AND TAXATION

20. Remuneration for paralegal services, costs and expenses
21. Bill of costs and taxation

PART 7 - DISPOSABLE INCOME AND CONTRIBUTIONS

22. Disposable income and legal aid contributions

PART 8 - GENERAL

23. Forms

**SCHEDULE - CALCULATION OF LEGAL AID CONTRIBUTION AND
DISPOSABLE INCOME**

CAYMAN ISLANDS

THE LEGAL AID LAW, 2015

THE LEGAL AID REGULATIONS, 2016

In accordance with the powers conferred by section 42 of the Legal Aid Law, 2015, the Cabinet, after consultation with the Chief Justice, makes the following Regulations -

PART 1 - PRELIMINARY

1. These Regulations may be cited as the Legal Aid Regulations, 2016.

Citation

2. In these Regulations -

Definitions

“certificate” includes a temporary certificate granted under section 17(5) of the Law;

“Law” means the Legal Aid Law, 2015; and

“mention” means an appearance before the Court by any person solely for the purpose of being further remanded.

3. (1) Every attorney-at-law, before agreeing to act for any person, shall consider whether such person may be eligible for legal aid and, if so, the attorney-at-law shall advise the person to make an application for the grant of legal aid.

Duty of attorney-at-law
and choice of attorney-
at-law

(2) An attorney-at-law shall not agree to act in consideration of any fee or accept any fee from a person who appears to be eligible for legal aid unless -

- (a) the attorney-at-law has first given such person written advice to the effect that he appears to be eligible for legal aid and the person has made an informed decision not to apply for legal aid; or
- (b) the person has applied for legal aid and his application has been rejected.

- (3) Every assigned attorney-at-law shall keep accurate records of -
 - (a) the advice given;
 - (b) the work done;
 - (c) the time spent; and
 - (d) the disbursements made in the course of conducting any criminal or civil proceedings on behalf of an assisted person.

PART 2 - LEGAL AID IN CRIMINAL CASES

Application for legal aid
in respect of criminal
charges

4. (1) A person who desires legal aid in a criminal case may apply for legal aid by using a form issued by the Director.

(2) An application for legal aid for a child may be made by a parent or guardian on the child's behalf.

(3) An application for legal aid for a mentally or physically incapable person may be made on his behalf -

- (a) by the person's guardian;
- (b) if there is no guardian, by the person's attorney under a continuing power of attorney or a power of attorney for personal care; or
- (c) if there is no attorney, by a friend or relative.

(4) Every application for legal aid shall contain such information and shall be accompanied by -

- (a) a statement of means and such documents as the Director may require for the purpose of verifying its contents; and
- (b) such documents as may be required to enable the Director 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;
 - (ii) the question whether it is proper that a certificate should be granted; and
 - (iii) the disposable income of the applicant.

Grant of certificate in
criminal cases

5. (1) In determining in accordance with the Law whether the applicant who has been charged with an offence has the means to retain the services of an attorney-at-law, the Director shall have regard to -

- (a) the amount of the applicant's disposable income;
- (b) the applicant's ability to obtain employment; and
- (c) the likely cost of the proceedings.

(2) In the event that -

- (a) an assisted person is charged with a Class A offence together with any other class of offence; and
- (b) the court orders the offences to be tried together,

the certificate shall authorise the assisted person to be represented in respect of all the offences.

(3) Fees to be paid in respect of an assisted person shall not include fees for an appearance before the Court only for mention.

6. Whenever an applicant is jointly charged, the Director shall consider whether he can properly be represented by the same attorney-at-law as his co-defendants.

Applicants jointly charged

PART 3 - LEGAL AID IN CIVIL CASES

7. (1) A person who desires legal aid in a civil case may apply for legal aid by using a form issued by the Director and for the purpose of this regulation the provisions of regulation 4(2) and (3) shall apply.

Application for legal aid in civil proceedings

(2) Every application for legal aid by a person who desires to take or defend proceedings in the Grand Court shall be supported by the following documents -

- (a) a statement of means and such documents as the Director may require for the purpose of verifying its contents;
- (b) in the case of an intended plaintiff, a statement of the facts giving rise to his claim or the basis upon which he claims to be entitled to relief;
- (c) in the case of an applicant who is the defendant or respondent in any proceedings -
 - (i) a copy of the originating process; and
 - (ii) a statement of the facts giving rise to a defence or the basis upon which he opposes the relief sought against him; and
- (d) a copy of any attorney-at-law's opinion on the merits of his case.

8. (1) A certificate shall be granted if the Director is satisfied that the applicant appears to have a reasonable prospect of succeeding on the merits of the case.

