

## THE LEGAL AID ACT

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## SCHEDULE

## THE LEGAL AID ACT

[1st May, 2000.]

Acts  
 36 of 1997,  
 2 of 2006,  
 34 of 2005,  
 S. 23,  
 13 of 2014  
 S. 51,  
 29 of 2015,  
 14 of 2017  
 S. 30.

PART I. *Preliminary*

1. This Act may be cited as the Legal Aid Act.
2. In this Act—

Short title.

Inter-  
pretation.

“applicant” means any person—

- (a) who makes an application for legal aid pursuant to this Act or on whose behalf such an application is made; or
- (b) who, being a person who appears to a certifying authority to be of unsound mind, is in the opinion of that authority in need of legal aid;

“the Board” means the Board of Directors of the Council;

“certifying authority” means—

- (a) the Executive Director;
- (b) the Director of a clinic;
- (c) the Resident Magistrate before whom a person is charged with an offence or civil proceedings are initiated, as the case may be;
- (d) a Judge of the Supreme Court or of the Court of Appeal or the Registrar of the Supreme Court or of the Court of Appeal;

“chairman” means the chairman of the Board and includes any person for the time being performing the functions of the chairman;

\* “civil cause or matter” includes any matter which is not a criminal matter;

“clinic” means—

- (a) a legal aid clinic established by the Council pursuant to this Act for the purpose of providing legal aid to persons of small or moderate means;
- (b) the existing bodies known as the Kingston Legal Aid Clinic Limited and the Montego Bay Legal Aid Clinic Limited;
- (c) any other body established for the purpose mentioned in paragraph (a) which, on application made to the Minister, is approved by him on the recommendation of the Council as a legal aid clinic;

“correctional institution” has the meaning assigned to that expression in the Corrections Act;

“Council” means the Legal Aid Council established by section 3;

“excepted offence” means an offence prescribed under this Act, whether in specific terms or with reference to a particular description, in relation to which legal aid shall not be granted under this Act;

“excepted matter or proceeding” means any matter or proceeding prescribed under this Act, whether in specific terms or with reference to a particular description, in respect of which legal aid shall not be granted;

“Executive Director” means the Executive Director of Legal Aid appointed pursuant to section 13;

“functions” includes powers and duties;

“legal aid” means legal services by way of legal advice, assistance or representation provided pursuant to this Act;

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\*Not yet in force.

“legal aid certificate” means a certificate granted under this Act by a certifying authority, thereby enabling the applicant therefor to obtain legal aid;

“member” means a member of the Board;

“panel” means the list of attorneys-at-law available to give professional service in accordance with the provisions of this Act;

“person” does not include a body of persons, corporate or unincorporate;

“probation and after-care officer” means a person appointed as such under the Corrections Act.

*PART II. Legal Aid Council*

3.—(1) There shall be established for the purposes of this Act, a body to be called the Legal Aid Council which shall be a body corporate to which the provisions of section 28 of the Interpretation Act shall apply.

Establishment of Legal Aid Council.

(2) The provisions of the Schedule shall have effect with respect to the constitution and operation of the Council, and otherwise in relation thereto.

Schedule.

4.—(1) The functions of the Council shall be—

Functions of the Council.

- (a) to provide and administer legal aid in accordance with the provisions of this Act;
- (b) to organize the establishment and operation of clinics and, to such extent as it thinks necessary or desirable, to regulate the geographic areas of operation of each clinic;
- (c) to keep under review the policies and laws, including this Act, for the time being in force relating to legal aid and to make such recommendations to the Minister relating thereto as it thinks fit;
- (d) to receive and administer the resources of the Council;

- (e) to do such other things as may be expedient or necessary for the proper performance of its functions under this Act.

