



THE LEGAL AID REGULATIONS 1970, AMENDMENT NO. 2

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 16th day of December 1974

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.

REGULATIONS

1. Title—These regulations may be cited as the Legal Aid Regulations 1970, Amendment No. 2, and shall be read together with and deemed part of the Legal Aid Regulations 1970* (hereinafter referred to as the principal regulations).

2. Interpretation—Subclause (1) of regulation 2 of the principal regulations is hereby amended—

- (a) By omitting from the definition of the term “financial statement” the expression “in form 5”, and substituting the words “in a form approved by the Board”;
- (b) By omitting from the definition of the term “initial contribution” the expression “\$30 which may be”, and substituting the expression “\$15”;
- (c) By omitting the words “a reference to a numbered form is a reference to the form so numbered in the Schedule to these regulations”.

3. Forms—(1) The principal regulations are hereby amended by revoking—

*S.R. 1970/49
Amendment No. 1: S.R. 1972/127

(a) Subclause (1) of regulation 3:

(b) The Schedule.

(2) The Legal Aid Regulations 1970, Amendment No. 1, are hereby amended by revoking the Schedule.

4. Application by person not living in New Zealand—Regulation 5 of the principal regulations is hereby amended by revoking the words “in the manner specified in sections 11 and 12 of the Oaths and Declarations Act 1957” in the proviso to subclause (3).

5. Application on behalf of person not living in New Zealand—Regulation 5 of the principal regulations is hereby further amended by revoking subclause (4), and substituting the following subclause:

“(4) The person signing an application on behalf of a person not living in New Zealand shall state in a form approved by the Board that the applicant does not personally sign the application as that person is not in New Zealand.”

6. Procedure for making applications—(1) Regulation 7 of the principal regulations is hereby amended by revoking subclauses (1) and (2), and substituting the following subclauses:

“(1) All applications for legal aid shall be in a form approved by the Board, which form shall be made available by the Board for that purpose.

“(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 unless the applicant is exempted from that payment.”

(2) Regulation 7 of the principal regulations is hereby further amended by revoking subclause (5), and substituting the following subclause.

“(5) Every applicant shall include in his application, in a form approved by the Board, a consent to the disclosure of information relating to his financial resources.”

7. Applications by minors and persons under disability—Regulation 8 of the principal regulations is hereby amended by revoking subclause (3).

8. Applicant may be joined in proceedings with others—Regulation 10 of the principal regulations is hereby amended by omitting the words “in form 9”, and substituting the words “in a form approved by the Board”.

9. Revocation—Regulation 11 of the principal regulations is hereby revoked.

10. Procedure on receipt of application—The principal regulations are hereby amended by revoking regulation 12, and substituting the following regulation:

“12. On receiving an application for legal aid, the secretary shall refer it to the Social Security Commission for report.”

11. Decision of the Committee—Regulation 13 of the principal regulations is hereby amended—

- (a) By omitting from subclause (1) the words “both the applicant and the Secretary for Justice”, and substituting the words “the applicant”;
- (b) By inserting in subclause (2), after the word “decision”, the words “or within such further period as the Committee may allow either before or after the expiration of those 28 days”.

12. Emergency legal aid—Regulation 17 of the principal regulations is hereby amended—

- (a) By omitting from subclause (1) the words “in form 2”, and substituting the words “in a form approved by the Board”;
- (b) By inserting in subclause (4), after the word “allow”, the words “on application made to it in that behalf either before or after the expiration of those 21 days”;
- (c) By inserting in subclause (5), after the word “decision”, the words “or within such further period as the Committee may allow on application made to it in that behalf either before or after the expiration of those 28 days”.

13. Limited aid for small claims—Regulation 18 of the principal regulations is hereby amended—

- (a) By omitting from subclause (1) the words “in form 2”, and substituting the words “in a form approved by the Board for such an application”;
- (b) By inserting in subclause (4), after the words “same proceedings” the words “whether or not the proceedings are at an end”;
- (c) By omitting from subclause (5) the words “in form 1”, and substituting the words “in a form approved by the Board for an application pursuant to regulation 7 hereof”.

14. Appeals to Legal Aid Appeal Authority—Regulation 19 of the principal regulations is hereby amended by omitting the words “be lodged in form 10”, and substituting the words “be made in a form approved by the Board and shall be lodged”.

15. Change in financial circumstances—Regulation 20 of the principal regulations is hereby amended by inserting in subclause (4), after the word “notified”, the words “or within such further period as the Committee may allow on application made to it in that behalf either before or after the expiration of those 28 days”.

16. Amendment of determination where error or mistake—Subclause (3) of regulation 21 of the principal regulations is hereby amended—

- (a) By inserting, after the word “determination”, the words “or within such further period as the Committee may allow on application made to it in that behalf either before or after the expiration of those 28 days”;
- (b) By omitting from paragraph (a) the words “extends the last-mentioned period of time or”.

17. Enforcement of, and applications for exemption from, Crown's charge—Regulation 24 of the principal regulations, as substituted by regulation 7 of the Legal Aid Regulations 1970, Amendment No. 1, is hereby amended by omitting from subclause (1) the expression “in form 11”, and substituting the words “in a form approved by the Board”.

P. G. MILLEN,

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 amend the Legal Aid Regulations 1970 by revoking the prescribed forms and providing for the use of forms approved by the Board; by making provision for District Committees to grant extensions of periods of time prescribed by the regulations; and by making changes consequential on the Legal Aid Amendment Act 1974. The requirement to notify the Secretary for Justice of decisions of the District Committee is removed; and it is made clear that additional limited legal aid in respect of small claims may be given, whether or not the proceedings are at an end.

The regulations also remove the requirement that applications by persons not living in New Zealand be made in accordance with the Oaths and Declarations Act 1957.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 December 1974.

These regulations are administered in the Department of Justice.