Grant of certificate in civil proceedings

(2) In determining whether the applicant has the means to retain the services of an attorney-at-law to represent him in any civil proceedings the Director shall have regard to -

- (a) the amount of the applicant's disposable income;
- (b) the applicant's ability to obtain employment;
- (c) the nature and complexity of the proceedings or intended proceedings; and
- (d) the likely cost of the proceedings.

(3) A certificate may be granted subject to the following conditions -

- (a) the assisted person shall pay into the court a sum of money as a contribution towards the cost of his representation;
- (b) the assisted person shall be limited to taking certain steps in the proceeding; or
- (c) in any case where an opinion on the merits was not already obtained, the assisted person's attorney-at-law shall deliver to the Director a written opinion as to the merits of his case.

(4) In addition to any condition imposed pursuant to paragraph (3), every certificate shall be deemed to be subject to the following limitations and conditions -

- (a) an assisted person may only commence proceedings against the persons named in the certificate; and
- (b) an assisted person may only assert or defend or respond to the claims and causes of action described in the certificate.

(5) The Director shall, when issuing a certificate for legal aid, specify in the certificate the monetary limit on the amount which shall be paid under the certificate and no further amount shall be approved by the Director in respect of the certificate without the prior written consent of the Chief Officer.

(2005 Revision)

(6) If, upon conclusion of any proceeding, an assisted person succeeds in obtaining an order for ancillary relief pursuant to section 21 of the Matrimonial Causes Law (2005 Revision) which includes an order for the transfer of property, the variation of any settlement or the payment of periodical payments or a lump sum, the court may order the assisted person to pay a contribution or an additional contribution towards the cost of the legal representation and such contribution shall constitute a debt payable to the Government.

Duty of attorney-at-law
in civil proceedings

9. (1) When acting for an assisted person, an assigned attorney-at-law shall give his client written advice upon the merits of his case.

(2) If an assisted person receives a written offer of settlement from any opposing party, it shall be the duty of his assigned attorney-at-law to give him written advice upon the merits of the offer and, in evaluating the merits of the offer, the attorney-at-law shall not take account of the fact that the assisted person has the benefit of a certificate.

(3) If an assigned attorney-at-law forms the opinion that his client has acted unreasonably in refusing to accept an offer of settlement, the assigned attorney-at-law shall inform the Director of this fact; and the Director may terminate the certificate.

(4) If judgment is entered or a final order is made in favour of an assisted person and an opposing party commences an appeal against the assisted person, the assisted person's assigned attorney-at-law shall give him written advice upon the merits of the appeal within fourteen days from the date upon which the grounds of appeal are served.

10. (1) An assigned attorney-at-law shall serve notice of the grant of legal aid to all of the other parties to the proceedings. Party and party costs

(2) No order for costs in favour of an assisted person may be made against the Crown.

(3) No order for costs against an assisted person in favour of an unassisted party to any proceedings and no order for security for costs against an assisted person may be made in respect of any sum granted by way of legal aid.

(4) Where an order for costs is made in favour of an assisted person against an unassisted party to any proceedings, the amount recovered shall be applied -

- (a) first, in reimbursing the Government in respect of the remuneration, costs and expenses paid to the assisted person's attorney-at-law; and
- (b) second, in reimbursing the assisted person in respect of his contributions.

(5) An assigned attorney-at-law shall safeguard the interests of the Government on any inter partes taxation pursuant to an order for costs made in favour of the assisted person.

(6) The Government shall be entitled to enforce any order for costs made in favour of an assisted person.

PART 4 - LEGAL AID GENERALLY

11. (1) A certificate may be issued in respect of the whole or part of -

Issue of certificate

- (a) proceedings in any court of first instance; or
- (b) proceedings in any court hearing an appeal.

(2) A certificate shall not relate to proceedings, other than interlocutory appeals, both in a court of first instance and in a court hearing an appeal of the decision made in those proceedings by that court of first instance.

(3) Notwithstanding paragraph (2), where legal aid is granted to an applicant for his defence at a preliminary inquiry the Director may, if he thinks fit, issue a certificate in respect of those proceedings and of any subsequent proceedings in the Grand Court which result from his committal for trial in the Grand Court.

(4) A certificate shall not relate to more than one prosecution, action, cause or matter, but may include proceedings for the enforcement of any order.

(5) In assessing the amount of contribution, if any, payable in respect of any proceedings, the Director shall have regard to the probable costs of the proceedings.