(2) In particular and without prejudice to the generality of subsection (1), the Council shall have power—

- (a) to establish, in accordance with such regulations as may be prescribed, procedures to determine the eligibility of applicants for legal aid and the contribution, if any, to be made by any applicant towards the cost of any service rendered to him pursuant to this Act;
- (b) to allocate funds to, and to monitor the expenditure of funds at clinics and to withhold funds from any clinic operating contrary to the provisions of this Act or to the instructions of the Council;
- (c) to establish panels in respect of each clinic in the prescribed manner and, subject to subsection (3), to add to or remove from that panel any attorney-at-law where the Council is satisfied that it is in the interest of justice so to do;
- (d) to establish and maintain, after consultation with the Jamaican Bar Association and the Advocates Association of Jamaica, and with the approval of the Minister, a tariff of fees to be paid by the Council to members of the panel for services rendered;
- (e) to establish and monitor the implementation of standards and procedures for the operation of clinics;
- (f) to undertake any enquiry or investigation which the Council thinks necessary or desirable in relation to the discharge of its functions;
- (g) to take such steps as it thinks fit to ensure that legal aid is provided in an efficient and co-ordinated manner; and

- (h) to promote or cause to be promoted programmes designed to enhance public awareness of the legal aid system in Jamaica.

(3) Any person aggrieved by a decision not to add an attorney-at-law to a panel or to remove any attorney-at-law from a panel, may appeal to an appeals committee comprised of three persons appointed for the purpose by the Minister on the recommendations of the Jamaican Bar Association and the Advocates Association of Jamaica; and the decision of the appeals committee shall be final.

5. The Minister may, after consultation with the chairman, give to the Council directions of a general character as to the policy to be followed by the Council in the performance of its functions, and the Council shall give effect thereto.

Ministerial  
directions as  
to policy.

6. The resources of the Council shall comprise—

Resources of  
the Council.

- (a) such sums as may from time to time be placed at the disposition of the Council by Parliament for the purposes of this Act;
- (b) sums donated to the Council by any person or organization;
- (c) contributions to be made by applicants for legal aid;
- (d) costs awarded to any applicant, or any part of such costs;
- (e) such other sums as may lawfully be paid to the Council.

7. The Council may, within such limits as the Minister responsible for finance may fix from time to time, borrow money for the purpose of enabling it to perform its functions under this Act.

Borrowing  
powers.

8.—(1) With the approval of the House of Representatives, the Minister responsible for finance may guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal and the payment of interest on any authorized borrowings of the Council.

Loan  
guarantee.

(2) Notwithstanding anything to the contrary, where any loan is, pursuant to subsection (1), guaranteed by the Minister responsible for finance, the repayment of the principal moneys and interest represented by the loan so guaranteed shall, during the continuance of such guarantee, be a first charge upon such revenue and assets of the Council as shall be specified by the Minister.

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or in the payment of interest guaranteed under the provisions of this section, he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund and assets of Jamaica, of the amount in respect of which there has been such default.

(4) The Council shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as that Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Power to  
invest  
moneys.

9. All moneys of the Council not immediately required to be expended to meet any obligations or to discharge any functions of the Council may be invested in such securities as may be approved either generally or specifically by the Minister and the Council may, with the approval of the Minister, sell all or any of such securities.

Accounts  
and audit.

10.—(1) The Council shall keep proper accounts and other records in relation to the business of the Council and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with the best commercial standards.



(2) The accounts of the Council shall be audited annually by an auditor appointed annually for the purpose by the Council and approved by the Minister.

(3) Within three months after the end of each financial year or within such further time as may be allowed by the Minister, the Council shall submit the statement of its accounts referred to in subsection (1) to the Minister, together with a copy of any report made by the auditor on that statement and on the accounts of the Council.

(4) The Auditor-General shall be entitled at all reasonable times to examine the accounts and other records of the Council.

11. The Council shall on or before the 31st day of October in each year, submit to the Minister for approval, an estimate of the operational expenses and income in respect of the financial year next following. Estimates.

