# New South Wales

ANNO UNDEVICESIMO

# ELIZABETHÆ II REGINÆ

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

## Act No. 37, 1970.

An Act to provide for the establishment of a scheme of legal aid for persons who do not qualify for assistance under the Legal Assistance Act, 1943; to provide for the conduct of that scheme by the council of The Law Society of New South Wales; to amend the Legal Practitioners Act, 1898, and the Suitors' Fund Act, 1951, in certain respects; and for purposes connected therewith. [Assented to, 18th August, 1970.]

P 27215 [15c] BE

BE it enacted by the Queen'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:—

Short title and commencement.

**1.** (1) This Act may be cited as the "Legal Practitioners (Legal Aid) Act, 1970".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Interpretation.

**2.** (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"certificate" means a certificate referred to in section five of this Act;

"contributor" means a person in respect of whom a certificate is in force;

"regulations" means regulations under this Act;

"resolutions" means resolutions made by the council in pursuance of this Act;

"scheme" means the scheme referred to in section three of this Act.

(2) This Act shall be read and construed with and as part of the Legal Practitioners Act, 1898.

Scheme.

**3.** (1) The council shall conduct a scheme of legal aid for the purpose of providing legal aid for persons who do not qualify for assistance under the Legal Assistance Act, 1943.

(2) The Governor may make regulations, not inconsistent with this Act, for or with respect to the establishment and conduct of the scheme.

(3)

(3) The council may make resolutions, not inconsistent with this Act or the regulations, for or with respect to the establishment and conduct of the scheme.

(4) Notwithstanding anything in this Act, regulations may be made in relation to any matter in relation to which resolutions may be made.

(5) Any specification of the matters in relation to which the regulations or resolutions may be made in any other section of this Act does not affect the generality of the foregoing provisions of this section.

**Administration.**

**4.** (1) The resolutions may make provision for or with respect to—

(a) the appointment of a Legal Aid Committee, regional or local committees, or other committees;

(b) the appointment of a Legal Aid Manager or other officers; and

(c) the delegation of any powers, authorities, duties or functions of the council (whether or not conferred or imposed by this Act) under or in connection with the scheme to any committee or person so appointed, and otherwise determining the powers, authorities, duties and functions of any such committee or person.

(2) A person appointed under the resolutions made in pursuance of paragraph (a) or (b) of subsection one of this section shall hold office upon such terms and conditions as the council determines.

(3) For purposes associated with the scheme, the council may—

(a) with the approval of the Minister administering the Department concerned and of the Public Service Board, and on such terms as may be arranged, make use of the services of an officer or employee of any Government Department;

(b) with the approval of the Minister administering any Government instrumentality or Government agency, and on such terms as may be arranged, make use of the services of an officer or employee of the Government instrumentality or Government agency, whether or not the provisions of the Public Service Act, 1902, apply to the appointment of the officer or employee; or

(c) arrange with any person, firm or corporation for the use by the council, on such terms as may be agreed upon, of the services of any employee of that person, firm or corporation.

(4) Any committee appointed under resolutions made in pursuance of subsection one of this section shall be deemed to be constituted under this Act, and the provisions of section thirty-nine of the Interpretation Act, 1897, shall apply accordingly.

Certificates.

**5.** (1) The resolutions shall provide for the issue of legal aid certificates.

(2) A certificate shall specify—

(a) the person in respect of whom it has been issued, being a person whose application for legal aid has been granted under the scheme;

(b) the proceedings in respect of which that legal aid has been granted;

(c) the extent (if any) to which it is to have application to any necessary assistance given by a solicitor or a barrister in the steps preliminary and incidental to the proceedings specified in the certificate or in arriving at or giving effect to a compromise or settlement to avoid or bring an end to the proceedings;

(d) the solicitor by whom that person may be represented; and

(e)

(e) whether or not, in the opinion of the council, it is necessary for a barrister to represent that person in those proceedings.

(3) The resolutions may make provision for or with respect to—

(a) the classes of certificates that may be issued, the committee or other body or person who may issue certificates of each such class, and the limitations (if any) upon the application or operation of certificates of any such class;

(b) the manner of making applications for legal aid under the scheme;

(c) the manner of granting applications for legal aid under the scheme; or

(d) the amendment, discharge or revocation of certificates.

Terms and conditions attaching to a certificate.