(6) Subject to paragraph (7), where an application is approved relating to -

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

the Director shall not re-determine the applicant's disposable income but shall, save as hereinafter provided, assess the amount of contribution, if any, payable in respect of the proceedings at the same amount as determined by the Director in relation to the previous proceedings.

(7) If, since the last determination by the Director of the disposable income of the applicant, the applicant's 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 the applicant's disposable income and shall take into account any increase or decrease in the amount of his disposable income by an amount greater than one hundred dollars a month.

(8) 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 granted 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.

(9) After the Director has approved an application for a certificate he shall notify the applicant of -

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

(10) An applicant who wishes a certificate to 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 a form to be issued by the Director and shall lodge it with the Director.

(11) If the terms under paragraph (9) 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.

(12) When an applicant has complied with such of the provisions of paragraphs (10) and (11) as are relevant to his case, the Director shall issue a certificate in a form to be issued by the Director.

12. (1) The Director may amend a certificate -

Amendment of
certificate

- (a) where it appears to the Director that there has been an error or mistake in the certificate;
- (b) when, in his opinion, it has become desirable either -
 - (i) 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
 - (ii) for the certificate not to extend to certain of the proceedings in respect of which it was issued;
- (c) subject to subsection (2), when an assisted person desires to change his assigned attorney-at-law; or
- (d) when an assigned attorney-at-law gives up an assisted person's case.

(2) An assisted person shall only be able to change his assigned attorney-at-law where the assisted person shows good cause, in the opinion of the Director, for such change and he has obtained the written approval of the Director.

(3) The Director shall only give approval to an assisted person to change an assigned attorney-at-law once in any legal aid matter unless the Director believes that there are exceptional circumstances which require another change.

Temporary certificate

13. (1) A person who desires legal aid as a matter of urgency may apply to the Director in writing for a temporary certificate.

(2) An applicant for a temporary certificate shall give such information as may be necessary 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 Law; and
- (b) it is in the interest of justice that the applicant should, as a matter of urgency, be granted legal aid,

and the applicant shall furnish such additional information and documents, if any, as may be sufficient to constitute an application for a legal aid certificate under the Law.

(3) 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 shall nevertheless have power to issue a temporary certificate subject to such conditions as to the furnishing of additional information as he thinks reasonable.

(4) A temporary certificate shall be in a form issued by the Director.

(5) A temporary certificate shall have the same effect in all respects as a legal aid certificate.

(6) A temporary certificate shall remain in force for a period of twenty-eight days, but the Director may, unless a legal aid certificate has been issued in the meantime in respect of the same proceedings, at his discretion renew the grant of a temporary certificate for not more than two further successive periods of twenty-eight days.

(7) If the Director decides to refuse the grant of a legal aid certificate in respect of proceedings to which a temporary certificate relates he shall forthwith revoke the temporary certificate.

Discharge and
revocation of certificate

14. (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 assisted 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;
- (d) where he is satisfied that the assisted person has required the proceedings to be conducted unreasonably so as to incur an unjustifiable expense to the revenue of the Islands or has required unreasonably that the proceedings be continued;
- (e) if he is satisfied that the assisted person unreasonably seeks to dismiss or change his attorney-at-law; or
- (f) if he is satisfied that the assisted person has died.

(3) A certificate shall not be discharged under paragraph (2)(d) until the assisted person has been given an opportunity to show cause why the certificate should not be discharged.

(4) The Director shall discharge a certificate if -

- (a) as a result of a further determination he is satisfied that the disposable income of an assisted person exceeds [\$20,000] or such other amount prescribed under section 18 of the Law; or
- (b) as a result of any information coming to his knowledge the Director considers that the assisted 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.

(5) A certificate shall not be discharged under paragraph (4) until the assisted person has been given an opportunity to show cause why the certificate should not be discharged.

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

15. (1) Subject to this regulation and section 36(5) of the Law, a person whose certificate is revoked shall be deemed never to have been an assisted 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 assisted person in those proceedings.

Effect of discharge and
revocation

(2) Upon receipt by the assisted person of notice of revocation or discharge of a certificate by the Director or upon revocation or discharge of a certificate by the court, the services of the assigned attorney-at-law acting for the assisted person in proceedings to which the certificate relates shall forthwith determine unless the assisted person agrees to otherwise retain the services of that assigned attorney-at-law.

(3) Upon determination of proceedings under this regulation -

- (a) the costs of the proceedings to which the certificate related and 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 the Law; and
- (b) the Government shall remain liable for the payment of any costs so taxed or assessed.

(4) Where a certificate has been discharged the person to whom the certificate was issued shall remain liable for the payment of his contribution, if any, as determined by the Director up to the amount paid or payable by the Attorney General under paragraph (3)(b).

