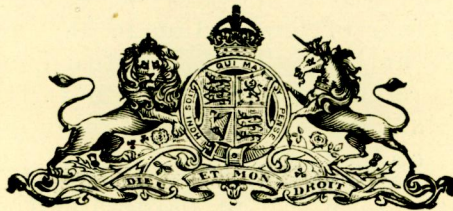


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 18 November, 1947.*

## New South Wales.



ANNO UNDECIMO

# GEORGII VI REGIS.

\*\*\*\*\*

Act No. , 1947.

An Act to amend the Legal Assistance Act, 1943, in certain respects; and for purposes connected therewith.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows:—

1. (1) This Act may be cited as the "Legal Assistance (Amendment) Act, 1947."

Short title and citation.

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*Legal Assistance (Amendment).*

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(2) The Legal Assistance Act, 1943, as amended by this Act, may be cited as the Legal Assistance Act, 1943-1947.

2. The Legal Assistance Act, 1943, is amended—

Amendment  
of Act  
No. 17, 1943.  
Sec. 6.  
(Application  
for  
assistance.)

5 (a) (i) by omitting from subsection two of section six all words after the words "by his next friend" and by inserting in lieu thereof the words—

"Where any application is so made then—

10 (a) a reference in subsection three or in paragraph (a) of subsection four of this section to an "applicant" shall be construed as a reference to both the next friend and the infant jointly or to either of them severally;

15 (b) a reference in paragraph (b) or paragraph (c) of subsection four of this section (as modified by subsection (4A) of this section) shall, in any case where the infant is unmarried and the next friend is a near relative (as defined in this subsection) of the infant be  
20 construed as a reference to both the next friend and the infant and in every other case shall be construed as a reference to the infant only.

25 In this subsection the expression "near relative" means—

- 30 (i) in the case of a lawful child—the father or, if the father be dead, the mother;
- 35 (ii) in the case of an adopted child—an adopting parent;
- (iii) in the case of an illegitimate child—the mother."

(ii)

---

*Legal Assistance (Amendment).*

---

(ii) by inserting after subsection four of the same section the following new subsection:—

5 (4A) For the purposes of paragraphs (b) and (c) of subsection four of this section—

10 (a) the Public Solicitor may, in any case where in his absolute discretion it appears to him to be reasonable to do so to relieve hardship, disregard any item or items of property.

15 (b) the Public Solicitor may, in any case where an applicant is living separate and apart from his or her spouse, as the case may be, and where it appears to him in his absolute discretion to be reasonable to do so to relieve hardship, disregard the income of the spouse;

20 (c) any payments by way of invalid pension or of child endowment under the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth or  
25 under any Act amending or replacing that Act or by way of military pension or otherwise under the Australian Soldiers Repatriation Act 1920-1947 of the  
30 Parliament of the Commonwealth or under any Act amending or replacing that Act shall in no case be taken into account in determining the income of the applicant  
35 or as income in determining any question of the dependency of any person on the applicant.

(iii)

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*Legal Assistance (Amendment).*

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- 5 (iii) by omitting from paragraph (b) of subsection five of the same section the words “notify the court of such cancellation and, as from the date of such notification” and by inserting in lieu thereof the words “file in court a notification of such cancellation, and, as from the date of filing of such notification”;
- 10 (iv) by inserting at the end of the same subsection the following new paragraph:—
- 15 (c) Upon the filing in court of such notification, then, unless otherwise ordered by a judge of the court in which the litigation is pending, all proceedings in the litigation shall, by virtue of this paragraph, be stayed for a period of seven days and, subject as aforesaid, during such period time fixed by or under any Act or by or under any rules of court regulations or otherwise for the doing of any act or the taking of any step in the proceeding shall not run.
- 20
- 25 (v) by inserting after subsection five of the same section the following new subsections:—
- 30 (6) The time during which proceedings are stayed by virtue of paragraph (c) of subsection five of this section may be reduced or extended by order of a judge of the court in which the litigation is pending.
- 35 (7) The Public Solicitor shall take such steps as seem to him to be reasonable or necessary to inform the person to whom a certificate has been granted of the cancellation of any such certificate.

(b)

*Legal Assistance (Amendment).*

(b) (i) by inserting after the word "assigned" where firstly occurring in subsection one of section eight the following proviso:—

Sec. 8.  
(Endorsement and filing of certificate.)

5

Provided that in any case where a solicitor is assigned to act after such certificate is filed in court, or in any case where a new assignment is made in lieu of a solicitor assigned previously, the Public Solicitor shall not be required to endorse on the certificate the name of the solicitor so assigned, or newly assigned, as the case may be, but may, instead, give notice of such assignment or new assignment by letter to the proper officer of the court in which the proceedings are pending.

10

15

(ii) by omitting from paragraph (a) of subsection five of the same section the words "for court fees";

20

(iii) by inserting in the same paragraph after the word "relates" the words "for court fees, or for such fees payable for the service of process as are required to be carried to the Consolidated Revenue Fund";

25

(c) (i) by inserting after subsection one of section twelve the following new subsection:—

Sec. 12.  
(Privileges attaching to certain relationships.)

30

(1A) Notwithstanding anything contained in subsection one of this section the privileges therein referred to shall not arise in relation to any information tendered to the Public Solicitor concerning the property or income of the applicant for a certificate under this Act.

35

(ii) by inserting at the end of subsection two of the same section the words—

"and no material declaration or information whatsoever tendered to or otherwise in the hands of the Public Solicitor

