

LEGAL AID COMMISSION ACT 1976
LEGAL AID COMMISSION RULES 1990

Arrangement

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SCHEDULE

LEGAL AID COMMITTEE OR REVIEW COMMITTEE PROCEDURE

LEGAL AID COMMISSION ACT 1976
LEGAL AID COMMISSION RULES 1990

Made by the Legal Aid Commission of Western Australia and approved by His Excellency the Governor in Executive Council.

Citation

1. These rules may be cited as the *Legal Aid Commission Rules 1990*.

Definitions

2. In these rules unless the contrary intention appears—

“assigned practitioner” means a private practitioner to whom a grant of legal aid under Part V Division 3 of the Act is assigned;

“document of assistance” means a document referred to in rule 7;

“legal services” means services performed by an assigned practitioner, or an agent or counsel briefed by an assigned practitioner by way of legal assistance under Part V Division 3 of the Act;

“responsible authority” means the legal aid committee, review committee or authorized officer by which or by whom an application for legal aid is decided.

Proceedings of a legal aid committee or review committee

3. Except as otherwise provided in these rules the Schedule shall have effect with respect to the proceedings of a legal aid committee or review committee.

Forms, documents, records

4. (1) Forms, documents and records required or used under the Act shall be in such form as the Commission from time to time determines.

(2) A responsible authority may at any time require an applicant to provide in writing further information in connection with or arising out of his or her application.

Information and further information required under the Act

5. The information required to be furnished—

(a) in any form, document or record referred to in rule 4 (1); or

(b) any further information referred to in rule 4 (2),

is information required to be furnished for the purposes of section 65 (1) of the Act.

Transfer

6. (1) A legal aid committee to which an application is referred or transferred may transfer the application to another legal aid committee.

(2) Where a legal aid committee transfers an application under subrule (1) it shall notify the Director accordingly.

Document of assistance

7. (1) A responsible authority shall issue a document of assistance where the responsible authority decides that legal aid, with or without conditions, should be provided to an applicant.

(2) A responsible authority shall determine whether the document of assistance shall be directed to—

(a) the Director;

(b) a private practitioner nominated by the applicant; or

(c) a private practitioner from the panel of names prepared under section 40 of the Act.

- (3) A document of assistance issued under this rule—

(a) if addressed to a private practitioner is authority for the practitioner to render to the assisted person the legal services involved in providing the legal aid as specified in the document of assistance; and

(b) if addressed to the Director is authority for a practitioner who is a member of the staff to render to the assisted person the legal services involved in providing the legal aid as specified in the document of assistance.

- (4) A document of assistance issued under this rule is evidence for the purposes of the Act—

(a) that the person named in the document is an assisted person; and

(b) of the conditions (if any) to which the provision of legal aid is subject.

Certificate of fees

8. (1) Where a private practitioner is assigned to perform the legal services involved in providing legal aid to an assisted person the responsible authority may by way of a certificate of fees certify the fees payable to that private practitioner under the *Legal Aid Commission (Costs) Rules 1990* and the amount so certified shall subject to the Act and to subrule (2) be the fees payable to the practitioner in respect of that matter.

(2) The responsible authority may on the application of a private practitioner to whom a certificate is issued pursuant to subrule (1) vary the amount of any fees set out in the certificate and, in that event, the amount as so varied shall subject to the Act be the fees payable to the practitioner in respect of that matter.

Conduct of a legal aid assignment

9. (1) An assigned practitioner shall, in the conduct of a legal aid assignment—

- (a) ensure that legal assistance is provided in the most effective, efficient and economical manner;
- (b) provide a progress report to the Commission every 6 months during the course of a legal aid assignment or as and when required by a responsible authority;
- (c) report to the Commission, as soon as practicable, any information which would affect the grant of legal aid and including but not limited to changes in the assisted person's financial circumstances; and
- (d) where practicable obtain approval before incurring a disbursement in excess of \$250.

(2) For the purposes of subrule (1)—

“assigned practitioner” includes an agent or Counsel briefed by an assigned practitioner.

Accounts to be rendered within 6 months

10. (1) An assigned practitioner shall—

- (a) render an account; and
- (b) a full report including the result of the proceedings,

to the Commission within 6 months of completing the legal services required under a legal aid assignment.

(2) Where an assigned practitioner fails to comply with subrule (1) the amount approved for payment may be reduced by up to 30% of the provisional costing of the legal aid assignment.

Common Seal

11. The Common Seal of the Commission shall be affixed to a document pursuant to a resolution of the Commission and in the presence of 2 members of the Commission.

Repeal

12. The *Legal Aid Commission Rules 1978* are repealed.

SCHEDULE

(Rule 3)

**LEGAL AID COMMITTEE OR REVIEW COMMITTEE
PROCEDURE****Chairman**

1. (1) The chairman of the committee shall, when present, preside at all meetings.
- (2) In the absence of the chairman the members who are present at any meeting may elect one of their number to preside at that meeting.

Quorum

2. To constitute a meeting of a legal aid committee there must be not less than one-half of the members present.

Meetings

3. The chairman of a committee may from time to time convene such meetings as are necessary in order for the committee to perform and exercise its functions and powers under the Act.

Voting

4. (1) At any meeting all questions shall be decided by a majority of the members present and voting.
- (2) Each member, including the member presiding, shall have a deliberative vote only.
- (3) In the case of an equality of votes the question shall be declared to be negatived.

Records

5. A committee shall keep such records of its proceedings as the Commission may direct or approve.

Disputes

6. In all cases of dispute, doubt or difficulty arising out of procedure or order the decision of the member presiding at the meetings shall be final and conclusive.

Procedure

7. Subject to the Act and these rules the proceedings may be regulated in such manner as the members think fit.

The Common Seal of the Legal Aid Commission of Western Australia was hereunto affixed pursuant to a resolution of the Commission in the presence of:

C. BAHEMIA, Member.
BARRY HODGE, Member.

Approved by His Excellency the Governor in Executive Council this 31st day of July 1990.

G. PEARCE, Clerk of the Council.