**6.** (1) A certificate—

(a) shall be subject to such terms and conditions as are specified or referred to in the certificate;

(b) shall, subject to the terms and conditions specified or referred to in the certificate, entitle the person in respect of whom it has been issued to legal aid as provided by the scheme;

(c) shall not, by reason only of the issue of the certificate, entitle the person in respect of whom it has been issued to be indemnified, from the Legal Aid Fund, against costs ordered or adjudged to be paid by him in favour of any other party to the proceedings to which the certificate relates; and

(d) shall contain a statement to the effect of the matter set out in paragraph (c) of this subsection.

(2)

(2) A certificate shall not be issued in respect of a person unless he has agreed to the terms and conditions specified or referred to therein in so far as they relate to him.

(3) A solicitor shall not be specified in a certificate unless he has agreed to the terms and conditions specified or referred to therein in so far as they relate to him.

(4) The terms and conditions specified or referred to in a certificate shall be binding upon the person in respect of whom the certificate has been issued and the solicitor specified in the certificate, in so far as the terms and conditions relate to each of them respectively.

(5) The terms and conditions specified or referred to in a certificate shall be binding upon a barrister, acting in the proceedings to which the certificate relates, to the extent provided by the resolutions.

(6) Without affecting the generality of subsection one of this section, the terms and conditions of a certificate may relate to—

(a) regulating the receipt by, and the making of payments to, the solicitor specified in the certificate, or a barrister acting in the proceedings on behalf of the contributor in respect of the proceedings to which the certificate relates, whether by way of costs, disbursements or otherwise;

(b) the determination of the consequences of the amendment, discharge or revocation of the certificate, and in particular—

(i) the liability of any person to make any payment to the Legal Aid Fund on account of any payments made therefrom prior to the amendment, discharge or revocation; and

(ii) the entitlement of any person to receive any payment from the Legal Aid Fund upon the amendment, discharge or revocation; or

(c)

(c) providing for the payment of moneys to which the person in respect of whom the certificate was issued may be entitled as a result of the proceedings to which the certificate relates, or as a result of a compromise or settlement which avoids or brings an end to those proceedings, to the solicitor specified in the certificate or to the Society.

(7) Any moneys paid in pursuance of a term or condition as contemplated by paragraph (c) of subsection six of this section shall be dealt with in such manner as the resolutions determine.

(8) The resolutions may make provision for or with respect to the deduction from any moneys referred to in subsection seven of this section of the whole or any part of any moneys paid from the Legal Aid Fund in respect of the contributor who is (except in so far as this section provides) entitled to the firstmentioned moneys.

Contributions.

**7.** Where a person's application for legal aid under this Act is granted, it shall be a condition of the issue of a certificate that he pay a contribution of such amount (being not less than fifty dollars) as is specified in the certificate.

Proceedings in respect of which certificate may be issued.

**8.** (1) Certificates shall not be issued except in respect of such classes of proceedings in the Supreme Court, or in a District Court, or in such other courts, as may be prescribed by the regulations.

(2) A certificate shall not be issued unless a determination is made in accordance with the resolutions that the applicant for legal aid under the scheme has reasonable grounds for taking, defending, continuing or being a party to the proceedings to which the application relates.

(3) Any costs incurred by the council in determining whether an applicant has reasonable grounds as referred to in subsection two of this section may be paid from the Legal Aid Fund.

**9.**

Issue of certificate in respect of part of proceedings.

**9.** A certificate may, in lieu of being issued in respect of the whole of any proceedings specified in the certificate, be issued in respect of such part of those proceedings as is so specified, and the provisions of this Act shall have effect accordingly.

Financial eligibility to be granted legal aid.

**10.** (1) An application for legal aid under the scheme shall not be granted where it appears that—

(a) the applicant is possessed of or entitled to property of a total value of more than one thousand dollars exclusive of—

(i) the subject-matter of the proceedings;

(ii) wearing apparel of the applicant;

(iii) tools of trade of the applicant;

(iv) household furniture used by the applicant in his home;

(v) an interest in a dwelling house owned and used by the applicant as his home, in so far as the interest does not exceed ten thousand dollars at the date of the application; and

(vi) an interest in a motor vehicle used by the applicant otherwise than in the ordinary course of business in so far as the interest does not exceed one thousand two hundred dollars at the date of the application; or

(b) the income of the applicant, together with the income (if any) of the spouse of the applicant, during the period of twelve months preceding the making of the application, after deducting therefrom an amount equal to three hundred dollars for each person totally dependent on the applicant or spouse, exceeds an amount calculated by adding the sum of two thousand two hundred dollars to the

the annual equivalent of the basic wage for adult males in force within the meaning of Part V of the Industrial Arbitration Act, 1940, immediately before the application is made,

or if some other property or income limitations or both are for the time being prescribed by the regulations, shall not be granted where those limitations are exceeded.