Legal aid after
commencement of
proceedings

16. (1) Where, after proceedings have been instituted in any court, a party becomes an assisted person in regard to those same proceedings, the Government shall only be liable to pay so much of his costs of those proceedings as are incurred while a certificate is in force.

(2) An attorney-at-law who has acted in the proceedings on behalf of the assisted 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.

Certificates; general
provisions

17. (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 Law, 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.

(2) No direction under paragraph (1) shall -

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

(3) Where it appears to an assigned attorney-at-law that for the proper conduct of the proceedings it is necessary to take or to apply to the court for leave to take any one or more of the following steps, namely -

- (a) to add a further party to the proceedings;
- (b) to request any official record of any proceedings;
- (c) to lodge an 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 up or so set off by any other party,

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

(4) The Director may give general or specific authority to an assigned attorney-at-law in any particular case or class of case to obtain expert opinion and to tender expert evidence, and if so the Director shall state the maximum fee and the maximum travel and other incidental expenses to be paid for any expert report, opinion or expert witness.

(5) Where it appears to an assigned attorney-at-law as 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 a case of a class not included in any general authority under paragraph (4); or
- (b) in a 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 so to do and, if the Director gives authority, the Director 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 fees, including maximum fees for travel and accommodation, to be paid therefor.

(6) Except as provided by this regulation, no payment shall be made for a report or opinion of an expert or for an expert's evidence tendered by or on behalf of an assisted person.

(7) Where it appears to an assigned attorney-at-law as 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 such prior approval has been obtained, no question as to the propriety of the act shall be raised on taxation.

(8) Without prejudice to the right of an assigned attorney-at-law to discontinue his representation of a person for good reason, any assigned attorney-at-law may discontinue his representation of an assisted person's case if, in his opinion, the assisted person has required the proceedings to be conducted

unreasonably so as to incur an unjustifiable expense to the Government or has required unreasonably that the proceedings be continued.

(9) Where an assigned attorney-at-law exercises the right to discontinue his representation of an assisted person -

- (a) under paragraph (8); or
- (b) on the ground that the assisted 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 that right was exercised.

(10) An assigned attorney-at-law shall give the Director 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 functions under the Law and these Regulations; and an assigned attorney-at-law who has acted, or is acting for an assisted person, on being satisfied that the assisted person has died, shall report the facts to the Director forthwith.

(11) An assigned attorney-at-law shall not be precluded, by reason of any privilege arising out of the relationship between the 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 Law and these Regulations.

(12) The Director may at any time, while a certificate is in force, pay to an assigned attorney-at-law such sums as the Director may approve for disbursements to be made by the attorney-at-law in respect of the proceedings to which the certificate relates; and where such approval is obtained, no question shall be raised on taxation as to the propriety of any disbursements made in accordance with such approval.

Service

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

(2) Whenever an assisted person becomes a party to proceedings, or a party to proceedings becomes an assisted person, the Director shall forthwith serve all other parties with a notice thereof and the assisted person's attorney-at-law shall, if at any time thereafter any other person becomes a party to the proceedings, forthwith serve a similar notice upon such person.

(3) Copies of notices referred to in this regulation shall be filed in the court office and shall form part of the papers for the use of the judge at the trial.

PART 5 - ASSIGNMENT OF LEGAL AID WORK

19. (1) The Director shall maintain a roster containing the names of listed attorneys-at-law willing to act as duty counsel or generally for assisted persons in those matters set out in section 4(1) and (3) of the Law.

Roster of attorneys-at-law

(2) The Director shall assign work to foreign counsel in accordance with section 21 of the Law.

(3) The roster shall contain the following classes of attorneys-at-law -

- (a) civil law attorneys-at-law;
- (b) criminal law attorneys-at-law; and
- (c) duty counsel.

(4) An attorney-at-law may be listed in more than one class.

(5) All classes of attorneys-at-law shall make reports to the Director as and when the Director requests.

(6) Unless otherwise approved by the Director, when an attorney-at-law has represented or advised an applicant as duty counsel, neither the attorney-at-law nor any of his partners or associates in his firm shall knowingly act for the applicant in the same matter, otherwise than as duty counsel.

PART 6 - REMUNERATION AND TAXATION

20. (1) An assigned attorney-at-law may recover for chambers work done by a paralegal or articulated clerk employed by him and the rate of payment for the services of a paralegal or an articulated clerk is eighty dollars per hour which is fifty per cent of the one hundred and sixty dollars an hour rate to be paid to assigned attorneys-at-law as specified by section 25 of the Law.

