

1970/49



THE LEGAL AID REGULATIONS 1970

ARTHUR PORRITT, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 23rd day of March 1970

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Legal Aid Act 1969, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. **Title and commencement**—(1) These regulations may be cited as the Legal Aid Regulations 1970.

(2) These regulations shall come into force on the 1st day of April 1970.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Legal Aid Act 1969:

“Appellate legal aid” means legal aid granted for proceedings on appeal from a lower Court:

“Applicant” means an applicant for legal aid:

“Application” means an application for legal aid:

“Assisted person” means a person who is being assisted with a grant of legal aid before or during proceedings:

“Contribution” means the total sum an assisted person is required to pay to the Crown towards legal aid granted to him by a Committee or the Appeal Authority:

“Court” includes an administrative tribunal and a judicial authority:

“District” means a legal aid district:

“Emergency application” means an application made under regulation 17 of these regulations:

“Emergency legal aid” means legal aid granted on an emergency application:

“Financial statement” means a completed statement in form 5 of an applicant’s resources:

“Initial contribution” means the contribution of \$30 which may be payable by an assisted person under section 17 (2) (c) of the Act:

“Limited aid” means legal aid granted under subclause (3) or subclause (4) of regulation 18 of these regulations:

“Secretary” means the secretary to a Committee:

Terms and expressions defined in the Act shall have the meanings so defined:

A reference to a numbered form is a reference to the form so numbered in the Schedule to these regulations.

(2) These regulations shall be so construed as to ensure the just and speedy determination of any matter being dealt with by the Appeal Authority or a Committee.

PART I—PRELIMINARY

3. Forms, documents, and notices—(1) Where any form is prescribed or authorised by these regulations, it may be varied if the circumstances of any particular case so require.

(2) Every document issued by the Appeal Authority or a Committee may be signed by the secretary to the Authority or Committee, as the case may be.

(3) Subject to subclause (3) of regulation 20 and subclause (2) of regulation 21 hereof, in any case where these regulations provide that notice is to be given to an assisted person or applicant, that notice may be given to that person or applicant, or to any solicitor acting for him on the application or in the proceedings to which it relates, or to both.

(4) Where any notice has to be given under these regulations it may be given—

(a) By delivering it to the person to whom it has to be given; or

(b) By leaving it at the usual or last known place of abode in New Zealand of that person; or

(c) By sending it by post addressed to that person at his usual or last known place of abode in New Zealand.

(5) Where a notice is sent by post in the manner presented by paragraph (c) of subclause (4) of this regulation, it shall be deemed to have been given at the time at which it would have been delivered in the ordinary course of post.

4. Record of applications, decisions, and appeals—The secretary to each committee shall enter particulars of every application for legal aid in a record book in a form approved by the Secretary for Justice.

PART II—APPLICATIONS FOR LEGAL AID

5. Applications to be made in correct district—(1) Any person living in New Zealand may apply for legal aid to the secretary to the Committee for the district where he lives:

Provided that, if the application will stand referred to another Committee in accordance with subclause (5) of this regulation, the application may be made to the secretary to that other Committee.

(2) Any person not living in New Zealand may apply for legal aid to the Secretary for Justice who shall refer the application to the Committee which could in his opinion deal most conveniently with it.

(3) An application by a person not living in New Zealand may be made on his behalf by his solicitor or any other person authorised by the applicant:

Provided that, unless the application is made under regulation 8 hereof, the applicant shall personally complete the financial statement in the manner specified in sections 11 and 12 of the Oaths and Declarations Act 1957.

(4) The person signing an application on behalf of a person not living in New Zealand shall endorse on it a statement in the form specified in paragraph 1 (a) of form 8, unless the application is made under regulation 8 hereof, in which case the whole of that form shall be completed and attached to the application.

(5) If a Committee considers that applications from persons living within a specified area within its district could normally be dealt with more conveniently or properly by another Committee it may, with the concurrence of that other Committee, direct that all applications from persons living within that area shall stand referred initially to that other Committee.

(6) If the Chairman of a Committee considers that an application made or standing referred to his Committee could more conveniently or properly be dealt with by another Committee, he may refer it to that Committee.

(7) When any application is referred or stands referred, under this regulation, to another Committee, that Committee shall notify the applicant of the fact:

Provided that this subclause shall not apply in any case where the application has been made to the secretary to that other Committee under the proviso to subclause (1) of this regulation.

6. Applications to lapse after 3 months—Unless an application is extended or revived by the Committee, it shall lapse if the applicant or his solicitor fails for 3 months to do anything necessary to take the

application further. When this occurs, the applicant shall be notified in writing by the secretary, who shall also inform the applicant of his right to make a fresh application.

7. Procedure for making applications—(1) All applications for legal aid shall be in form 1, except the following—

(a) Applications for emergency legal aid or for limited aid, which shall be in form 2:

(b) Applications for appellate legal aid, which shall be in form 3:

(c) Applications for the costs of successful unaided litigants, which shall be in form 4.

(2) All applications, except applications for the costs of successful unaided litigants, or for additional legal aid under regulations 17 (6) and 18 (4) hereof, shall be accompanied by a receipt for payment of the initial contribution to the Crown, unless the applicant is one of the class of applicants exempted from that payment by regulation 11 hereof, or he requests that the payment be waived on the grounds of substantial hardship and gives reasons for that request.

(3) All applications, except emergency applications, applications for limited aid, and applications for appellate legal aid to which regulation 14 (3) hereof applies, shall be accompanied by a financial statement. The financial statement shall be signed by the applicant unless the application is made under regulation 8 hereof.

(4) When the applicant is required to file a financial statement, and any person, Department of State, or organisation has information relating to the applicant's financial resources, their names shall be given on the financial statement.

(5) Every applicant shall file with his application a completed copy of form 7, consenting to the disclosure of information relating to his financial resources.