(2) Except as may be prescribed by the regulations, the council may, for the purpose of granting legal aid in any case where, in its absolute discretion it appears to it to be reasonable to do so to relieve hardship, disregard—

(a) any item or items of property of the applicant; or

(b) any income of the spouse of the applicant.

(3) Where an application for legal aid under the scheme is made by an administrator, executor, trustee or next friend, the application shall not be granted where it appears that such property and income limitations in respect of such person or persons as are prescribed by the regulations are exceeded.

Service or filing of documents.

**11.** The resolutions may make provision for or with respect to the service or filing of notices or documents for the purposes of the scheme.

Subrogation.

**12.** Where payment is made from the Legal Aid Fund in respect of a person who is a contributor, the Society shall be subrogated, to the extent of the payment, to all the rights and remedies of that person in relation to the proceedings in respect of which the payment is made.

Discretionary payments.

**13.** The council may, in its discretion, authorise the payment from the Legal Aid Fund of such amount to such person as it thinks fit to relieve hardship arising or resulting from any proceedings in respect of which a certificate has been issued.

**14.**

Subsidiary provisions as to costs.

**14.** (1) Where—

(a) a person has any right to be indemnified against costs incurred by him in connection with any proceedings;

(b) a certificate has been issued in respect of that person and those proceedings; and

(c) payment has been made from the Legal Aid Fund in respect of that person and those proceedings,

the right of indemnity shall enure for the benefit of the Society as if any costs incurred by the Legal Aid Fund on behalf of that person in connection with those proceedings had been incurred by him.

(2) This Act shall not be construed so as to remove or affect any obligation upon a person to pay, or to indemnify another person against, costs awarded or adjudged in connection with any proceedings in respect of which a certificate has been issued.

Legal Aid Fund.

**15.** (1) The council shall establish and administer a fund, to be called the "Legal Aid Fund".

(2) There shall be paid into the Legal Aid Fund—

(a) all amounts applied under subsection two of section 44A of the Legal Practitioners Act, 1898, for the purpose set out in paragraph (a) of that subsection;

(b) all moneys recovered by the Society in the exercise of its rights under any terms or conditions specified or referred to in a certificate; and

(c) all other amounts required or authorised by this Act or the regulations or resolutions to be paid into the Legal Aid Fund.

(3) There shall be paid out of the Legal Aid Fund—

(a) all administrative costs relating to the establishment and conduct of the scheme, whether incurred before or after the commencement of this Act;

(b)

(b) all amounts to be paid out of the Legal Aid Fund in accordance with the terms and conditions specified or referred to in a certificate; and

(c) all other amounts required or authorised by this Act or the regulations or resolutions to be paid out of the Legal Aid Fund.

(4) An account shall be kept by the council of all moneys paid into and out of the Legal Aid Fund and the account shall be audited annually by an accountant approved of by the Prothonotary and appointed by the council.

Privileges and immunities.

**16.** (1) The like privileges as those which arise from the relationship of client and solicitor acting in his professional capacity and in the course of his professional employment shall arise between an applicant for legal aid or a contributor and the Society, the council, any committee established in pursuance of this Act, the Legal Aid Manager and any employee of the Society.

(2) Without affecting the generality of subsection one of this section, the Society, the council, any committee established in pursuance of this Act, the Legal Aid Manager or any employee of the Society is not required to divulge to any person or court any information or document (including an application for legal aid) that relates to any matter connected with the scheme.

(3) Nothing in the foregoing provisions of this section applies in respect of—

(a) proceedings for any offence;

(b) any disciplinary proceedings under the Legal Practitioners Act, 1898; or

(c) any proceedings by which the Society is seeking to recover any moneys from any person in respect of whom a certificate has been issued.