for

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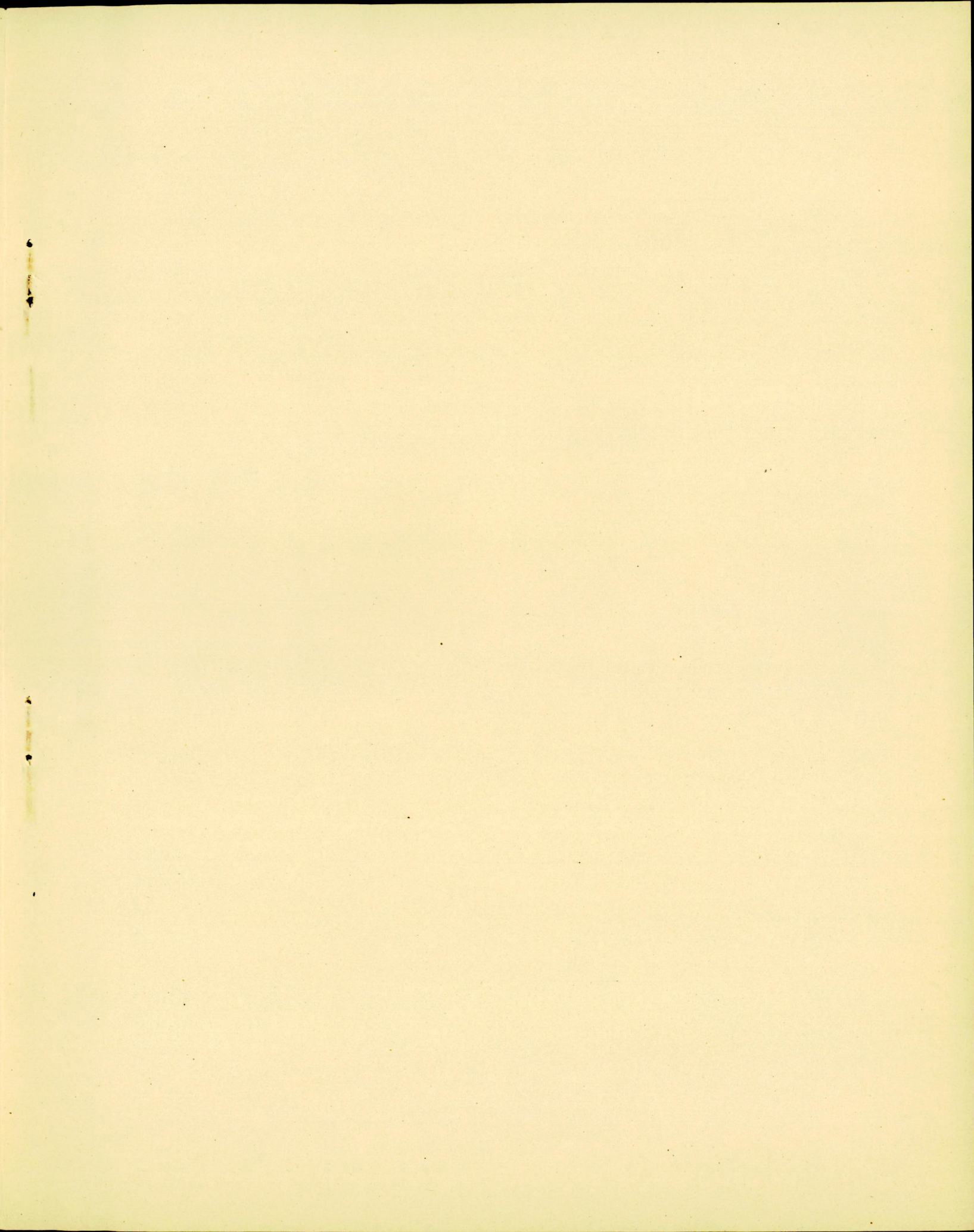
*Legal Assistance (Amendment).*

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5 for the purpose of the application for legal assistance and relating to the property or income of the applicant, or assisted person, as the case may be, shall, except with the consent of the applicant or assisted person, be referred to or be admissible in evidence upon any application for any such order."

10 (d) by inserting in subsection two of section fifteen after the words "fourteen days" the words—  
15 "and, during such period (unless otherwise ordered by any such judge) time fixed by or under any Act or by or under any rules of court regulations or otherwise for the doing of any act or the taking of any step in the proceedings shall not run".

Sec. 15.  
(Stay of proceedings upon making of application for assistance.)







No. , 1947.

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## A BILL

To amend the Legal Assistance Act, 1943,  
in certain respects; and for purposes con-  
nected therewith.

[MR. C. E. MARTIN;—12 November, 1947.]

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**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
5 the same, as follows :—

1. (1) This Act may be cited as the "Legal Assis-  
tance (Amendment) Act, 1947."

Short  
title and  
citation.

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*Legal Assistance (Amendment).*

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(2) The Legal Assistance Act, 1943, as amended by this Act, may be cited as the Legal Assistance Act, 1943-1947.

2. The Legal Assistance Act, 1943, is amended—

Amendment  
of Act  
No. 17, 1943.  
Sec. 6.  
(Application  
for  
assistance.)

5 (a) (i) by omitting from subsection two of section six all words after the words "by his next friend" and by inserting in lieu thereof the words—

"Where any application is so made then—

10 (a) a reference in subsection three or in paragraph (a) of subsection four of this section to an "applicant" shall be construed as a reference to both the next friend and the infant jointly or to either of them severally;

15 (b) a reference in paragraph (b) or paragraph (c) of subsection four of this section (as modified by subsection (4A) of this section) shall, in any case where the infant is unmarried and the next friend is a near relative (as defined in this subsection) of the infant be construed as a reference to both the next friend and the infant and in every other case shall be construed as a reference to the infant only.

20  
25  
30 In this subsection the expression "near relative" means—

- (i) in the case of a lawful child—the father or, if the father be dead, the mother;
- 35 (ii) in the case of an adopted child—an adopting parent;
- (iii) in the case of an illegitimate child—the mother."

(ii)

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*Legal Assistance (Amendment).*

---

(ii) by inserting after subsection four of the same section the following new subsection:—

5 (4A) For the purposes of paragraphs (b) and (c) of subsection four of this section—

(a) the Public Solicitor may, in any case where in his absolute discretion it appears to him to be reasonable to do so to relieve hardship, disregard any item or items of property, but in such case he shall take into account as income of the applicant—

15 (i) the net income actually derived by the applicant therefrom; or

(ii) the amount which such property would yield if converted into money and invested at interest at the rate of three and one eighth per centum per annum (or such other rate as may be prescribed in lieu thereof)

25 whichever is the greater.

(b) the Public Solicitor may, in any case where an applicant is living separate and apart from his or her spouse, as the case may be, and where it appears to him in his absolute discretion to be reasonable to do so to relieve hardship, disregard the income of the spouse;

35 (c) any payments by way of invalid pension or of child endowment under the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth or under any Act amending or replacing that Act or by way of  
40 military

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*Legal Assistance (Amendment).*

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- 5 military pension or otherwise  
under the Australian Soldiers  
Repatriation Act 1920-1947 of the  
Parliament of the Commonwealth  
or under any Act amending or  
replacing that Act shall in no case  
be taken into account in determin-  
ing the income of the applicant  
or as income in determining any  
10 question of the dependency of any  
person on the applicant.
- (iii) by omitting from paragraph (b) of sub-  
section five of the same section the words  
15 "notify the court of such cancellation and,  
as from the date of such notification" and  
by inserting in lieu thereof the words "file  
in court a notification of such cancellation,  
and, as from the date of filing of such  
notification";
- 20 (iv) by inserting at the end of the same sub-  
section the following new paragraph:—
- (c) Upon the filing in court of such  
notification, then, unless otherwise  
25 ordered by a judge of the court in  
which the litigation is pending, all  
proceedings in the litigation shall,  
by virtue of this paragraph, be  
stayed for a period of seven days  
and, subject as aforesaid, during  
30 such period time fixed by or under  
any Act or by or under any rules  
of court regulations or otherwise  
for the doing of any act or the  
taking of any step in the proceed-  
ing shall not run.
- 35 (v) by inserting after subsection five of the  
same section the following new subsec-  
tions:—
- (6) The time during which proceedings  
40 are stayed by virtue of paragraph (c) of  
subsection

*Legal Assistance (Amendment).*

subsection five of this section may be reduced or extended by order of a judge of the court in which the litigation is pending.