12.—(1) The Council shall, within three months after the expiration of each financial year or within such further time as may be allowed by the Minister, cause to be made and transmitted to the Minister, a report dealing generally with the activities of the Council during that financial year. Annual report.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be tabled in the House of Representatives and the Senate.

13.—(1) The Council shall appoint and employ at such remuneration and on such terms and conditions as it thinks fit, an Executive Director of Legal Aid, a secretary, and such other officers, agents and employees as it thinks necessary for the proper performance of its functions: Appointment of Executive Director and other officers.

Provided that—

- (a) no salary exceeding the prescribed rate shall be assigned to any post without the prior approval of the Minister; and

- (b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned, without the prior approval of the Minister.

(2) The Executive Director shall be responsible to the Council for the day-to-day administration of the business of the Council; and where the Executive Director is absent or unable to act and no acting appointment has been made by the Council, the Council may authorize an officer in its service to perform temporarily the functions of the Executive Director.

(3) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of the Government to any office with the Council, and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

(4) The Council may, with the approval of the Minister, enter into arrangements respecting schemes whether by way of insurance policies or otherwise and make rules in respect of medical benefits, pensions, gratuities and other retiring or disability benefits or death benefits relating to employees of the Council and such arrangements or rules may include provisions for the grant of benefits to the dependants and the legal personal representatives of such employees.

(5) In subsection (1) the prescribed rate means a rate of three hundred thousand dollars per annum or such higher rate as the Minister may, by order, prescribe.

Delegation  
of powers.

14.—(1) The Council may delegate to any member or to any officer, employee or agent of the Council, the power and authority to carry out such functions as the Council may determine.

(2) Every delegation shall be revocable by the Council and no delegation shall prevent the exercise by the Council of any functions so delegated.

PART III. *Legal Aid In Criminal Matters*

## 15.—(1) Legal aid may be granted to—

- (a) any person who is detained at a police station or in a lock up, correctional institution or other similar place; or
- (b) an accused in respect of the conduct of plea negotiations under section 6 of the Plea Negotiations and Agreements Act;

Grant of legal aid in criminal matters. 34/2005 S. 23(a). *v.e.f.* 1.11.2010.

14/2017 S. 30.

in accordance with such regulations as may be prescribed establishing a scheme for the provision of legal aid in such circumstances.

## (2) Where—

- (a) an application for legal aid is made by or on behalf of a person in relation to an offence (other than an excepted offence); and
- (b) it appears to the certifying authority, on an assessment made under section 19, that the person's means are insufficient to enable him to obtain legal services,

the certifying authority may grant to that person a legal aid certificate as described in subsection (3).

(2A) Upon making a direction, pursuant to the provisions of section 25(2) of the Criminal Justice (Administration) Act, that the issue of the fitness of a defendant be tried, a court may grant to the defendant a legal aid certificate—

2/2006 S. 2.

- (a) in such circumstances as may be prescribed pursuant to that section; and
- (b) in respect of any offence, including an excepted offence.

(3) The legal aid certificate referred to in subsection (2) shall—

- (a) entitle the person to who it is granted to such legal aid as may be specified therein for the preparation and conduct of his defence in the appropriate proceedings or in such of those proceedings as are specified in that certificate; and
- (b) state the contribution (if any) which that person is required to make towards the cost of such legal aid.

(4) In subsection (3) “appropriate proceedings” means—

- (a) in respect of a legal aid certificate granted by a Resident Magistrate, committal proceedings, a trial or any appeal from conviction in a court below;
- (b) in respect of a legal aid certificate granted by a Judge of the Supreme Court, a trial or any appeal from conviction in a court below;
- (c) in respect of a legal aid certificate granted by a Judge of the Court of Appeal or the Registrar of the Court of Appeal, any appeal from conviction to the Court of Appeal or to Her Majesty in Council;

- (d) in respect of a legal aid certificate granted by any certifying authority, any proceedings preliminary or incidental to the proceedings mentioned in paragraphs (a) to (c), including plea negotiations and bail proceedings.