(6) Applications shall also be accompanied by a list of all documents which the Committee will require in order to ascertain the nature of the proceedings to which the application relates. Those documents or true copies of them shall be attached to the application, or, if this is not practicable, particulars shall be given of where they may be inspected. The Committee may dispense with the requirements of this subclause of this regulation where they have already been complied with by the applicant in an earlier application.

8. Applications by minors and persons under disability—(1) Subject to the provisions of section 28 of the Act, an application may, with the consent of the Committee, be made on behalf of a person under the age of 16 years by either of his parents, or by his guardian, or by any person (including a child welfare officer) who has custody of him.

(2) Where any person, by reason of physical or mental infirmity, is incapable of completing an application or of furnishing the particulars required to complete an application, his application may, with the consent of the Committee and subject to the provisions of section 28 of the Act, be made on his behalf by any responsible person (including a District Public Trustee) with sufficient knowledge of the applicant's affairs.

(3) An application made under this regulation shall have attached to it an endorsement in form 8 signed by the person applying on behalf of the applicant.

(4) For the purposes of this regulation and regulation 9 hereof, the term "custody" means the right to possession and care of a child.

9. Resources of persons responsible for minors—(1) Where an application is made by or on behalf of a person under 16 years of age, the Committee may exclude from the applicant's resources the resources of a parent of the applicant when—

- (a) That parent is living apart from or does not have custody of the applicant; or
- (b) The applicant is supporting himself without financial assistance from that parent.

(2) Where an application is made by a minor over 16 years of age, the Committee may treat the resources of the following persons as resources of the applicant—

- (a) Any person who, pursuant to any agreement or Court order, is liable wholly or partially to maintain the applicant; or
- (b) Any parent, foster parent, or step parent with whom the applicant is living.

(3) Where an application is made by or on behalf of a minor, the Committee may include in his resources any sum paid or payable, under any agreement or Court order, to any person for the purpose of maintaining the minor.

10. Applicant who may be joined in proceedings with others—Where an application is made in respect of proceedings in which other persons have a similar interest to the applicant, he shall attach to his application a signed statement in form 9, giving such particulars of those persons and their respective interests in the proceedings as will enable the Committee to decide whether aid should be refused him on the grounds specified in subsection (1) of section 31 of the Act, or granted him for the limited purpose permitted by subsection (2) of that section.

11. Applicants not required to pay initial contribution—No applicant shall be required to pay the initial contribution if—

- (a) He is in receipt of an age benefit, a widow's benefit, an invalid's benefit, a sickness benefit, an unemployment benefit, or an emergency benefit under the Social Security Act 1964 or a war veteran's allowance (excluding any gratuity) or an economic pension under the War Pensions Act 1954; and
- (b) His total net capital does not exceed \$250.

PART III—PROCEDURE ON APPLICATIONS

12. Procedure on receipt of application—(1) On receiving an application for legal aid, the secretary shall refer the financial statement and form 7 duly completed to the Social Security Commission.

- (2) The Commission shall report to the secretary in form 6.

13. Decision of the Committee—(1) On receiving the Social Security Commission's report, the Committee shall determine the application, and notify both the applicant and the Secretary for Justice of its decision. The applicant shall also be advised of his right to appeal to the Appeal Authority against the decision.

(2) Within 28 days after receiving notification of the Committee's decision, the applicant shall notify the secretary either that it is acceptable to him, or that he wishes to appeal against it. If he does not so notify the secretary, his application shall lapse unless the Committee extends the last-mentioned period of time, or revives the application.

(3) If the applicant decides to accept an offer of legal aid he shall, as well as notifying his acceptance to the secretary, undertake to—

(a) Comply with the terms of the Committee's offer;

(b) Pay any contribution assessed by the Committee in the manner it specifies; and

(c) Inform the Committee of any increase of more than \$75 in his resources of either capital or gross annual income.

14. Aid for proceedings in appeal Court—(1) Applications for appellate legal aid may be made as soon as judgment is delivered by the Court from whose decision an appeal is sought.

(2) If the applicant was legally aided in the previous proceedings, he shall give particulars of the earlier grant of legal aid. The Committee shall not determine the application until it has perused all papers relating to the earlier application and grant. The Committee which made that grant shall on request forward all such papers to the Committee dealing with the new application.

(3) The application shall proceed as a separate application in all respects:

Provided that the financial statement and the report from the Social Security Commission may be dispensed with in the Committee's discretion where the applicant was legally aided in the previous proceedings, and his solicitor certifies that, to the best of his knowledge and belief after making all due inquiries, the applicant's resources have not since the earlier grant of legal aid changed to such an extent that his contribution could be increased.

(4) In considering any submission from the applicant that he should be exempted from payment of the initial contribution, the Committee shall take account of whether he was required to pay any contribution in the earlier proceedings, and if so how much.

15. Costs of successful unaided litigants—(1) Applications under section 33 of the Act shall give particulars of the proceedings in which the applicant was successful.

(2) A copy of any order for costs made under section 17 (2) of the Act shall be filed with the application.

(3) The applicant shall state in the application whether he intends to place evidence before the Committee in proof of any matter referred to in section 33 (2) of the Act.

16. Aid to obtain opinion of counsel or expert—(1) In granting a sum by way of interim aid under section 21 (1) of the Act, in order to obtain the opinion of counsel or of an expert, the Committee shall state what sum, if any, the applicant shall be required to pay towards the cost of that opinion.

(2) The sum shall be a reasonable proportion of the contribution which the applicant would be required to make if granted legal aid.

(3) If the applicant is subsequently granted legal aid, his contribution, if any, shall be reduced by the amount of any sum paid by him under this regulation.

17. Emergency legal aid—(1) Any person who urgently requires legal aid may make an emergency application in form 2, giving reasons why the application is urgent.

(2) The applicant or his solicitor shall give in the application an estimate of the applicant's disposable income and disposable capital.