(4)

(4) No matter or thing done or omitted to be done by the Society, the council, any committee or any person shall, if the matter or thing was done or omitted to be done bona fide for the purpose of executing this Act, subject the Society, the council, or the committee, or any member thereof or the person, to any action, liability, claim or demand whatsoever.

(5) The provisions of the Defamation Act, 1958, shall extend and apply to any investigation and decision made by the Society, the council, any committee established in pursuance of this Act, the Legal Aid Manager or any employee of the Society for the purposes of the scheme and to any proceedings of the Society, the council or any such committee conducted for those purposes.

Annual report.

**17.** The council shall, as soon as practicable after the thirtieth day of June in each year, cause a report of the operation of the scheme during the year ending on that day to be prepared and forwarded to the Minister.

Determination of matters under regulations or resolutions.

**18.** A regulation or resolution may authorise any matter or thing to be from time to time determined, applied or regulated by any person or committee specified therein, either generally or for any class of cases or in any particular case.

Amendment of Act No. 22, 1898.

**19.** The Legal Practitioners Act, 1898, is amended—

Sec. 44A. (Statutory Interest Account.)

(a) by omitting paragraph (a) of subsection two of section 44A and by inserting in lieu thereof the following paragraph :—

(a) the establishment of the scheme of legal aid under the Legal Practitioners (Legal Aid) Act, 1970, and the conduct of that scheme;

Sec. 87. (Governor's power to make regulations.)

(b) by omitting paragraph (c) of subsection one of section eighty-seven.

**20.**

**20.** The Suitors' Fund Act, 1951, is amended by omitting from subsection (1A) of section 6A the words "has the meaning ascribed thereto by section two of the Legal Assistance Act, 1943" and by inserting in lieu thereof the words "means an assisted person within the meaning of section two of the Legal Assistance Act, 1943, or a contributor within the meaning of section two of the Legal Practitioners (Legal Aid) Act, 1970".

Amendment of Act No. 3, 1951.

Sec. 6A.

(Costs of proceedings not completed by reason of death of judge, &c., or for reasons not attributable to acts, &c., of parties.)

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970

*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.

I. P. K. VIDLER,
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,*
*Sydney,* 11 *August,* 1970.

# New South Wales


ANNO UNDEVICESIMO

# ELIZABETHÆ II REGINÆ

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

## Act No. 37, 1970.

An Act to provide for the establishment of a scheme of legal aid for persons who do not qualify for assistance under the Legal Assistance Act, 1943; to provide for the conduct of that scheme by the council of The Law Society of New South Wales; to amend the Legal Practitioners Act, 1898, and the Suitors' Fund Act, 1951, in certain respects; and for purposes connected therewith. [Assented to, 18th August, 1970.]

BE

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

L. A. PUNCH,
*Chairman of Committees of the Legislative Assembly.*

BE it enacted by the Queen'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:—

Short title and commencement.

**1.** (1) This Act may be cited as the "Legal Practitioners (Legal Aid) Act, 1970".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Interpretation.

**2.** (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"certificate" means a certificate referred to in section five of this Act;

"contributor" means a person in respect of whom a certificate is in force;

"regulations" means regulations under this Act;

"resolutions" means resolutions made by the council in pursuance of this Act;

"scheme" means the scheme referred to in section three of this Act.

(2) This Act shall be read and construed with and as part of the Legal Practitioners Act, 1898.

Scheme.

**3.** (1) The council shall conduct a scheme of legal aid for the purpose of providing legal aid for persons who do not qualify for assistance under the Legal Assistance Act, 1943.

(2) The Governor may make regulations, not inconsistent with this Act, for or with respect to the establishment and conduct of the scheme.

(3) The council may make resolutions, not inconsistent with this Act or the regulations, for or with respect to the establishment and conduct of the scheme.

(4) Notwithstanding anything in this Act, regulations may be made in relation to any matter in relation to which resolutions may be made.

(5) Any specification of the matters in relation to which the regulations or resolutions may be made in any other section of this Act does not affect the generality of the foregoing provisions of this section.

**Administration.**

**4.** (1) The resolutions may make provision for or with respect to—

(a) the appointment of a Legal Aid Committee, regional or local committees, or other committees;

(b) the appointment of a Legal Aid Manager or other officers; and

(c) the delegation of any powers, authorities, duties or functions of the council (whether or not conferred or imposed by this Act) under or in connection with the scheme to any committee or person so appointed, and otherwise determining the powers, authorities, duties and functions of any such committee or person.