34/2005  
S. 23(b).  
*v.e.f.*  
1.11.2011.

(5) An application for legal aid may be made by or on behalf of a person in relation to proceedings relating to the review, by a Judge of the Court of Appeal, pursuant to section 42K and 42L of the Criminal Justice (Administration) Act, of a prescribed minimum penalty imposed on the person.

29/2015  
S. 3

#### PART IV. *Legal Aid In Civil Matters*

**\*16.** Save in relation to an excepted matter or proceeding, legal aid may be granted to any person who—

Legal aid  
in civil  
matters.

- (a) is in need of legal services in any civil cause or matter;
- (b) becomes a party to any action relating to any civil cause or matter;
- (c) intends to appeal against any final judgment or order of a court in a civil cause or matter;

*LEGAL AID*

- (d) becomes a respondent in an appeal in a civil cause or matter;
  
- (e) is an appellant in an appeal to the Court of Appeal or to Her Majesty in Council and the certifying authority is satisfied that there is justification for the appeal; or
  
- (f) is a party to an appeal in the Court of Appeal or to Her Majesty in Council and is unrepresented and the Court considers that a point of law of public importance is likely to arise in the course of the appeal.

Grant of a  
legal aid  
certificate.

**\*17.** Where a person who is involved in any cause or matter specified in section 16 applies for legal aid and the certifying authority is satisfied, on an assessment made under section 19,

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**\*Not yet in force.**

that the means of that person are insufficient to enable him to obtain legal services, the certifying authority may grant a legal aid certificate to that person specifying the legal services to which he is entitled and the amount of the contribution, if any, which he is required to make towards the cost of such services.

**17A.** A person with a disability who intends to enforce an award of the Disabilities Rights Tribunal under the *Disabilities Act*, shall be entitled to legal aid.

Legal aid  
assistance for  
persons with  
disabilities  
13/2014  
S 51

#### PART V. *General*

**18.—(1)** An application for legal aid shall be made to the certifying authority in the prescribed manner.

Application  
for legal  
aid

(2) Where the applicant for legal aid is under the age of eighteen years or is of unsound mind, the application shall be made on behalf of such a person by some other person who is of full age and capacity.

\*(3) Where rules of court require that any proceedings be brought or defended by a next friend or guardian *ad litem*, the application for legal aid shall be made by the next friend or guardian *ad litem* of the person bringing or defending those proceedings.

\*(4) Where an application for legal aid is made by one person, in respect of proceedings which involve more than one person who have the same interest in the matter and one or more persons can sue or be sued in respect of the matter, the certifying authority may take into account the extent to which—

- (a) the right of the applicant in those proceedings would be prejudiced by a refusal of legal aid;
- (b) it would be reasonable for other persons who have the same right as the applicant to defray the costs which would be payable by the applicant.

\*(5) Where an application for legal aid is made by any person who has a right to be joined in an action as plaintiff with others in whom any right to relief in respect of or arising out of

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\*Not yet in force.

the same transaction or series of transactions is alleged to exist, or a common question of law or fact would arise, the certifying authority may grant a legal aid certificate limited to such proceedings as may be necessary to preserve the applicant's right of relief.

\*(6) Where a person applies for legal aid in connection with any proceedings in which he is concerned in a representative, fiduciary or official capacity and it appears to the certifying authority that in the circumstances the court would, if proceedings were brought, order the costs of the proceedings to be paid out of any property, estate or fund, the certifying authority shall not grant the application unless it appears that the property, estate or fund would be diminished or exhausted by that order and that hardship would be caused thereby to any person beneficially interested.