(3) The Chairman, or in his absence any other member of the Committee, may grant emergency legal aid for the purpose specified in the application, without receiving a financial statement from the applicant.

(4) Within 21 days after being granted emergency legal aid, or within such longer period as the Committee may allow, the assisted person shall file a financial statement. The Committee shall, after receiving a report from the Social Security Commission, decide what contribution, if any, he should make. It shall notify both him and the Secretary for Justice of this decision. The applicant shall also be advised of his right to appeal to the Appeal Authority against the decision.

(5) If within 28 days after receiving notification of the decision the assisted person has not notified the secretary that he wishes so to appeal, he shall be deemed to have accepted his obligation to pay any contribution assessed by the Committee.

(6) Within a reasonable period after being granted emergency legal aid, the applicant may apply for additional legal aid in the proceedings for which emergency legal aid was granted. The Committee may grant additional legal aid on such an application, without another financial statement or financial report, if the applicant or his solicitor certifies that the applicant's financial circumstances have not changed since the original financial statement was filed.

18. Limited aid for small claims—(1) Any person who desires legal aid for proceedings which are of a type in which his legal expenses and disbursements would not normally exceed \$50 may make his application in form 2.

(2) The applicant's solicitor shall give in the application an estimate of the applicant's disposable income and disposable capital.

(3) If the applicant's solicitor certifies that to the best of his knowledge and belief—

(a) The applicant will not require from the Committee a legal aid grant of more than a sum specified by the solicitor, not being more than \$50, in order to take or defend the proceedings in the Court of first instance; and

(b) The applicant's resources are such that if that grant were made he would not be required to pay the Crown more than the initial contribution,—

the Committee may grant the applicant legal aid not exceeding the sum specified in the solicitor's certificate.

(4) An applicant who has been granted legal aid under this regulation may apply for additional legal aid in the same proceedings, if his solicitor certifies that to the best of his knowledge and belief the applicant's resources have not increased since the previous application to such an extent that he would have to pay the Crown more than the initial contribution if granted additional legal aid. If the applicant's solicitor also certifies that a specified sum of additional legal aid should enable the proceedings to be completed, the Committee may, if that specified sum is

not greater than the difference between the aid already granted under this regulation and the sum of \$50, grant the applicant additional legal aid not exceeding that specified sum.

(5) If after being granted legal aid or additional legal aid under this regulation it appears to the applicant or his solicitor that, in order to complete the proceedings, he may require more legal aid which, when added to the legal aid so granted, would bring his total grant of legal aid to more than \$50, he may lodge with the secretary an application in form 1, a financial statement, and all other documents which, under regulation 7 hereof, must accompany such an application. The Committee shall not grant the applicant any further legal aid until those documents have been filed and the application has been dealt with in all respects as if the applicant had not applied for legal aid under the preceding subclauses of this regulation:

Provided that, in considering any submission from the applicant that he should be exempted from payment of the initial contribution, the Committee shall take account of whether he was required to pay any contribution towards the previous grant, and if so, how much.

19. Appeals to Legal Aid Appeal Authority—(1) Notices of appeal to the Appeal Authority shall be lodged in form 10 with the secretary to the Committee which made the decision appealed against.

(2) On receiving the notice of appeal the secretary shall forthwith send it, together with all related papers, to the Appeal Authority.

PART IV—MISCELLANEOUS PROVISIONS

20. Change in financial circumstances—(1) Whenever an assisted person becomes aware that either his capital or his gross annual income (including capital and income which the Act or these regulations treat as his) have increased by more than \$75, he shall forthwith notify the secretary to the Committee which granted him legal aid of the details of that increase. Where those resources have decreased, the assisted person may so notify the secretary.

(2) On receiving any such notification the Committee shall decide whether, in accordance with the Act and these regulations, the assisted person should pay a contribution or have his contribution increased or reduced, as the case may be. If the assisted person's resources have increased to such an extent that he is no longer financially eligible for legal aid, such aid may be withdrawn from him as from any date after the time when he should reasonably have known of the increase and notified it to the secretary. If the date of the withdrawal is retrospective, the assisted person shall repay to the Crown such reasonable proportion as the Committee may direct of any legal aid actually paid since that date.

(3) The Committee shall in writing notify both the assisted person and his solicitor of any such alteration of contribution, withdrawal of legal aid, or direction to repay legal aid.

(4) At the same time as an assisted person is notified that a decision has been made under this regulation to alter his contribution, withdraw legal aid, or direct the repayment of legal aid, he shall be advised of his right to appeal to the Appeal Authority against that decision. If, within

28 days after being so notified, he does not notify the secretary that he wishes to so appeal, he shall be deemed to have accepted the decision and any obligations placed by it on him.

(5) The provisions of this regulation and the obligations placed by it on assisted persons shall extend and apply to any case where—

- (a) The assisted person is represented in the proceedings by a guardian *ad litem*, or the application was made under regulation 8 hereof by some person other than the applicant, and that person or guardian *ad litem* becomes aware of an increase in resources owned or treated as being owned by the assisted person; or
- (b) A person who has ceased to be an assisted person becomes aware of an increase in his financial resources which, unknown to him at the time, occurred while he was still an assisted person.

21. Amendment of determination where error or mistake—(1) Where it appears to the Committee that some error has been made in determining the disposable income or disposable capital of an applicant or assisted person, or the contribution payable by an assisted person, or in any computation or estimate upon which that determination was based, the Committee may, after requesting and receiving a report from the Social Security Commission if necessary, correct the error and make an amended determination.

(2) If the Committee decides to amend the determination under this regulation, it shall in writing notify the applicant or assisted person, his solicitor if one is acting for him, and the Secretary for Justice of the amended determination, and also advise the applicant or assisted person of his right to appeal to the Appeal Authority against the decision.