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

10 (b) (i) by inserting after the word "assigned" where firstly occurring in subsection one of section eight the following proviso:—

Sec. 8.  
(Endorsement and filing of certificate.)

15 Provided that in any case where a solicitor is assigned to act after such certificate is filed in court, or in any case where a new assignment is made in lieu of a solicitor assigned previously, the Public Solicitor shall not be required to endorse on the certificate the name of the solicitor so assigned, or newly assigned, as the case may be, but may, instead, give notice of such assignment or new assignment by letter to the proper officer of the court in which the proceedings are pending.

20 (ii) by omitting from paragraph (a) of subsection five of the same section the words "for court fees";

25 (iii) by inserting in the same paragraph after the word "relates" the words "for court fees, or for such fees payable for the service of process as are required to be carried to the Consolidated Revenue Fund";

30 (c) (i) by inserting after subsection one of section twelve the following new subsection:—

Sec. 12.  
(Privileges attaching to certain relationships.)

(1A) Notwithstanding anything contained in subsection one of this section the privileges therein referred to shall not

arise

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*Legal Assistance (Amendment).*

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arise in relation to any information tendered to the Public Solicitor concerning the property or income of the applicant for a certificate under this Act.

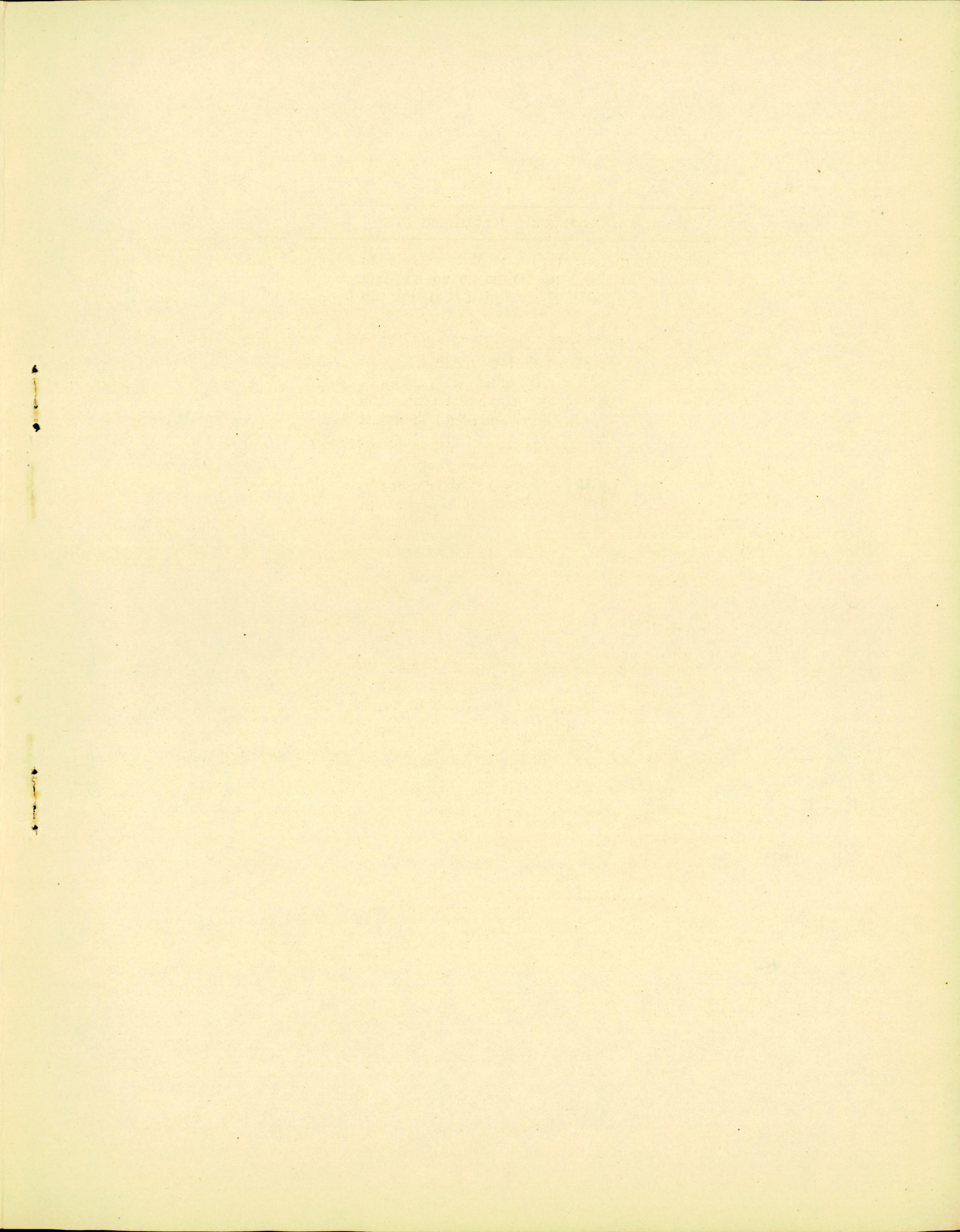
5 (ii) by inserting at the end of subsection two of the same section the words—

10 “and no material declaration or information whatsoever tendered to or otherwise in the hands of the Public Solicitor for the purpose of the application for legal assistance and relating to the property or income of the applicant, or  
15 assisted person, as the case may be, shall, except with the consent of the applicant or assisted person, be referred to or be admissible in evidence upon any application for any such order.”

20 (d) by inserting in subsection two of section fifteen after the words “fourteen days” the words—

25 “and, during such period (unless otherwise ordered by any such judge) time fixed by or under any Act or by or under any rules of court regulations or otherwise for the doing of any act or the taking of any step in the proceedings shall not run”.

Sec. 15.  
(Stay of proceedings upon making of application for assistance.)