Assessment of  
means

19.—(1) Subject to the provisions of regulations made under section 28, for the purpose of assessing the means of an applicant, the certifying authority shall make such enquiries as it considers necessary into the means of the applicant and may direct any probation and after-care officer to enquire into and report thereon, and the certifying authority shall have regard to all the financial resources of the applicant, in particular—

- (a) the income of the applicant after deductions made from income pursuant to any law;
- (b) any cash that is readily available or can be made available to the applicant;
- (c) the financial obligations of the applicant: and
- (d) such other matters as may from time to time be prescribed.

(2) A report to a certifying authority as to the means of the applicant shall be made available to the applicant who shall be allowed, if he so desires, to make his observations on the report.

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\*Not yet in force.



(3) Where any person is granted a legal aid certificate and is required thereunder to make a contribution to the cost of legal services he shall, within such time as may be specified in the certificate and on such other terms as may be agreed, pay such amount to the clinic to which the application was made, and the clinic shall receive the payment as the agent of the Council.

(4) In determining the contribution (if any) to be made by an applicant towards the cost of any legal services, the certifying authority shall have regard to—

- (a) the means of the applicant;
- (b) the type and complexity of proceedings to which the application relates; and
- (c) the fee that is likely to be charged by the legal profession for such matter.

(5) Until the contribution to be made by an applicant is paid it shall be a debt due and owing by the applicant to the Council and shall be recoverable in a civil suit, so, however, that where the Executive Director is satisfied that in the circumstances it is justified, he may with the concurrence of the Council, remit any such contribution or part thereof.

**\* (6) In determining the means of any applicant who is acting in a representative, fiduciary or official capacity, or the contribution to be made by the applicant, the certifying authority shall not take into consideration the personal income or assets of the applicant but shall take into account the value of the property, estate or fund in respect of which that applicant is acting in a representative, fiduciary or official capacity.**

(7) Except in so far as regulations made under this Act otherwise provide, any resources or commitments of an applicant's spouse may be treated for the purpose of assessing the applicant's means, as the resources and commitments of the applicant.

**\*Not yet in force.**

Matters to  
be con-  
sidered

**20.** In deciding whether or not to grant a legal aid certificate, a certifying authority shall take into account—

- (a) the extent to which full disclosure regarding the means of the applicant has been made;
- (b) whether the applicant's prospects of success are insufficient to justify the grant of legal aid;
- (c) whether the nature of any proceedings and the applicant's interest therein or in relation thereto, in the opinion of the certifying authority, justify the grant of legal aid in respect thereof;
- (d) whether, in the opinion of the certifying authority, the applicant's conduct in relation to the subject-matter of the case is such that he should be denied legal aid in the particular circumstances;
- (e) where the matter is on appeal, whether in the opinion of the certifying authority, the grant of legal aid or further legal aid, as the case may be, is justified in all the circumstances of the case.

Revocation  
of legal  
aid certi-  
ficate

**21.—(1)** Subject to subsection (2), where a certifying authority has granted a legal aid certificate in respect of any matter, the certificate may subsequently be revoked by that authority in the following circumstances—

- (a) at the request of the applicant;
- (b) if the certifying authority is satisfied that the proceedings in respect of which the legal aid was granted, have been disposed of;
- (c) if an applicant has died;
- (d) where the certifying authority has determined the contribution to be made by the applicant towards the cost of any proceedings and the applicant fails to make that contribution within a reasonable period;

- \*(e)** where the certifying authority is of the opinion that an applicant has required the proceedings in respect of which he has been granted legal aid to be conducted unreasonably or as to incur unjustifiable expense or has unreasonably required the proceedings to be continued;
- (f)** where the financial circumstances of the applicant have improved to such an extent that he can afford to make a contribution or increased contribution, as the case may require, towards the cost of the proceedings but refuses to do so;
- (g)** where the financial circumstances of the applicant have improved to such an extent that he no longer requires legal aid;
- \*(h)** if the certifying authority becomes aware that an applicant no longer has reasonable grounds for instituting, defending or being a party to the proceedings in respect of which he was granted legal aid, or that it is unreasonable or undesirable in the particular circumstances for the applicant to continue to receive legal aid;
- (i)** where in the opinion of a certifying authority an applicant wilfully or negligently made an untrue statement regarding his resources or failed to disclose any material fact concerning his resources; or
- \*(j)** where the certifying authority is satisfied that the applicant no longer has an interest in the matter in respect of which the certificate was granted.