Remuneration for paralegal services, costs and expenses

(2) An assigned attorney-at-law in a standard legal aid case shall be entitled to reimbursement in respect of fixed fees and ad valorem fees payable pursuant to the Court Fees Rules, 2009, the Summary Court Rules, 2004 or the Matrimonial Causes Rules (2003 Revision).

(2003 Revision)

21. (1) Upon conclusion of a proceeding, an assigned attorney-at-law when presenting the bill of costs for taxation to the Clerk of the Court under section 28 of the Law, shall submit in support of the bill of costs -

Bills of costs and taxation

- (a) copies of timesheets or other written evidence of the time spent; and
- (b) copies of invoices, receipts, paid cheques or other written evidence of the costs and expenses incurred.

(2) In addition to the documents referred to in paragraph (1) the Clerk of the Court may require the assigned attorney-at-law to produce the whole or part of his files relating to the proceeding in respect of which the bill of costs is presented.

(3) Upon taxation of an attorney's bill of costs, the Clerk of the Court shall -

- (a) disallow the fee claimed for any item of work which is not authorised by the certificate;
- (b) disallow reimbursement of any unauthorised costs or expenses;
- (c) reduce the amount of the fee claimed for any item of work upon which he considers that the assigned attorney-at-law has spent an unnecessary amount of time;
- (d) disallow the fee claimed for any item of work which he considers to have been done unnecessarily or incompetently performed;
- (e) disallow reimbursement of any authorised costs and expenses which he considers to have been unreasonably or improperly incurred; and
- (f) disallow the whole or part of the amount claimed if he is satisfied that the assigned attorney-at-law is in breach of any of the duties specified in regulations 3 or 9.

(4) In accordance with section 28 of the Law, having taxed the bill of costs of an assigned attorney-at-law the Clerk of the Court shall issue a certificate of legal aid taxation.

(5) If the whole or part of an assisted person's contribution has been paid into court, the Clerk of the Court shall order that amount to be paid out to the assigned attorney-at-law and the certificate of taxation shall specify the balance, if any, payable by the Treasury.

(6) The Clerk of the Court shall send the certificate of legal aid taxation to the assigned attorney-at-law whose duty it shall be to give a copy of it to the assisted person.

(7) It shall be the responsibility of the assigned attorney-at-law to present the certificate of legal aid taxation to the Treasury for payment.

PART 7 - DISPOSABLE INCOME AND CONTRIBUTIONS

22. The Schedule shall apply for the purposes of the calculation of -

Disposable income and
legal aid contributions

- (a) the disposable income of an applicant for legal aid; and
- (b) the amount of contribution an assisted person will be required to pay under a legal aid certificate.

PART 8 - GENERAL

23. The Director shall issue forms to be used under these Regulations after consultation with the Chief Justice.

Forms

SCHEDULE

Regulation 22

CALCULATION OF LEGAL AID CONTRIBUTION AND DISPOSABLE INCOME

1. (1) A person's legal aid contribution shall be as calculated under subparagraph (3), ("the income portion") referable to his disposable income.

(2) An assisted person's contribution shall be endorsed on his certificate as a single amount.

(3) The income portion in relation to an assisted person, is the amount prescribed in the second column of the Table below opposite the relevant bracket of disposable income -

TABLE

Income	Disposable Income Bracket Income Portion
Less than \$12,000	Nil
\$12,000 or more but less than \$14,500	\$150
\$14,500 or more but less than \$17,000	\$375
\$17,000 or more but less than \$20,000	\$750

2. (1) A person's disposable income is the aggregate annual gross income of the household of which he is a member, less -

- (a) \$2,000 for that person's spouse;
- (b) money actually paid annually by that person (whether or not under a court order) for the support of a person under eighteen years of age who is not a member of that household;
- (c) \$2,000 for each member of that household (whether or not under twenty-one years of age) who the Director is satisfied is not financially independent; and
- (d) rent or mortgage interest not exceeding \$9,600 actually paid annually,

in respect of the premises where that household lives.

(2) In sub-paragraph (1), the words "annual" and "annually" refer to the period of twelve calendar months immediately preceding the date of the application for legal aid or, if in the Director's opinion to take that period would on account of special circumstances distort the true current financial position of the applicant for legal aid, such other period of twelve months as the Director considers it just and proper to take instead.

Made by the Cabinet this day of , 2016

Clerk of Cabinet

These Regulations were approved by the Legislative Assembly on the day of ²⁷ ~~March~~, 2016 by Government Motion No. of 2016 in compliance with section 42 of the Legal Aid Law, 2015.



Clerk of the Legislative Assembly

