

Seychelles

Legal Aid Act Chapter 110

Legislation as at 1 December 2014

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Seychelles

Legal Aid Act

Chapter 110

Commenced on 1 February 1986

[This is the version of this document at 1 December 2014.]

[Act 21 of 1985]

1. Short title

This Act may be cited as the Legal Aid Act.

2. Interpretation

In this Act—

"**civil proceeding**" means a proceeding before any court in the exercise of its jurisdiction, both original and appellate, in civil matters;

"**disposable capital or disposable income**" means the capital or income computed in accordance with rules made under this Act;

"**Fund**" means the Legal Aid Fund established under [section 10](#);

"**Judge**" means a judge of the Supreme Court;

"**Registrar**" means the Registrar of the Supreme Court.

3. Civil proceedings

(1) Subject to this Act, legal aid shall be available to any person—

- (a) in any civil proceeding, not being a civil proceeding exempted by rules made under this Act; and
- (b) in taking any steps to assert or dispute a claim which may give rise to a civil proceeding for which legal aid shall be available under paragraph (a) but where the question of instituting, defending or being a party to such civil proceeding has not yet arisen.

(2) Legal Aid shall consist of—

- (a) in relation to subsection (1)(a), representation by legal practitioner including such assistance as is usually given by a legal practitioner in the steps preliminary or incidental to a civil proceeding or in arriving or giving effect to a settlement to bring an end to such proceeding;
- (b) in relation to subsection (1)(b), the assistance of the legal practitioner in advising on the steps necessary to assert or dispute the claim.

4. Financial limitation

(1) For the purpose of [section 3](#), legal aid shall be granted to any person whose disposable income does not exceed the level of subsistence declared for the time being under section 23 of the Social Security Act.

Provided that where the value of his disposable capital exceeds the amount fixed by rules made under this Act, he may be refused legal aid if it appears that he is capable of prosecuting or

defending the civil proceeding or taking steps to assert or dispute the claim without legal aid under this Act.

- (2) Subject to [section 5](#), a person who is granted legal aid under subsection (1) shall not be liable to pay any contributions to the Fund and may be exempted from paying any fees of court.
- (3) For the purposes of [section 3](#), legal aid may, subject to subsection (4), be granted to any person whose disposable income or disposable capital exceeds the amount specified in subsection (1).
- (4) A person granted legal aid under subsection (3) shall make such contributions to the Fund as he may, having regard to the expenses likely to be incurred by the Fund in granting legal aid to him, be required to make.

5. Costs

- (1) Where any person who has been granted legal aid under [section 4\(1\)](#) in a civil proceeding is awarded costs in that proceeding, the court awarding the costs may, of its own motion or on application, direct that the costs when recovered shall be paid to the Fund.
- (2) Where any person who has been granted legal aid under [section 4\(1\)](#) in a civil proceeding is ordered by court to pay the costs of any other party to that proceeding, not being a party who has been granted legal aid under this Act, such costs shall be paid from the Fund.

6. Criminal proceedings

- (1) Subject to this Act, legal aid shall be available to any person charged with an offence and shall relate to proceedings in any court in the exercise of original or appellate jurisdiction in criminal matters in respect of that offence.
- (2) For the purposes of subsection (1), legal aid shall consist of representation by a legal practitioner in the preparation and conduct of the defence in respect of the offence and, in relation to proceedings by way of appeal, in the preparation and conduct of the appeal.

7. Financial circumstances

Where the financial circumstances of a person charged with an offence are such that he is unable without undue hardship to himself or his dependants to meet the expenses of proceedings in relation to that offence—

- (a) he shall, where the offence is murder or any other capital offence, be granted legal aid;
- (b) he may, in any other case, having regard to the gravity of the offence or other exceptional circumstances, be granted legal aid.

8. Application

- (1) An application for legal aid shall be made to a Judge by or on behalf of the person seeking legal aid.
- (2) Rules made under this Act may provide for matters in relation to an application under subsection (1).

9. Certificate

- (1) Where a Judge to whom an application is made under [section 8](#) is satisfied that a person seeking legal aid is qualified to receive legal aid under this Act, he shall grant him a certificate.
- (2) Where a Judge refuses to grant a certificate in respect of any proceedings before the Court of Appeal, a Justice of Appeal may, on a consideration of the facts placed before him, grant such certificate.

- (3) A certificate granted under this section shall be authority—
 - (a) for the person to whom it is granted, to receive legal aid; and
 - (b) for the Registrar, to meet out of the moneys of the Fund the expenses of legal aid.

10. Fund

- (1) There shall be a fund to be called the Legal Aid Fund.
- (2) The Fund shall consist of—
 - (a) moneys provided by Government;
 - (b) moneys paid by way of contributions and costs under this Act.
- (3) Moneys of the Fund shall be applied in meeting the expenses of legal aid under this Act or in making any payments authorised by this Act.
- (4) The Registrar shall keep proper accounts of the Fund and shall before the 30th January each year prepare, in respect of the immediately preceding year, a statement of accounts.
- (5) The accounts and the statement of accounts of the Fund shall be audited by the Auditor-General.

11. Rules

- (1) The Chief Justice may make rules for carrying into effect the purposes and provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), rules may provide for—
 - (a) the procedure for making and determining applications for legal aid;
 - (b) manner of computation of disposable income and disposable capital;
 - (c) the civil proceedings to be exempted from the application of this Act;
 - (d) the preparation of lists of legal practitioners to be assigned for legal aid and the manner in which they are to be assigned;
 - (e) the fees to be paid to legal practitioners assigned for legal aid;
 - (f) the contributions payable to the Fund;
 - (g) matters which by this Act are required or permitted to be prescribed.

12. Offences

- (1) If any person applying for or receiving legal aid under this Act—
 - (a) knowingly makes a false statement in any application made under [section 8](#); or
 - (b) knowingly makes a false statement before a judge or the Registrar in connection with such application,he is guilty of an offence and liable on conviction to a fine of R.2,000.
- (2) A court in convicting a person for an offence under subsection (1) may, in addition to any penalty imposed under that subsection, direct such person to pay any expenses incurred by the Fund in granting legal aid to him to the Fund.

13. Application of this Act

Notwithstanding anything in any other written law, this Act of this Act shall apply to or in respect of the provision of legal aid for the purposes stated in this Act.