## Legal Assistance (Amendment) Bill, 1947.

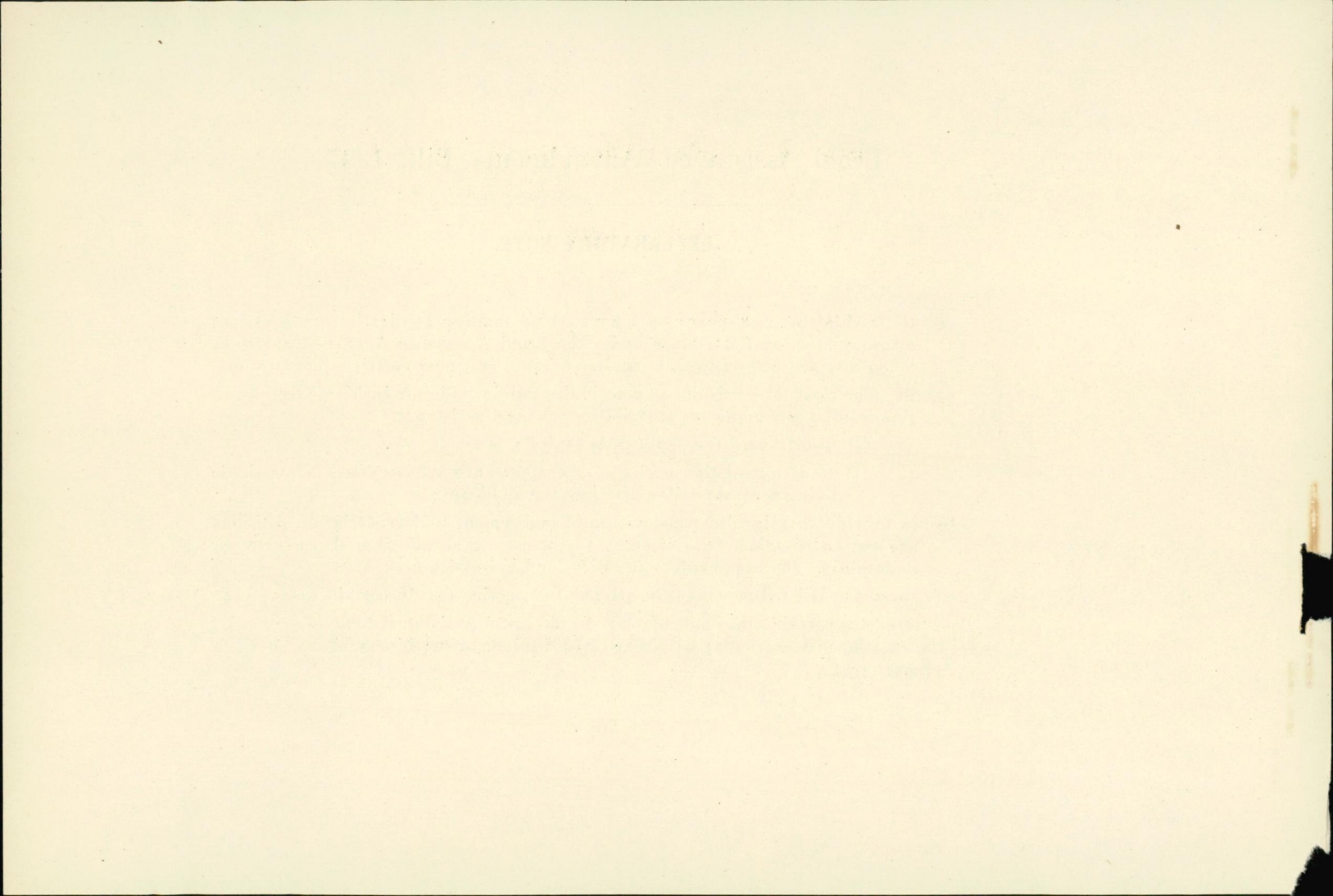
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### EXPLANATORY NOTE.

The objects of this Bill are—

- (a) to provide that the means of a next friend making application on behalf of an infant for legal assistance under the Legal Assistance Act, 1943, are to be taken into account only where the next friend is a near relative of the infant;
- (b) in order to avoid hardship, to permit the Public Solicitor in his discretion, in determining any applicant's eligibility for legal assistance—
  - (i) to disregard the applicant's capital;
  - (ii) to disregard the income of the applicant's spouse where he or she is living separate and apart from the applicant;
- (c) to provide that invalid pensions, child endowment and repatriation pensions are not to be taken into account as income or as affecting dependency in determining any applicant's eligibility for legal assistance;
- (d) to excuse assisted persons from payment of service fees in certain cases.

The Bill effects certain other amendments to the Legal Assistance Act, consequential upon the amendments particularised above or of a minor or machinery character.



PROOF

No. , 1947.

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## A BILL

To amend the Legal Assistance Act, 1943, in certain respects; and for purposes connected therewith.

[MR. C. E. MARTIN;—12 November, 1947.]

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of  
5 the same, as follows :—

1. (1) This Act may be cited as the "Legal Assistance (Amendment) Act, 1947."

Short  
title and  
citation.

56993 126—

(2)

*Legal Assistance (Amendment).*

(2) The Legal Assistance Act, 1943, as amended by this Act, may be cited as the Legal Assistance Act, 1943-1947.

2. The Legal Assistance Act, 1943, is amended—

Amendment  
of Act  
No. 17, 1943.  
Sec. 6.  
(Application  
for  
assistance.)

5 (a) (i) by omitting from subsection two of section six all words after the words "by his next friend" and by inserting in lieu thereof the words—

"Where any application is so made then—

10 (a) a reference in subsection three or in paragraph (a) of subsection four of this section to an "applicant" shall be construed as a reference to both the next friend and the infant jointly or to either of them severally;

15 (b) a reference in paragraph (b) or paragraph (c) of subsection four of this section (as modified by subsection (4A) of this section) shall, in any case where the infant is unmarried and the next friend is a near relative (as defined in this subsection) of the infant be  
20 construed as a reference to both the next friend and the infant and in every other case shall be construed as a reference to the infant only.

30 In this subsection the expression "near relative" means—

(i) in the case of a lawful child—the father or, if the father be dead, the mother;

35 (ii) in the case of an adopted child—an adopting parent;

(iii) in the case of an illegitimate child—the mother."

(ii)

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*Legal Assistance (Amendment).*

---

(ii) by inserting after subsection four of the same section the following new subsection:—

5 (4A) For the purposes of paragraphs (b) and (c) of subsection four of this section—

10 (a) the Public Solicitor may, in any case where in his absolute discretion it appears to him to be reasonable to do so to relieve hardship, disregard any item or items of property, but in such case he shall take into account as income of the applicant—

15 (i) the net income actually derived by the applicant therefrom; or

20 (ii) the amount which such property would yield if converted into money and invested at interest at the rate of three and one eighth per centum per annum (or such other rate as may be prescribed in lieu thereof)

25 whichever is the greater.