**(2)** Where a certifying authority intends to revoke a legal aid certificate, the certifying authority shall—

- (a)** cause a notice to that effect to be served on the applicant and a copy thereof to be served on the attorney-at-law to whom the matter is assigned pursuant to the legal aid certificate; and

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**\*Not yet in force.**

- (b) afford to the applicant a reasonable opportunity to show cause why the certificate should not be revoked.

(3) Where a legal aid certificate is revoked pursuant to this section, the procedure set out in this subsection shall be followed—

- (a) the costs incurred in respect of the matter for which the legal aid certificate was granted up to the date of the revocation aforesaid shall be paid by the Council after they are taxed or agreed;
- (b) the Council, having regard to the prescribed fees payable in respect of the matter, shall pay the attorney-at-law to whom the matter was assigned for the work done by him in the matter up to the date on which he was notified of the revocation of the legal aid certificate;
- (c) where an applicant has made contributions to the Council towards the cost of the matter, such contributions shall be applied against the actual cost thereof, and if such contributions exceed the actual cost, the difference shall be refunded to the applicant.

Costs in  
legal aid  
matters.

**\*22.** Where costs are awarded in favour of an applicant in any matter in which the services of a member of the panel were used pursuant to a legal aid certificate, such costs shall be the property of and be paid to the Council, so, however, that—

- (a) any costs so paid to the Council shall be subject to garnishee; and
- (b) the applicant shall be reimbursed out of such costs for the out-of-pocket expenses incurred by him in respect of such matter.

Assignment  
of matter.

**23.—(1)** Where a legal aid certificate has been granted as respects any matter, the certifying authority or any prescribed person acting on behalf of the certifying authority in the prescribed

**\*Not yet in force.**

manner, shall assign the matter to an attorney-at-law from the panel on the basis of rotation, so, however, that—

- (a) the assignment of an appeal may, if the certifying authority thinks fit, be made to an attorney-at-law other than the attorney-at-law who dealt with the matter at the trial;
- (b) where a certifying authority is satisfied that a matter is of exceptional difficulty, the authority, in its discretion, may assign thereto as many attorneys-at-law as are necessary for the proper handling of the matter.

(2) An attorney-at-law to whom any matter is assigned pursuant to this section shall—

- (a) give the matter the same care and attention as he would have done if he had been otherwise retained in respect of the matter;
- (b) unless otherwise directed by a certifying authority, act in all aspects of the matter and, where court proceedings are involved, act in the matter at all levels of such proceedings, including, if necessary, appeal, as the case may require.

(3) Where—

- (a) an attorney-at-law to whom a matter has been assigned finds that he is unable to act therein; or
- (b) a conflict exists between the attorney-at-law to whom a matter has been assigned and the applicant in respect of that matter,

the attorney-at-law shall, within a reasonable time bring the situation to the attention of a certifying authority who may assign to the matter some other attorney-at-law from the panel.

Fees payable to attorneys-at-law.

24. There shall be payable to an attorney-at-law to whom a matter has been assigned pursuant to a legal aid certificate, the prescribed fees and such travelling allowances and other out-of-pocket expenses as may be prescribed.

Duty as to secrecy.

25.—(1) Every person having an official duty or being employed in the administration of this Act shall regard and deal with all documents and information relating to an applicant as secret and confidential, and shall make and subscribe a declaration to that effect before a Justice of the Peace.

(2) Every such person having possession of or control over documents or information, who at any time communicates or attempts to communicate such information or anything contained in such documents to any person—

(a) other than a person to whom he is authorized by the Council to communicate it; or

(b) otherwise than for the purposes of this Act,

shall be guilty of an offence and shall be liable on summary conviction thereof in a Resident Magistrate's Court, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding six months.