(2) A person appointed under the resolutions made in pursuance of paragraph (a) or (b) of subsection one of this section shall hold office upon such terms and conditions as the council determines.

(3) For purposes associated with the scheme, the council may—

(a) with the approval of the Minister administering the Department concerned and of the Public Service Board, and on such terms as may be arranged, make use of the services of an officer or employee of any Government Department;

(b) with the approval of the Minister administering any Government instrumentality or Government agency, and on such terms as may be arranged, make use of the services of an officer or employee of the Government instrumentality or Government agency, whether or not the provisions of the Public Service Act, 1902, apply to the appointment of the officer or employee; or

(c) arrange with any person, firm or corporation for the use by the council, on such terms as may be agreed upon, of the services of any employee of that person, firm or corporation.

(4) Any committee appointed under resolutions made in pursuance of subsection one of this section shall be deemed to be constituted under this Act, and the provisions of section thirty-nine of the Interpretation Act, 1897, shall apply accordingly.

Certificates.

**5.** (1) The resolutions shall provide for the issue of legal aid certificates.

(2) A certificate shall specify—

(a) the person in respect of whom it has been issued, being a person whose application for legal aid has been granted under the scheme;

(b) the proceedings in respect of which that legal aid has been granted;

(c) the extent (if any) to which it is to have application to any necessary assistance given by a solicitor or a barrister in the steps preliminary and incidental to the proceedings specified in the certificate or in arriving at or giving effect to a compromise or settlement to avoid or bring an end to the proceedings;

(d) the solicitor by whom that person may be represented; and

(e)

(e) whether or not, in the opinion of the council, it is necessary for a barrister to represent that person in those proceedings.

(3) The resolutions may make provision for or with respect to—

(a) the classes of certificates that may be issued, the committee or other body or person who may issue certificates of each such class, and the limitations (if any) upon the application or operation of certificates of any such class;

(b) the manner of making applications for legal aid under the scheme;

(c) the manner of granting applications for legal aid under the scheme; or

(d) the amendment, discharge or revocation of certificates.

Terms and conditions attaching to a certificate.

**6.** (1) A certificate—

(a) shall be subject to such terms and conditions as are specified or referred to in the certificate;

(b) shall, subject to the terms and conditions specified or referred to in the certificate, entitle the person in respect of whom it has been issued to legal aid as provided by the scheme;

(c) shall not, by reason only of the issue of the certificate, entitle the person in respect of whom it has been issued to be indemnified, from the Legal Aid Fund, against costs ordered or adjudged to be paid by him in favour of any other party to the proceedings to which the certificate relates; and

(d) shall contain a statement to the effect of the matter set out in paragraph (c) of this subsection.

(2) A certificate shall not be issued in respect of a person unless he has agreed to the terms and conditions specified or referred to therein in so far as they relate to him.

(3) A solicitor shall not be specified in a certificate unless he has agreed to the terms and conditions specified or referred to therein in so far as they relate to him.

(4) The terms and conditions specified or referred to in a certificate shall be binding upon the person in respect of whom the certificate has been issued and the solicitor specified in the certificate, in so far as the terms and conditions relate to each of them respectively.

(5) The terms and conditions specified or referred to in a certificate shall be binding upon a barrister, acting in the proceedings to which the certificate relates, to the extent provided by the resolutions.

(6) Without affecting the generality of subsection one of this section, the terms and conditions of a certificate may relate to—

(a) regulating the receipt by, and the making of payments to, the solicitor specified in the certificate, or a barrister acting in the proceedings on behalf of the contributor in respect of the proceedings to which the certificate relates, whether by way of costs, disbursements or otherwise;

(b) the determination of the consequences of the amendment, discharge or revocation of the certificate, and in particular—

(i) the liability of any person to make any payment to the Legal Aid Fund on account of any payments made therefrom prior to the amendment, discharge or revocation; and

(ii) the entitlement of any person to receive any payment from the Legal Aid Fund upon the amendment, discharge or revocation; or

(c) providing for the payment of moneys to which the person in respect of whom the certificate was issued may be entitled as a result of the proceedings to which the certificate relates, or as a result of a compromise or settlement which avoids or brings an end to those proceedings, to the solicitor specified in the certificate or to the Society.