(3) Within 28 days of being notified of the amended determination, the applicant or assisted person shall notify the secretary either that it is acceptable to him or that he wishes to appeal against it. If he does not so notify the secretary, then either—

- (a) His application shall lapse unless the Committee extends the last-mentioned period of time or revives the application; or
- (b) If legal aid has already been granted, it may, subject to the provisions of subclause (5) of this regulation, be withdrawn by the Committee on 7 days' written notice to the assisted person.

(4) If the applicant or assisted person decides to accept the amended determination, he shall make an undertaking or a further undertaking, as the case may be, in the form required by regulation 13 (3) hereof.

(5) If an error made in determining the application was not due to the Committee being wilfully misled or misinformed by the assisted person, he shall not by reason only of the amended determination have the aid withdrawn from him without his consent. If the error was due to carelessness on the part of the assisted person's solicitor or counsel, any loss caused to the Crown under the preceding provisions of this regulation may be set off by the Committee against the profit costs of the solicitor, or against counsel's fee.

22. Additional financial statements—At any time before final settlement in the proceedings for which legal aid is granted, the assisted person may be required to file a financial statement in addition to any such statement or statements he has already filed.

23. Notification that party legally aided—(1) Whenever an assisted person becomes a party to proceedings, or a party to proceedings becomes an assisted person, his solicitor shall forthwith give all other parties, including the Registrar of the Court in which the proceedings are taken, written notice of the grant of legal aid. If at any time thereafter any other person becomes a party to the proceedings, the assisted person's solicitor shall forthwith give such notice to that party also.

(2) If legal aid is withdrawn from an assisted person, all parties to the proceedings for which the legal aid was granted shall be notified in writing by the secretary to the Committee which withdraws the legal aid.

24. Enforcement of Crown's charge—(1) The Crown may enforce any charge created by section 18 (4) of the Act in any manner which would be available if the charge had been given between parties.

(2) All conveyances and acts done with the intention or having the effect of defeating such a charge shall be void as against the Crown, except in the case of a conveyance to a purchaser in good faith for value who at the time of the conveyance had no notice of the charge.

25. Payments due to Crown on settlement—(1) Where any sum is recovered by an assisted person by reason either of a Court order in the proceedings for which legal aid was granted or of a compromise arrived at to avoid or end those proceedings, and that sum is subject to a charge for the benefit of the Crown under section 18 (4) of the Act, it shall be paid to his solicitor or, if he has no solicitor, to the secretary to the Committee which granted him legal aid. No person other than the assisted person's solicitor or the secretary, as the case may be, shall be competent to give a valid discharge for the money.

(2) Where any money is paid under the previous subclause of this regulation, the solicitor or secretary, as the case may be, shall pay out of it to the Crown any unpaid portion of the contribution, together with any sum recovered by virtue of an order or agreement for costs made in the proceedings in favour of the assisted person. The balance shall be paid to the assisted person.

(3) In any case where any enactment expressly provides that a sum, recovered either in proceedings or under a compromise arrived at to avoid proceedings or bring them to an end, shall be paid to the trustee, personal representative, or Committee of the assisted person, and that sum is subject to a charge for the benefit of the Crown under section 18 (4) of the Act, the person to whom the sum is paid shall in addition to any obligation imposed upon him by that enactment, assume the duties imposed by this regulation upon the assisted person's solicitor or, if he has no solicitor, the secretary, as the case may be, unless those duties are inconsistent with any such obligation, or he elects to pay the money to the solicitor or secretary instead of performing those duties himself.

26. Solicitor and counsel to protect the Crown's interest—(1) Where any property recovered or preserved for an assisted person in the proceedings is subject to a charge for the benefit of the Crown under section 18 (4) of the Act, it shall be the duty of any solicitor or counsel acting for the assisted person to protect the interest of the Crown under the charge. The solicitor or counsel shall neither do nor permit any act

which has or might have the effect of assisting the transfer of any part of the property, unless he has first ensured that the amount secured by the charge has been paid to the Crown:

Provided that the Committee may authorise the transfer of any part of the property which will not be required to meet any amount which could reasonably be claimed by the Crown under the charge.

(2) If any solicitor or counsel fails to perform the duties imposed upon him by the foregoing provisions of this regulation, any money which should have been paid to the Crown under the charge may be set off by the Committee against the profit costs of the solicitor, or against counsel's fee.

27. Application for disbursements—(1) The solicitor acting for an assisted person may apply to the secretary to the Committee for the immediate payment of a sum for disbursements incurred or to be incurred in connection with the proceedings for which legal aid has been granted.

(2) The Chairman or at least two other members of the Committee may on such an application authorise payment to the solicitor of not more than the amount applied for, subject to such terms as are thought fit.

28. Costs before grant of legal aid—(1) An assisted person's solicitor or counsel may lodge with the secretary to the Committee a bill for work done or costs incurred for the assisted person, before the grant of legal aid, in connection with the application or the proceedings. The assisted person may himself lodge such a bill, for costs which he reasonably incurred, before obtaining legal advice, in connection with the proceedings or his application.

(2) The Committee may authorise the payment of such proportion of the bill as it considers reasonable in all the circumstances. In deciding whether to authorise a payment and the amount to be paid, it shall consider whether it was reasonably necessary to do the work or incur the costs. Where the bill is from the assisted person, it shall also consider whether, in incurring the costs, he was reasonably justified in acting without recourse to legal advice.

29. Taxation of costs—Taxation of costs under the Act shall be made in the manner prescribed by the Law Practitioners Act 1955.

30. Contingent liabilities—Where under any enactment or any covenant, guarantee, contract, or other instrument, the applicant, or a person whose resources are to be taken into account in assessing the applicant's resources, is under a contingent liability to pay any sum or is liable to pay a sum not yet ascertained, an allowance shall be made of such an amount as is reasonably likely to become payable within the 6 months immediately following the application.