Recovery of debts.

26. All debts due to the Council may be recovered, without limit of amount, in the Resident Magistrate's Court.

Exemption from taxes and duties.

27.—(1) The income of the Council shall be exempt from income tax.

(2) There shall be exempt from taxation under the Transfer Tax Act any transfer by the Council of property belonging to it or any right or interest created in, over or otherwise with respect to any such property.

(3) The Council shall, in relation to all property held by it for the purposes of this Act, be exempt from the payment of property tax.

(4) No customs duty, general consumption tax or other similar impost shall be payable upon any article imported into Jamaica, taken out of bond in Jamaica or purchased in Jamaica, by the Council and shown to the satisfaction of the Commissioner of Customs to be required for the use of the Council in the performance of its functions under this Act.

28.—(1) The Minister, after consultation with the Council, may Regulations. make regulations generally for giving effect to the provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing the offences, matters or proceedings or the categories of offences, matters or proceedings in respect of which legal aid shall not be granted;
- (b) providing for the establishing of a scheme for the provision of legal aid to persons detained at police stations, or in lock-ups, correctional institutions or other similar places;
- (c) relating to the establishment and operations of clinics and the appointment of directors or other persons in charge thereof;
- (d) specifying the records to be kept by clinics in relation to legal aid assignments and otherwise, and the reports to be submitted by clinics to the Executive Director;
- (e) prescribing the manner of applying for legal aid under this Act;
- (f) as respects the manner of assessing the means of applicants and the eligibility of applicants for legal aid;
- (g) relating to the establishment of such panels as the Council deems necessary, the assignment of attorneys-at-law from the panel and the formulation and maintenance of a tariff of fees payable to attorneys-at-law for services provided by them under this Act;

(h) prescribing anything required or authorized by the Act to be prescribed.

(2) Sections 17 and 18 of the Fair Competition Act shall not apply to any tariff of fees prescribed under subsection (1) (g).

(3) Regulations made—

(a) under paragraph (a) of subsection (1) shall be subject to affirmative resolution;

(b) under paragraph (b), (c), (d), (e), (f), (g) or (h) of subsection (1) shall be subject to negative resolution.



## SCHEDULE

(Section 3 (2))

1.—(1) There shall be a Board of Directors of the Council which, subject to the provisions of this Act, shall be responsible for the implementation of policy and the general administration of the affairs of the Council. Board of Directors

(2) The Board shall consist of not less than thirteen nor more than fifteen persons of whom—

- (a) the Chief Justice, the Director of Public Prosecutions, the Solicitor General, the Permanent Secretary of the Ministry responsible for justice, or a nominee of each of them, and the Director of each clinic shall be members, *ex officio*;
- (b) one member shall be an officer of the Ministry responsible for justice, appointed by the Minister;
- (c) one member shall be a representative of the Jamaican Bar Association and shall be appointed by the Minister from a panel of three persons nominated by that Association;
- (d) one member shall be a representative of the Advocates Association of Jamaica and shall be appointed by the Minister from a panel of three persons nominated by that Association;
- (e) one member shall be a representative of the Council of Legal Education and shall be appointed by the Minister from a panel of three persons nominated by that Council;
- (f) one member shall be a representative of the General Legal Council and shall be appointed by the Minister from a panel of three persons nominated by that Council;
- (g) one member shall be a representative of the Jamaica Council for Human Rights and shall be appointed by the Minister from a panel of three persons nominated by that Council;
- (h) one member shall be a representative of the Jamaica Constabulary Force and shall be appointed by the Minister from a panel of three persons nominated by the Commissioner of Police;
- (i) one member shall be a representative of the Jamaica Council of Churches and shall be appointed by the Minister from a panel of three persons nominated by that Council.