(7) Any moneys paid in pursuance of a term or condition as contemplated by paragraph (c) of subsection six of this section shall be dealt with in such manner as the resolutions determine.

(8) The resolutions may make provision for or with respect to the deduction from any moneys referred to in subsection seven of this section of the whole or any part of any moneys paid from the Legal Aid Fund in respect of the contributor who is (except in so far as this section provides) entitled to the firstmentioned moneys.

Contributions.

**7.** Where a person's application for legal aid under this Act is granted, it shall be a condition of the issue of a certificate that he pay a contribution of such amount (being not less than fifty dollars) as is specified in the certificate.

Proceedings in respect of which certificate may be issued.

**8.** (1) Certificates shall not be issued except in respect of such classes of proceedings in the Supreme Court, or in a District Court, or in such other courts, as may be prescribed by the regulations.

(2) A certificate shall not be issued unless a determination is made in accordance with the resolutions that the applicant for legal aid under the scheme has reasonable grounds for taking, defending, continuing or being a party to the proceedings to which the application relates.

(3) Any costs incurred by the council in determining whether an applicant has reasonable grounds as referred to in subsection two of this section may be paid from the Legal Aid Fund.

Issue of certificate in respect of part of proceedings.

**9.** A certificate may, in lieu of being issued in respect of the whole of any proceedings specified in the certificate, be issued in respect of such part of those proceedings as is so specified, and the provisions of this Act shall have effect accordingly.

Financial eligibility to be granted legal aid.

**10.** (1) An application for legal aid under the scheme shall not be granted where it appears that—

(a) the applicant is possessed of or entitled to property of a total value of more than one thousand dollars exclusive of—

(i) the subject-matter of the proceedings;

(ii) wearing apparel of the applicant;

(iii) tools of trade of the applicant;

(iv) household furniture used by the applicant in his home;

(v) an interest in a dwelling house owned and used by the applicant as his home, in so far as the interest does not exceed ten thousand dollars at the date of the application; and

(vi) an interest in a motor vehicle used by the applicant otherwise than in the ordinary course of business in so far as the interest does not exceed one thousand two hundred dollars at the date of the application; or

(b) the income of the applicant, together with the income (if any) of the spouse of the applicant, during the period of twelve months preceding the making of the application, after deducting therefrom an amount equal to three hundred dollars for each person totally dependent on the applicant or spouse, exceeds an amount calculated by adding the sum of two thousand two hundred dollars to the

the annual equivalent of the basic wage for adult males in force within the meaning of Part V of the Industrial Arbitration Act, 1940, immediately before the application is made,

or if some other property or income limitations or both are for the time being prescribed by the regulations, shall not be granted where those limitations are exceeded.

(2) Except as may be prescribed by the regulations, the council may, for the purpose of granting legal aid in any case where, in its absolute discretion it appears to it to be reasonable to do so to relieve hardship, disregard—

(a) any item or items of property of the applicant; or

(b) any income of the spouse of the applicant.

(3) Where an application for legal aid under the scheme is made by an administrator, executor, trustee or next friend, the application shall not be granted where it appears that such property and income limitations in respect of such person or persons as are prescribed by the regulations are exceeded.

Service or filing of documents.

**11.** The resolutions may make provision for or with respect to the service or filing of notices or documents for the purposes of the scheme.

Subrogation.

**12.** Where payment is made from the Legal Aid Fund in respect of a person who is a contributor, the Society shall be subrogated, to the extent of the payment, to all the rights and remedies of that person in relation to the proceedings in respect of which the payment is made.

Discretionary payments.

**13.** The council may, in its discretion, authorise the payment from the Legal Aid Fund of such amount to such person as it thinks fit to relieve hardship arising or resulting from any proceedings in respect of which a certificate has been issued.

**14.**

Subsidiary provisions as to costs.

**14.** (1) Where—

(a) a person has any right to be indemnified against costs incurred by him in connection with any proceedings;

(b) a certificate has been issued in respect of that person and those proceedings; and

(c) payment has been made from the Legal Aid Fund in respect of that person and those proceedings,

the right of indemnity shall enure for the benefit of the Society as if any costs incurred by the Legal Aid Fund on behalf of that person in connection with those proceedings had been incurred by him.