31. Valuation of assets—For the purpose of ascertaining an applicant's disposable capital, the value of his assets shall, subject to the following regulations, be taken as their fair market value at the time of his application.

32. Company assets—If the applicant, or a person whose resources are to be taken into account in assessing the applicant's resources, stands in relation to a company in a position analogous to that of a sole owner or a partner in the business of that company, the Committee may, instead of ascertaining the value of his shares in that company, treat the person as if he were the sole owner or partner and compute the amount of his capital in respect of that asset accordingly.

33. Interests in trust funds, etc.—The value of any interest in reversion or remainder on the termination of a prior estate, whether legal or equitable, in any real or personal property or in a trust or other fund, whether the person concerned has the sole interest or an interest jointly or in common with other persons and whether his interest is vested or contingent, shall be computed in a manner that is both fair and practicable.

SCHEDULE

FORMS

Legal Aid Form 1

APPLICATION FOR LEGAL AID

Application No. /

Note: Where the application is for—

- (a) *Emergency legal aid, or legal aid of no more than \$50, use form 2;*
- (b) *Legal aid in an appeal, use form 3;*
- or (c) *The costs of a person who, without legal aid, has successfully taken or defended proceedings against a legally aided person, use form 4.*

Date: / / 19

1. I, of wish to apply for legal aid.
 [Name] [Address]
2. I require a grant of legal aid for the following purpose:
 [Give details of the proceedings for which aid is required, names of the other parties, the matters in dispute, and what you seek in the proceedings. Any other explanations you wish to make about the application may be included here. Continue on a separate sheet if necessary.]
3. I attach a financial statement in form 5, giving particulars of my resources.
4. [Cross out the alternatives which do not apply.]
 I have paid the initial contribution of \$30 to the Crown, and I attach the receipt.

Pin receipt here.

or

I wish to be exempted from making the initial contribution, as paying it would cause me substantial hardship for the following reasons:

or

SCHEDULE—continued

I am exempted by the Legal Aid Regulations 1970 from paying the initial contribution.

[You are automatically exempted by the regulations, if—

- (a) You receive from the Social Security Department an age benefit, an invalid's benefit, a sickness benefit, an unemployment benefit, an emergency benefit, or a war veteran's allowance excluding any gratuity; and
- (b) The total value of your assets, after deducting mortgages and other debts, is no more than \$250.]

5. If you are exempted from paying the initial contribution, give details:

- (a) Benefit received from Social Security Department
- (b) Total net assets \$.....

6. The following documents are relevant to the proceedings for which I seek legal aid:

Date of Document	Nature
	<i>[Continue on a separate sheet if necessary.]</i>

7. The said documents (or true copies of them) are attached.

or

It is impracticable to attach the said documents, but they may be inspected at:

8. The following persons could give evidence in support of my case—

Name	Address
(Mr/Mrs/Miss)
(Mr/Mrs/Miss)

9. I attach a statement in form 9, showing all other persons who have a similar interest to my own in the proceedings. *[Delete if there is no such person.]*

10. I am not a member of any organisation (or am a member of the following organisation(s)) which might pay part of the expenses of the proceedings in which I have applied for legal aid.

11. I am not covered by insurance in respect of the proceedings.

or

I am covered by insurance in respect of the proceedings as follows:

12. No person or organisation might reimburse me in any way (or the following person(s) or organisation(s) might reimburse me) for any loss I may suffer because of the proceedings.

13. The lawyer I wish to act for me is:

- Name of lawyer
- Firm (if known)
- Address
- Has he agreed to take your case?

.....
Applicant.

SCHEDULE—continued

Regs. 7 (1) (a), 17 (1), 18

Legal Aid Form 2

APPLICATION FOR EMERGENCY LEGAL AID OR LIMITED AID IN SIMPLE PROCEEDINGS

Application No. /

Applicants please note:

If you wish to apply for limited legal aid, i.e., aid for simple Court proceedings in which less than \$50 of legal aid will be required, your application must be certified by a solicitor. You should therefore seek help from a solicitor in completing the application.

The advantage of this sort of application is that it is dealt with much more simply, relying on the solicitor's certificate instead of the usual investigation.

Date: / / 19.....

1. I, of wish to apply for emergency legal aid/ limited aid (delete one alternative). [Name] [Address]

2. I require a grant of legal aid for the following purpose: [Give details of the proceedings for which aid is required, names of the other parties, the matters in dispute, and what you seek in the proceedings. Any other explanations you wish to make about the application may be included here.]

[Continue on a separate sheet if necessary.]

3. [Cross out the alternatives which do not apply.] I have paid the initial contribution of \$30 to the Crown, and I attach the receipt.

Pin receipt here.

or

I wish to be exempted from making the initial contribution, as paying it would cause me substantial hardship for the following reasons:

or

I am exempted by the Legal Aid Regulations 1970 from paying the initial contribution.

[You are automatically exempted by the regulations if—

(a) You receive from the Social Security Department an age benefit, an invalid's benefit, a sickness benefit, an unemployment benefit, an emergency benefit, or a war veteran's allowance excluding any gratuity; and

(b) The total value of your assets, after deducting mortgages and other debts, is no more than \$250.]

4. If you are exempted from paying the initial contribution, give details:

(a) Benefit received from Social Security Department

(b) Total annual income \$

(c) Total net assets \$

SCHEDULE—continued

5. I attach a statement in form 9, showing all other persons who have a similar interest to my own in the proceedings. [Delete if there is no such person.]

6. The lawyer I wish to act for me is:

Name of lawyer

Firm (if known)

Address

Has he agreed to take your case?

7. [Applies only to emergency applications.]

I consider that this application is urgent for the following reasons:

8. [Applies only to emergency applications.]