2.—(1) The appointment of every member of the Board, other than the *ex officio* members, shall be evidenced by instrument in writing and such instrument shall state the period of office of the member which shall not exceed three years. Appointment

(2) Every member of the Board shall be eligible for reappointment.

Chairman. 3.—(1) The Minister shall appoint one of the members to be chairman of the Board.

(2) The chairman shall preside at all meetings of the Board at which he is present, and in the case of the absence of the chairman from any meeting, the members present and forming a quorum shall elect one of their number to preside at that meeting.

Acting appointment. 4. If any member is absent or unable to act the Minister may appoint any person to act in place of that member, so, however, that such appointment shall be made in the same manner and from the same category of persons as would be required in the case of a substantive appointment.

Resignation. 5.—(1) Any member other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of receipt by the Minister of such instrument, that person shall cease to be a member.

(2) The chairman may resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

Revocation. 6. The Minister may at any time revoke the appointment of any member.

Filling of vacancies. 7. If any vacancy occurs in the membership of the Board such vacancy shall be filled by the appointment of another member, so, however, that such appointment shall be made in the same manner and from the same category of persons as would be required in the case of a substantive appointment.

Gazetting of membership. 8. The names of all members of the Board as first constituted and every change therein, shall be published in the *Gazette*.

Seal and execution of documents. 9.—(1) The seal of the Council shall be kept in the custody of the secretary and shall be affixed to instruments pursuant to a resolution of the Council.

(2) The seal of the Council shall be authenticated by the signatures of the chairman or any member authorized to act in that behalf and the secretary or any other officer of the Council authorized to act in that behalf and shall be judicially and officially noticed.

(3) All documents other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman of any member or officer of the Council authorized to act in that behalf.

10.—(1) The Board shall meet at least once every month and at such other times as may be necessary or expedient for the transaction of business and such meetings shall be held at such times and places and on such days as the members may determine. Procedure and meetings.

(2) The chairman may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members.

(3) The decisions of the Board shall be by the majority of votes of members present and voting, and the chairman or other member presiding shall, in addition to his original vote as a member, have a casting vote in any case in which the voting is equal.

(4) Minutes in proper form of each meeting of the Board shall be kept by the secretary.

(5) The quorum of the Board shall be four, including the chairman or the person elected to act as chairman as aforesaid.

(6) The validity of any proceedings of the Board shall not be affected by any vacancy in the membership or by any defect in the appointment of a member.

11.—(1) The Council may appoint committees of the Council to examine and report to it on any matter arising out of or connected with any of its functions under this Act. Committees.

(2) Any such committee shall consist of at least two members of the Council and any other person or persons, whether members of the Council or not, whose assistance or advice the Council may desire.

(3) Where persons, not being members of the Board, are members of the committee appointed under this paragraph, the Council may by resolution declare the honoraria, travelling or other allowances payable to such persons (which resolution shall be submitted to the Permanent Secretary in the Ministry having responsibility for justice); and such payments shall be properly made out of the funds and resources of the Council.

(4) The Council may, by resolution, either adopt the report of any committee, wholly or with such modifications, additions or adaptations, or reject such report, as it thinks fit.

12. Notwithstanding anything to the contrary, no action or proceedings taken under this Act by the Council shall be questioned on the ground of any omission, defect or irregularity not affecting the merits of the case. Protection of Council.

13.—(1) No member shall be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of the operation of the Council. Protection of members.

(2) Where any member is exempt from liability by reason only of the provisions of this paragraph, the Council shall be liable to the extent that it would be if that member were a servant or agent of the Council.

Disclosure  
of interest

14. Every member who, otherwise than as such member, is directly or indirectly interested in any matter which is being dealt with by the Council—

- (a) shall disclose the nature of his interest at a meeting of the Council, and
- (b) shall not take part in any deliberations or decisions of the Council with respect to that matter.

Member-  
ship of  
the Board  
not public.

15. The office of chairman or member of the Board shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.