(2) This Act shall not be construed so as to remove or affect any obligation upon a person to pay, or to indemnify another person against, costs awarded or adjudged in connection with any proceedings in respect of which a certificate has been issued.

Legal Aid Fund.

**15.** (1) The council shall establish and administer a fund, to be called the "Legal Aid Fund".

(2) There shall be paid into the Legal Aid Fund—

(a) all amounts applied under subsection two of section 44A of the Legal Practitioners Act, 1898, for the purpose set out in paragraph (a) of that subsection;

(b) all moneys recovered by the Society in the exercise of its rights under any terms or conditions specified or referred to in a certificate; and

(c) all other amounts required or authorised by this Act or the regulations or resolutions to be paid into the Legal Aid Fund.

(3) There shall be paid out of the Legal Aid Fund—

(a) all administrative costs relating to the establishment and conduct of the scheme, whether incurred before or after the commencement of this Act;

(b)

(b) all amounts to be paid out of the Legal Aid Fund in accordance with the terms and conditions specified or referred to in a certificate; and

(c) all other amounts required or authorised by this Act or the regulations or resolutions to be paid out of the Legal Aid Fund.

(4) An account shall be kept by the council of all moneys paid into and out of the Legal Aid Fund and the account shall be audited annually by an accountant approved of by the Prothonotary and appointed by the council.

Privileges and immunities.

**16.** (1) The like privileges as those which arise from the relationship of client and solicitor acting in his professional capacity and in the course of his professional employment shall arise between an applicant for legal aid or a contributor and the Society, the council, any committee established in pursuance of this Act, the Legal Aid Manager and any employee of the Society.

(2) Without affecting the generality of subsection one of this section, the Society, the council, any committee established in pursuance of this Act, the Legal Aid Manager or any employee of the Society is not required to divulge to any person or court any information or document (including an application for legal aid) that relates to any matter connected with the scheme.

(3) Nothing in the foregoing provisions of this section applies in respect of—

(a) proceedings for any offence;

(b) any disciplinary proceedings under the Legal Practitioners Act, 1898; or

(c) any proceedings by which the Society is seeking to recover any moneys from any person in respect of whom a certificate has been issued.

(4)

(4) No matter or thing done or omitted to be done by the Society, the council, any committee or any person shall, if the matter or thing was done or omitted to be done bona fide for the purpose of executing this Act, subject the Society, the council, or the committee, or any member thereof or the person, to any action, liability, claim or demand whatsoever.

(5) The provisions of the Defamation Act, 1958, shall extend and apply to any investigation and decision made by the Society, the council, any committee established in pursuance of this Act, the Legal Aid Manager or any employee of the Society for the purposes of the scheme and to any proceedings of the Society, the council or any such committee conducted for those purposes.

Annual report.

**17.** The council shall, as soon as practicable after the thirtieth day of June in each year, cause a report of the operation of the scheme during the year ending on that day to be prepared and forwarded to the Minister.

Determination of matters under regulations or resolutions.

**18.** A regulation or resolution may authorise any matter or thing to be from time to time determined, applied or regulated by any person or committee specified therein, either generally or for any class of cases or in any particular case.

Amendment of Act No. 22, 1898.

**19.** The Legal Practitioners Act, 1898, is amended—

Sec. 44A. (Statutory Interest Account.)

(a) by omitting paragraph (a) of subsection two of section 44A and by inserting in lieu thereof the following paragraph :—

(a) the establishment of the scheme of legal aid under the Legal Practitioners (Legal Aid) Act, 1970, and the conduct of that scheme;

Sec. 87. (Governor's power to make regulations.)

(b) by omitting paragraph (c) of subsection one of section eighty-seven.

**20.**

**20.** The Suitors' Fund Act, 1951, is amended by omitting from subsection (1A) of section 6A the words "has the meaning ascribed thereto by section two of the Legal Assistance Act, 1943" and by inserting in lieu thereof the words "means an assisted person within the meaning of section two of the Legal Assistance Act, 1943, or a contributor within the meaning of section two of the Legal Practitioners (Legal Aid) Act, 1970".

Amendment of Act No. 3, 1951.

Sec. 6A.

(Costs of proceedings not completed by reason of death of judge, &c., or for reasons not attributable to acts, &c., of parties.)

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

A. R. CUTLER,
*Governor.*

*Government House,*
*Sydney, 18th August,* 1970.