I/my solicitor estimate(s) that my disposable income is \$ and that my disposable capital is \$

Applicants please note: The terms "disposable income" and "disposable capital" have a technical meaning under the Legal Aid Act 1969 which allows you to make several deductions from the value of your resources. For advice on this, consult a solicitor, or apply to any office of the Supreme Court, Magistrates' Courts, or Social Security Department. If your TOTAL income without deductions is less than \$2,000, and your TOTAL capital without deductions is also less than \$2,000, write their amounts here if your application is so urgent you have no time to obtain such advice.

Income \$; Capital \$.....; Tax paid last year \$.....

9. [Applies only to emergency applications.]

If I am granted emergency legal aid, I will, within 21 days, give the Committee a full statement of my financial resources, in form 5.

Applicant.

ENDORSEMENT BY SOLICITOR OF APPLICANT FOR LIMITED AID

I,, solicitor for the applicant, hereby certify that to the best of my knowledge and belief, after making all due inquiries,—

- (1) The applicant will not require a legal aid grant of more than \$..... in order to take or defend these proceedings in the Court of first instance.
(2) The applicant's disposable income is \$..... and his/her disposable capital is \$.....
(3) The applicant's resources are such that if legal aid is granted, he/she would not be required to pay the Crown more than the initial contribution.

Solicitor for the Applicant.

Address for service:

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

SCHEDULE—continued

Reg. 7 (1) (b)

Legal Aid Form 3

APPLICATION FOR LEGAL AID IN APPEAL PROCEEDINGS

Application No. /

Date: / / 19.....

1. I, of wish to apply for legal aid for appeal proceedings before the Court at

[Name] [Address]

[Location]

2. The proceedings appealed against were heard before the Magistrate's/Supreme/ Court at on the following date(s):

[Location]

3. I was/was not granted legal aid in those proceedings, by the District Legal Aid Committee, on / / 19.....

4. The parties in the proceedings were:

(a) Plaintiff(s) or petitioner(s) or applicant(s), (etc.).

(b) Defendant(s) or respondent(s), (etc.).

5. I attach of copy of the judgment appealed against.

or

[Where there is no written judgment.]

The Court decided that: [give brief details of judgment as it affects you.]

6. I am appealing against/defending an appeal against the judgment, on the following grounds:

7. I attach a statement in form 9, showing all other persons who have a similar interest to my own in the proceedings. [Delete if there are no such persons.]

8. The lawyer I wish to act for me is:

Name of lawyer

Firm (if known)

Address

Has he agreed to take your case?

Applicant.

Reg. 7 (1) (c)

Legal Aid Form 4

APPLICATION FOR COSTS OF SUCCESSFUL UNAIDED LITIGANT

Application No. /

Date: / / 19.....

1. I, of wish to apply for legal aid to the amount of \$....., as a successful litigant in the following proceedings:

[Name] [Address]

(a) Court in which proceedings were taken: Magistrate's/Supreme/ Court, at

[Location]

SCHEDULE—continued

(b) Court number of proceedings:/.....

(c) Parties:

(i) Plaintiff(s) or petitioner(s) or applicant(s), (etc.).

(ii) Defendant(s) or respondent(s) (etc.).

2. In these proceedings the Court made an order specifying the sum of \$ as the costs which would have been awarded against if section 17 of the Legal Aid Act 1969 had not affected

[Name(s)] his/her/their liability for costs.

3. A copy of the order is attached.

4. I attach a financial statement in form 5 giving particulars of my resources.

5. I wish/do not wish to give evidence in support of this application.

.....
Applicant.

Reg. 2
Legal Aid Form 5

FINANCIAL STATEMENT

Application No. /

Read these instructions carefully, before filling in this form.

This statement of your financial resources must be completed and filed with your application in all cases, except where you are applying for—

(a) Emergency legal aid (on form 2); or

(b) Limited aid (on form 2); or

(c) Legal aid in appeal proceedings (on form 3) and you were legally aided in the original proceedings, and your solicitor certifies that your resources have not changed.

All questions must be answered. Do not leave spaces blank, but put "Nil" where that is appropriate. Strokes, ticks, crosses, etc. are not acceptable. Your application cannot be considered unless this instruction is strictly complied with.

Married Applicants

If you are living with your husband or wife, his or her resources must be stated in the spaces provided, unless he or she has an interest in the proceedings which is contrary to your own.

Applicants Who are Minors

(1) If the applicant is under 16 years of age the resources of both parents must be stated in the spaces provided, unless—

(a) A parent is living apart from, or does not have custody of the applicant; or

(b) The applicant is supporting himself without financial assistance from a parent; or

(c) A parent has an interest in the proceedings which is contrary to the interests of the applicant.

In such cases the resources of that parent should not be entered on the form.

SCHEDULE—continued

(2) If the applicant is a minor over 16 years of age the resources of persons responsible for his welfare may at the Committee's discretion be taken into consideration.

In such cases, the Committee's decision on the question may be obtained before this form is filed.

Date:/...../19.....

1. (a) Full name [surname last]:

(b) Date of birth:/...../.....

(c) Telephone: Home:..... Business:

(d) Residential address:

(e) State whether single, married, separated, divorced, widow or widower, or living apart from husband/wife.

.....

(f) If married, state full name of husband/wife, and address, if not the same as your own:

.....

.....

(g) If a minor, state the full names and addresses of parents, guardians, or persons responsible for your welfare:

Name Address

.....

.....

2. If you are living apart from your husband/wife state the amount paid per week towards his or her support: \$

3. Children Dependent upon You

Name Date of birth

.....

.....

.....

4. Other Relatives Dependent upon You

Names and Relationship Amount Contributed Towards Their Support During the Preceding 12 Months

.....

.....

5. Does your wife/husband (parent if applicant a minor) have an interest in the dispute which is contrary to your own interest? YES/NO.