30 (b) the Public Solicitor may, in any case where an applicant is living separate and apart from his or her spouse, as the case may be, and where it appears to him in his absolute discretion to be reasonable to do so to relieve hardship, disregard the income of the spouse;

35 (c) any payments by way of invalid pension or of child endowment under the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth or under any Act amending or replacing that Act or by way of

40

**military**

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*Legal Assistance (Amendment).*

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- 5 military pension or otherwise  
under the Australian Soldiers  
Repatriation Act 1920-1947 of the  
Parliament of the Commonwealth  
or under any Act amending or  
replacing that Act shall in no case  
be taken into account in determin-  
ing the income of the applicant  
or as income in determining any  
10 question of the dependency of any  
person on the applicant.
- (iii) by omitting from paragraph (b) of sub-  
section five of the same section the words  
15 “notify the court of such cancellation and,  
as from the date of such notification” and  
by inserting in lieu thereof the words “file  
in court a notification of such cancellation,  
and, as from the date of filing of such  
notification”;
- 20 (iv) by inserting at the end of the same sub-  
section the following new paragraph:—
- (c) Upon the filing in court of such  
25 notification, then, unless otherwise  
ordered by a judge of the court in  
which the litigation is pending, all  
proceedings in the litigation shall,  
by virtue of this paragraph, be  
stayed for a period of seven days  
30 and, subject as aforesaid, during  
such period time fixed by or under  
any Act or by or under any rules  
of court regulations or otherwise  
for the doing of any act or the  
35 taking of any step in the proceed-  
ing shall not run.
- (v) by inserting after subsection five of the  
same section the following new subsec-  
tions:—
- 40 (6) The time during which proceedings  
are stayed by virtue of paragraph (c) of  
subsection

*Legal Assistance (Amendment).*

subsection five of this section may be reduced or extended by order of a judge of the court in which the litigation is pending.

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

10 (b) (i) by inserting after the word "assigned" where firstly occurring in subsection one of section eight the following proviso:—

Sec. 8.  
(Endorsement and filing of certificate.)

15 Provided that in any case where a solicitor is assigned to act after such certificate is filed in court, or in any case where a new assignment is made in lieu of a solicitor assigned previously, the Public Solicitor shall not be required to endorse on the certificate the name of the solicitor so

20 assigned, or newly assigned, as the case may be, but may, instead, give notice of such assignment or new assignment by letter to the proper officer of the court in which the proceedings are pending.

25 (ii) by omitting from paragraph (a) of subsection five of the same section the words "for court fees";

30 (iii) by inserting in the same paragraph after the word "relates" the words "for court fees, or for such fees payable for the service of process as are required to be carried to the Consolidated Revenue Fund";

35 (c) (i) by inserting after subsection one of section twelve the following new subsection:—

Sec. 12.  
(Privileges attaching to certain relationships.)

(1A) Notwithstanding anything contained in subsection one of this section the privileges therein referred to shall not

arise

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*Legal Assistance (Amendment).*

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arise in relation to any information tendered to the Public Solicitor concerning the property or income of the applicant for a certificate under this Act.

5 (ii) by inserting at the end of subsection two of the same section the words—

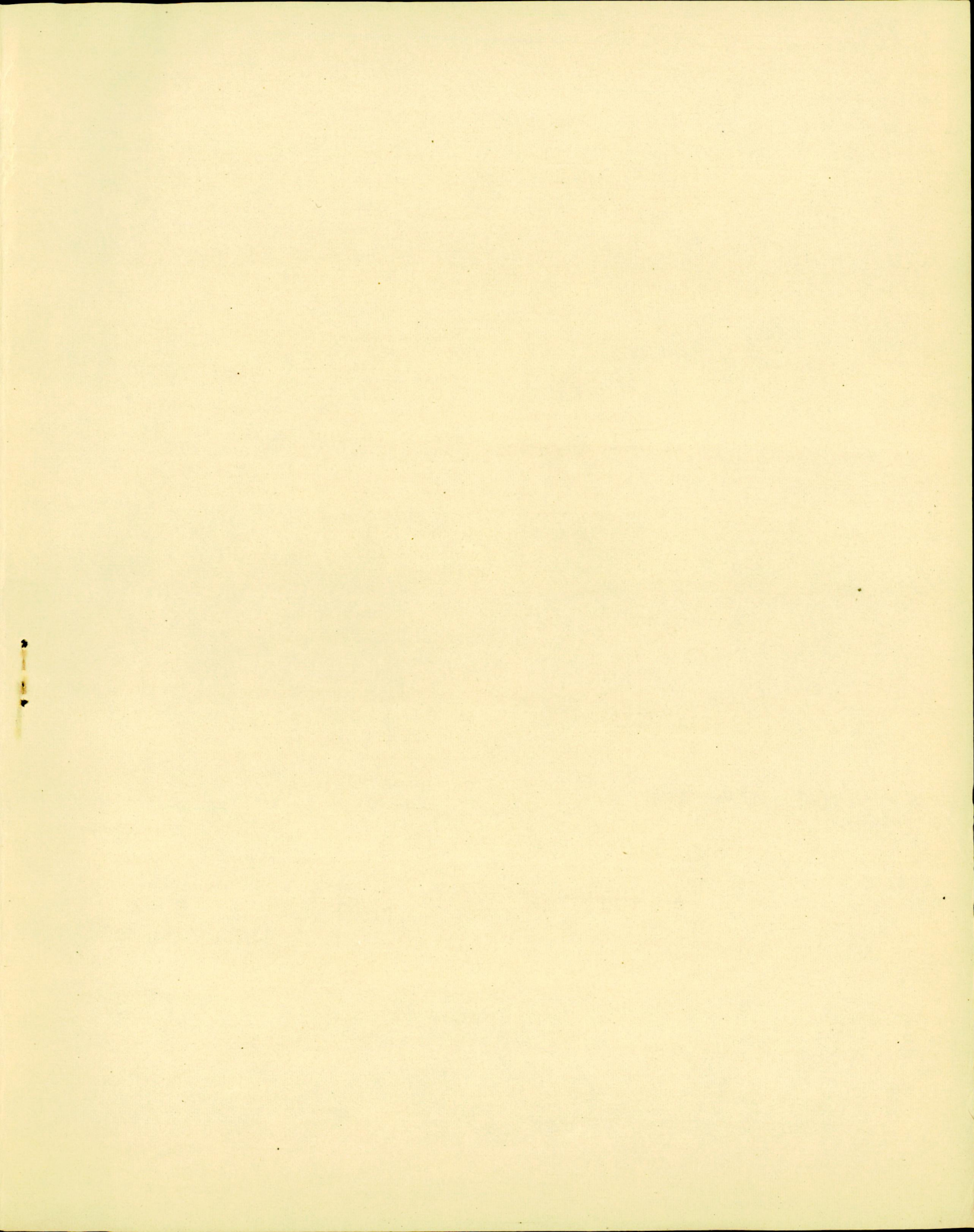
10 “and no material declaration or information whatsoever tendered to or otherwise in the hands of the Public Solicitor for the purpose of the application for legal assistance and relating to the property or income of the applicant, or  
15 assisted person, as the case may be, shall, except with the consent of the applicant or assisted person, be referred to or be admissible in evidence upon any application for any such order.”

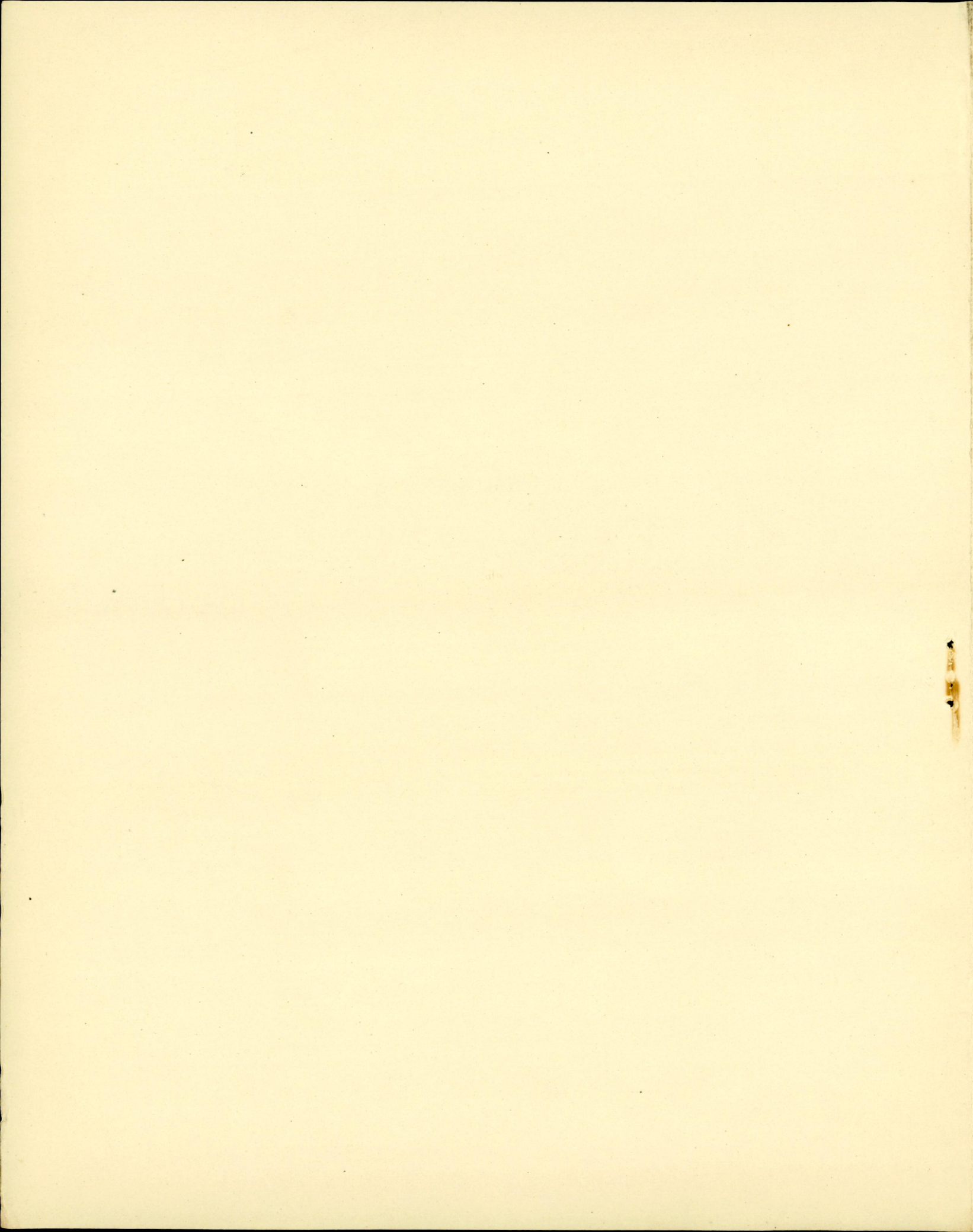
20 (d) by inserting in subsection two of section fifteen after the words “fourteen days” the words—

25 “and, during such period (unless otherwise ordered by any such judge) time fixed by or under any Act or by or under any rules of court regulations or otherwise for the doing of any act or the taking of any step in the proceedings shall not run”.

Sec. 15.  
(Stay of proceedings upon making of application for assistance.)







New South Wales.



ANNO UNDECIMO

GEORGII VI REGIS.

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Act No. 30, 1947.

An Act to amend the Legal Assistance Act, 1943, in certain respects; and for purposes connected therewith. [Assented to, 9th December, 1947.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Legal Assistance (Amendment) Act, 1947."

Short  
title and  
citation.

---

*Legal Assistance (Amendment).*

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(2) The Legal Assistance Act, 1943, as amended by this Act, may be cited as the Legal Assistance Act, 1943-1947.

Amendment  
of Act  
No. 17, 1943.  
Sec. 6.  
(Application  
for  
assistance.)

2. The Legal Assistance Act, 1943, is amended—

(a) (i) by omitting from subsection two of section six all words after the words “by his next friend” and by inserting in lieu thereof the words—

“Where any application is so made then—

(a) a reference in subsection three or in paragraph (a) of subsection four of this section to an “applicant” shall be construed as a reference to both the next friend and the infant jointly or to either of them severally;

(b) a reference in paragraph (b) or paragraph (c) of subsection four of this section (as modified by subsection (4A) of this section) shall, in any case where the infant is unmarried and the next friend is a near relative (as defined in this subsection) of the infant be construed as a reference to both the next friend and the infant and in every other case shall be construed as a reference to the infant only.

In this subsection the expression “near relative” means—

- (i) in the case of a lawful child—the father or, if the father be dead, the mother;
- (ii) in the case of an adopted child—an adopting parent;
- (iii) in the case of an illegitimate child—the mother.”

(ii)

---

*Legal Assistance (Amendment).*

---

(ii) by inserting after subsection four of the same section the following new subsection:—

(4A) For the purposes of paragraphs (b) and (c) of subsection four of this section—

(a) the Public Solicitor may, in any case where in his absolute discretion it appears to him to be reasonable to do so to relieve hardship, disregard any item or items of property.