SCHEDULE—continued

6. Income received during 12 months ended 19....

Item	Particulars	Received During Year	
		Applicant	Spouse or Parent
(1)	Salary, wages, or other personal earnings		
(2)	Profits from business, shop, farm, etc. (please supply a detailed statement of profit and loss)		
(3)	Amount received from boarders (including your children) (..... boarders at \$..... a week.) Members of family — YES/NO (..... boarders at \$..... a week.) Members of family — YES/NO		
(4)	Gross rent from rooms let in your home property		
(5)	Net rent from property not used as your home (show details in paragraph 9)		
(6)	Compensation or damages received		
(7)	Superannuation, pension, or benefit (other than family benefit)		
(8)	Family benefit received		
(9)	Dividends from shares, or interest from debentures, bonds, or stock		
(10)	Interest on money lent, in P.O.S.B. or any other bank, or elsewhere		
(11)	Money received from any other source. Give details:		

7. Names and addresses of employers or other persons from whom this income was received: [*Show the source of each item, (1)-(11).*]

- Item ()
- Item ()
- Item ()
- Item ()

[Continue on a separate sheet if necessary.]

SCHEDULE—*continued*

8. Income from rents [*DO NOT include rent from property used by you as your home*].

Address of Property and Name(s) of Present Occupier(s)	Expenses					Rent
	Interest	Repairs	Rates and Insurance	Others (Specify)	Total	

Add total expenses (B): \$.....
 Add total rents (A): \$.....
 Subtract (B) from (A), to get net rents: \$.....

9. Details to be supplied to determine disposable income: \$

- (a) Income tax paid at last assessment—
 - Applicant
 - Husband or wife
- (b) If home rented: Rent paid per week ..
- (c) If home owned—
 - Rates
 - Insurance premiums
 - Mortgage payments—include both principal and interest

Include separately premiums on any life insurance policy if those premiums must be paid under the terms of the mortgage, and the mortgagee is entitled to the policy as extra security for the loan.
- (d) Insurance premiums in respect of—
 - Motor vehicle
 - Contents of home

10. Do you anticipate an increase or reduction in income during the next 12 months? YES/NO.

If so, please give details:

SCHEDULE—continued

11. Assets owned in New Zealand or elsewhere by me or by my husband or wife, or by my parent (if applicant a minor).

Do not include any assets which are the subject-matter of the dispute in which you are applying for legal aid.

Item	Particulars	Owned by Applicant	Owned by Husband/Wife (or Parent)
(1)	Cash in hand		
(2)	Cash in P.O.S.B.—Account No. at		
(3)	Cash in National Savings—Account No.		
(4)	Cash in any other bank. [<i>Give details</i>]		
(5)	Cash in Thrift Club or Special Purpose A/c at Account No. Club		
(6)	Shares, debentures, Government stock, bonds, etc. [<i>Give details</i>]		
(7)	Interest in business, stock in trade, or venture of any kind. [<i>Give details</i>]		
(8)	Cash lent on mortgage		
(9)	Land and buildings— (a) Used as a home (b) Not used as a home. [<i>Give address and details</i>]		
(10)	Livestock. [<i>Give particulars</i>]		
(11)	Plant and machinery (other than tools of trade). [<i>Give details</i>]		
(12)	Motor vehicle—[<i>State type, make, year, mileage, and company with which insured</i>]		
(13)	Life insurance policies: Amount		
	Company		
	Policy No.		
(14)	Contents of home—[<i>State value of household furniture, household appliances, and personal clothing</i>]		
(15)	Tools of trade.. .. .		
(16)	Any other property or asset not specified above, including interest in any estate. [<i>Give particulars</i>]		

SCHEDULE—*continued*

12. The assets specified in the answers to question 11 are mortgaged, or security for loans to me, as follows:—

Item	Amount	Lender	Name and Address of Agent or Solicitor to Whom Interest Paid

13. Additional details to be supplied to determine disposable property:

- (a) Foreseeable liabilities which you may be obliged to meet within 6 months (e.g., if you have guaranteed someone's bank account, or you are acting as surety on a bail bond, or you may have to pay a call on shares which are not fully paid up). [*Give details*]:

	Applicant	Spouse or Parent
(b) All debts not already mentioned:		

14. The following assets have been disposed of by me or by my wife/husband (parent if applicant a minor) during the period since I first asserted or disputed the claim in respect of which I have applied for legal aid:

Description of Assets	Market Value at Time of Transfer	Name and Address of Person to Whom Transferred	Date of Transfer	Amount Received for Transfer

SCHEDULE—continued

15. The following persons or organisations possess information relating to my financial resources:

Name	Address
(a)	
(b)	
(c)	
(d)	
(e)	
(f)	

I attach a completed copy of form 7, giving my consent to the disclosure of that information to the Committee, the Legal Aid Appeal Authority, or the Social Security Commission.

I solemnly and sincerely declare that to the best of my knowledge and belief the particulars supplied above regarding my (or the applicant's) income, assets, and financial commitments are correct in every detail. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Oaths and Declarations Act 1957.

Signature of Applicant.
or
Signed on behalf of Applicant.

Declared at this day of 19...., before me:

Justice of the Peace.
Notary Public.
Solicitor.
Registrar or Deputy Registrar of
Magistrate's Court or Supreme
Court.

Authorised Officer of the Social Security
Department.
Authorised Officer of the Department of
Justice.
Officer authorised to take statutory declara-
tions.

Reg. 12 (2)
Legal Aid Form 6

REPORT OF SOCIAL SECURITY COMMISSION

Application No. /

To:
The Secretary,
..... District Legal Aid Committee.

Date: / / 19....