(b) the Public Solicitor may, in any case where an applicant is living separate and apart from his or her spouse, as the case may be, and where it appears to him in his absolute discretion to be reasonable to do so to relieve hardship, disregard the income of the spouse;

(c) any payments by way of invalid pension or of child endowment under the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth or under any Act amending or replacing that Act or by way of military pension or otherwise under the Australian Soldiers Repatriation Act 1920-1947 of the Parliament of the Commonwealth or under any Act amending or replacing that Act shall in no case be taken into account in determining the income of the applicant or as income in determining any question of the dependency of any person on the applicant.

(iii)

---

*Legal Assistance (Amendment).*

---

(iii) by omitting from paragraph (b) of subsection five of the same section the words "notify the court of such cancellation and, as from the date of such notification" and by inserting in lieu thereof the words "file in court a notification of such cancellation, and, as from the date of filing of such notification";

(iv) by inserting at the end of the same subsection the following new paragraph:—

(c) Upon the filing in court of such notification, then, unless otherwise provided by a judge of the court in which the proceedings are pending, all proceedings in the litigation shall be stayed for a period of seven days and, subject as aforesaid, during such period time fixed by or under any Act or by or under any rules of court regulations or otherwise for the doing of any act or the taking of any step in the proceeding shall not run.

(v) by inserting after subsection five of the same section the following new subsections:—

(6) The time during which proceedings are stayed by virtue of paragraph (c) of subsection five of this section may be reduced or extended by order of a judge of the court in which the litigation is pending.

(7) The Public Solicitor shall take such steps as seem to him to be reasonable or necessary to inform the person to whom a certificate has been granted of the cancellation of any such certificate.

(b)

---

*Legal Assistance (Amendment).*

---

- (b) (i) by inserting after the word "assigned" where firstly occurring in subsection one of section eight the following proviso:—

Sec. 8.  
(Endorsement and filing of certificate.)

Provided that in any case where a solicitor is assigned to act after such certificate is filed in court, or in any case where a new assignment is made in lieu of a solicitor assigned previously, the Public Solicitor shall not be required to endorse on the certificate the name of the solicitor so assigned, or newly assigned, as the case may be, but may, instead, give notice of such assignment or new assignment by letter to the proper officer of the court in which the proceedings are pending.

- (ii) by omitting from paragraph (a) of subsection five of the same section the words "for court fees";
- (iii) by inserting in the same paragraph after the word "relates" the words "for court fees, or for such fees payable for the service of process as are required to be carried to the Consolidated Revenue Fund";
- (c) (i) by inserting after subsection one of section twelve the following new subsection:—

Sec. 12.  
(Privileges attaching to certain relationships.)

(1A) Notwithstanding anything contained in subsection one of this section the privileges therein referred to shall not arise in relation to any information tendered to the Public Solicitor concerning the property or income of the applicant for a certificate under this Act.

- (ii) by inserting at the end of subsection two of the same section the words—

"and no material declaration or information whatsoever tendered to or otherwise in the hands of the Public Solicitor

for

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*Legal Assistance (Amendment).*

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for the purpose of the application for legal assistance and relating to the property or income of the applicant, or assisted person, as the case may be, shall, except with the consent of the applicant or assisted person, be referred to or be admissible in evidence upon any application for any such order.”

Sec. 15.  
 (Stay of proceedings upon making of application for assistance.)

- (d) by inserting in subsection two of section fifteen after the words “fourteen days” the words—  
 “and, during such period (unless otherwise ordered by any such judge) time fixed by or under any Act or by or under any rules of court regulations or otherwise for the doing of any act or the taking of any step in the proceedings shall not run”.

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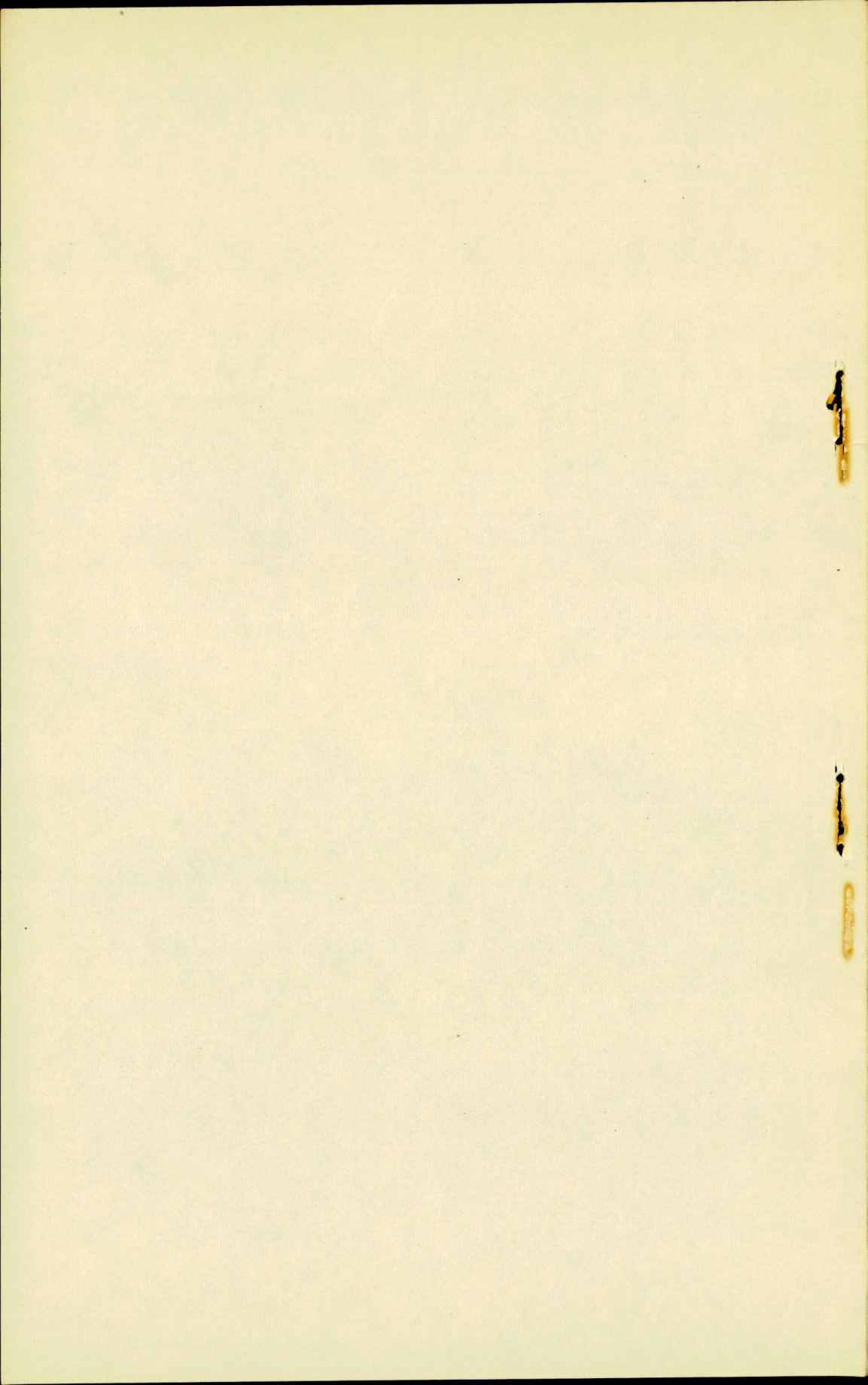
By Authority:

THOMAS HENRY TENNANT, Government Printer, Sydney, 1948.