I report as follows on this application by for legal aid:

SCHEDULE—continued

PART I

INCOME OF APPLICANT

Total income of the applicant for 12 months ended	/...../19.....	\$	
Deductions—		\$	
(a) Personal allowance	.. ..	520	
(b) Social security and income tax	.. ..	
(c) Rent	.. ..	
<i>or</i>			
Outgoings on home—			
Rates	.. ..	
Insurance premiums	.. ..	
Regular mortgage payments	.. ..	
Insurance premiums on any life policy assigned as collateral security for mortgage	.. ..	
(d) Insurance premiums on motor vehicle	.. ..	
(e) Family benefit	.. ..	
(f) Allowance for husband or wife if supported wholly or partly by applicant	.. ..	
(g) Allowance for dependent children or relatives (\$156 each)	.. ..	
(h) Recommended deduction due to locality in which applicant lives	.. ..	
Total deductions	.. ..	\$
Re-assessment of deductions recommended on account of outgoings on home being disproportionately large in relation to applicant's total income and resources	.. ..	\$
Disposable income	.. ..	\$

Comments:

[Continue on separate sheet if necessary.]

SCHEDULE—continued

PART II

CAPITAL OF APPLICANT

Capital assets of the applicant:			\$
.....			
.....			
.....			
.....			
Capital assets of wife/husband/parent, where relevant ..			
			<hr/>
Total capital of applicant for purpose of Legal Aid Act 1969			\$
			<hr/> <hr/>
Deductions—			
Value of interest in home, or \$8,000, whichever is the lesser	\$		\$
Assessed value of interest in motor vehicle (not to exceed \$1,000)			
Assessed value of interest in household furniture, household appliances, personal clothing, and tools of trade			
Amount of contingent liabilities reasonably likely to mature within the next 6 months			
Amount of actual unsecured debts of the applicant, other than those already taken into account			
Allowance for dependants			
Allowance for resources of applicant's wife/husband/parent			
			<hr/>
Total deductions			
			<hr/> <hr/>
Disposable capital			\$
			<hr/> <hr/>

Comments:

[Continue on a separate sheet if necessary.]

Assessment of Contribution—			\$
(a) From disposable income			
(b) From disposable capital			
			<hr/>
Recommended contribution			\$
			<hr/> <hr/>

I consider this contribution could be paid in instalments of \$. per, without causing hardship to the applicant.

..... (Signed)
 (Designation)

SCHEDULE—*continued*

Reg. 7 (5)

Legal Aid Form 7

CONSENT TO DISCLOSURE OF FINANCIAL INFORMATION TO THE LEGAL
AID AUTHORITIES

Application No. /

Date: / / 19....

With reference to my application to the District Legal Aid Committee for a grant of legal aid, I consent to the Legal Aid Appeal Authority, the Social Security Commission, or that District Legal Aid Committee, being given on request all information about my financial resources which is in the possession of any Department of State, organisation, or person. Under section 35 of the Legal Aid Act 1969, my signature on this form renders you legally obliged to comply with any such request.

This information is required for assessing the value of my resources in order to discover whether I am financially eligible for legal aid. I would thus be grateful for your full co-operation with the Legal Aid authorities.

..... (Signed)

..... (Name)

..... (Address)

.....

Regs. 5 (3), 8 (3)

Legal Aid Form 8

ENDORSEMENT ON APPLICATION MADE ON BEHALF OF
ANOTHER PERSON

Application No. /

[*Note: In some cases the District Legal Aid Committee may in its discretion decline to accept an application made on behalf of a person who is under 16 or suffering from physical or mental infirmity.*]

Date: / / 19....

1. I make and sign this application on behalf of the applicant who does not do so personally because: [*Delete those not applicable.*]
 - (a) He/she is not in New Zealand.
 - (b) He/she is under 16 years of age.
 - (c) He/she is of unsound mind.
 - (d) He/she is suffering from physical and/or mental infirmity which prevents him/her doing so personally.
 - (e) Other—

SCHEDULE—continued

2. [Delete unless applicant is under 16, or of unsound mind.]

- (a) I am/am not of full age and capacity.
- (b) I am/am not the applicant's next friend/guardian *ad litem* in the proceedings to which this application relates.
- (c) [Complete only if (b) is answered in the negative, and the applicant will be represented in the proceedings by a next friend or guardian *ad litem*.]:
I am making the application instead of the applicant's next friend/guardian *ad litem* because—

(d) I undertake to pay the Crown, if asked, any sum by way of contribution which the applicant, if he/she were of full age and capacity, might be required to pay if granted legal aid.

..... (Signed)
 (Address)



Reg.

Legal Aid Form 9

Application No. /

STATEMENT TO BE COMPLETED BY APPLICANT WHERE OTHERS HAVE A SIMILAR INTEREST IN THE PROCEEDINGS

Date: / / 19....

The following persons, and no others, have an interest in the proceedings which is similar to my own interest:

Name and Address	Interest in Proceedings	State Whether Person has been Joined as a Party in the Proceedings

.....
Applicant.

SCHEDULE—*continued*

Reg. 19

Legal Aid Form 10

APPEAL TO LEGAL AID APPEAL AUTHORITY

Application No. /

Appeal No. /

To:

The Legal Aid Appeal Authority,
 Care of The Secretary,
 District Legal Aid Committee.

Date: / / 19....

[This Notice of Appeal should be given to the secretary to the Committee which is dealing with your case. He will forward it to the Appeal Authority for you, together with all the Committee's papers dealing with your application.]

Date: / / 19....

1. I give notice that I wish to appeal to the Legal Aid Appeal Authority against a decision of the above Committee, given on / / 19...., in relation to the following aspect(s) of the decision.

[State whether the appeal is against a refusal to give legal aid, or the contribution the applicant must pay, or the withdrawal of legal aid, etc.]

2. My reasons for appealing are as follows:

[Continue on a separate sheet if necessary.]

..... (Signed)

P. J. BROOKS,
 Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations prescribe the forms to be used and the procedure to be followed in respect of applications for legal aid under the Legal Aid Act 1969.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 25 March 1970.

These regulations are administered in the Department of Justice.