[3d.]







*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 26 November, 1947.*

## New South Wales.



ANNO UNDECIMO

# GEORGII VI REGIS.

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Act No. 30, 1947.

An Act to amend the Legal Assistance Act, 1943, in certain respects; and for purposes connected therewith. [Assented to, 9th December, 1947.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Legal Assistance (Amendment) Act, 1947." Short title and citation.

(2)

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

G. BOOTH,  
*Chairman of Committees of the Legislative Assembly.*

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*Legal Assistance (Amendment).*

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(2) The Legal Assistance Act, 1943, as amended by this Act, may be cited as the Legal Assistance Act, 1943-1947.

Amendment  
of Act  
No. 17, 1943.  
Sec. 6.  
(Application  
for  
assistance.)

2. The Legal Assistance Act, 1943, is amended—

(a) (i) by omitting from subsection two of section six all words after the words “by his next friend” and by inserting in lieu thereof the words—

“Where any application is so made then—

(a) a reference in subsection three or in paragraph (a) of subsection four of this section to an “applicant” shall be construed as a reference to both the next friend and the infant jointly or to either of them severally;

(b) a reference in paragraph (b) or paragraph (c) of subsection four of this section (as modified by subsection (4A) of this section) shall, in any case where the infant is unmarried and the next friend is a near relative (as defined in this subsection) of the infant be construed as a reference to both the next friend and the infant and in every other case shall be construed as a reference to the infant only.

In this subsection the expression “near relative” means—

- (i) in the case of a lawful child—the father or, if the father be dead, the mother;
- (ii) in the case of an adopted child—an adopting parent;
- (iii) in the case of an illegitimate child—the mother.”

(ii)

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*Legal Assistance (Amendment).*

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(ii) by inserting after subsection four of the same section the following new subsection:—

(4A) For the purposes of paragraphs (b) and (c) of subsection four of this section—

(a) the Public Solicitor may, in any case where in his absolute discretion it appears to him to be reasonable to do so to relieve hardship, disregard any item or items of property.

(b) the Public Solicitor may, in any case where an applicant is living separate and apart from his or her spouse, as the case may be, and where it appears to him in his absolute discretion to be reasonable to do so to relieve hardship, disregard the income of the spouse;

(c) any payments by way of invalid pension or of child endowment under the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth or under any Act amending or replacing that Act or by way of military pension or otherwise under the Australian Soldiers Repatriation Act 1920-1947 of the Parliament of the Commonwealth or under any Act amending or replacing that Act shall in no case be taken into account in determining the income of the applicant or as income in determining any question of the dependency of any person on the applicant.

(iii)

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*Legal Assistance (Amendment).*

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(iii) by omitting from paragraph (b) of subsection five of the same section the words "notify the court of such cancellation and, as from the date of such notification" and by inserting in lieu thereof the words "file in court a notification of such cancellation, and, as from the date of filing of such notification";

(iv) by inserting at the end of the same subsection the following new paragraph:—

(c) Upon the filing in court of such notification, then, unless otherwise ordered by a judge of the court in which the litigation is pending, all proceedings in the litigation shall, by virtue of this paragraph, be stayed for a period of seven days and, subject as aforesaid, during such period time fixed by or under any Act or by or under any rules of court regulations or otherwise for the doing of any act or the taking of any step in the proceeding shall not run.

(v) by inserting after subsection five of the same section the following new subsections:—

(6) The time during which proceedings are stayed by virtue of paragraph (c) of subsection five of this section may be reduced or extended by order of a judge of the court in which the litigation is pending.

(7) The Public Solicitor shall take such steps as seem to him to be reasonable or necessary to inform the person to whom a certificate has been granted of the cancellation of any such certificate.

(b)

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*Legal Assistance (Amendment).*


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- (b) (i) by inserting after the word "assigned" where firstly occurring in subsection one of section eight the following proviso:—

Sec. 8.  
(Endorsement and filing of certificate.)

Provided that in any case where a solicitor is assigned to act after such certificate is filed in court, or in any case where a new assignment is made in lieu of a solicitor assigned previously, the Public Solicitor shall not be required to endorse on the certificate the name of the solicitor so assigned, or newly assigned, as the case may be, but may, instead, give notice of such assignment or new assignment by letter to the proper officer of the court in which the proceedings are pending.

- (ii) by omitting from paragraph (a) of subsection five of the same section the words "for court fees";
- (iii) by inserting in the same paragraph after the word "relates" the words "for court fees, or for such fees payable for the service of process as are required to be carried to the Consolidated Revenue Fund";

- (c) (i) by inserting after subsection one of section twelve the following new subsection:—

Sec. 12.  
(Privileges attaching to certain relationships.)

(1A) Notwithstanding anything contained in subsection one of this section the privileges therein referred to shall not arise in relation to any information tendered to the Public Solicitor concerning the property or income of the applicant for a certificate under this Act.

- (ii) by inserting at the end of subsection two of the same section the words—

"and no material declaration or information whatsoever tendered to or otherwise in the hands of the Public Solicitor

for

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*Legal Assistance (Amendment).*

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for the purpose of the application for legal assistance and relating to the property or income of the applicant, or assisted person, as the case may be, shall, except with the consent of the applicant or assisted person, be referred to or be admissible in evidence upon any application for any such order."

Sec. 15.  
(Stay of proceedings upon making of application for assistance.)

(d) by inserting in subsection two of section fifteen after the words "fourteen days" the words—

"and, during such period (unless otherwise ordered by any such judge) time fixed by or under any Act or by or under any rules of court regulations or otherwise for the doing of any act or the taking of any step in the proceedings shall not run".

*In the name and on behalf of His Majesty I assent to this Act.*

J. NORTHCOTT,  
Governor.

*Government House,  
Sydney, 9th December, 1947.*



