



## ANALYSIS

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1986, No. 95

**An Act to amend the Legal Aid Act 1969**

[6 November 1986]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Legal Aid Amendment Act (No. 2) 1986, and shall be read together with and deemed part of the Legal Aid Act 1969 (hereinafter referred to as the principal Act).

**2. Financial conditions of legal aid**—(1) Section 17 of the principal Act is hereby amended by repealing the second proviso to subsection (1) (as added by section 3 (2) of the Legal Aid Amendment Act 1971).

(2) Section 3 (2) of the Legal Aid Amendment Act 1971 is hereby consequentially repealed.

**3. Contributions from aided person and charge on property recovered**—(1) Section 18 (4A) of the principal Act (as substituted by section 4 (2) of the Legal Aid Amendment Act 1971) is hereby amended by repealing the proviso (as added by section 3 of the Legal Aid Amendment Act 1980).

(2) Section 3 of the Legal Aid Amendment Act 1980 is hereby consequentially repealed.

**4. Applications for legal aid**—Section 20 of the principal Act (as amended by section 5 (a) of the Legal Aid Amendment Act 1971) is hereby amended by omitting the words “Secretary for Justice”, and substituting the words “secretary to the District Committee for the legal aid district in which the proceedings are to be held”.

**5. Decisions of District Committees**—Section 22 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) Where the District Committee grants legal aid to any applicant who was not resident in New Zealand at the time when the application was made, the District Committee shall fix the maximum sum that shall be paid by the Crown for legal aid in respect of the proceedings to which the application relates.

“(3) In any other case the District Committee may fix the maximum sum that shall be paid for legal aid in respect of the proceedings to which the application relates.

“(4) Where the District Committee fixes a maximum sum under subsection (2) or subsection (3) of this section, the Crown shall not, except with the approval of the Committee, be liable to make any payment in respect of that aid in excess of the amount so fixed.

“(5) Where the District Committee fixes a maximum sum under subsection (2) or subsection (3) of this section, nothing in either of those subsections or in section 17 (2) (b) of this Act shall prevent the solicitor or counsel for the applicant from taking, with the approval of the District Committee, any additional payment from the applicant in respect of that aid.”

**6. Circumstances in which grant of legal aid may be refused**—Section 23 (2) of the principal Act is hereby amended by omitting from paragraph (da) (as inserted by section 6 of the Legal Aid Amendment Act 1971) the words “to which the application has been referred by the Secretary for Justice”.

**7. Applicant to be advised of Committee’s decision**—(1) Section 25 of the principal Act is hereby amended by repealing subsections (2) and (3) (as added by section 7 of the Legal Aid Amendment Act 1971) and subsection (4) (as added by section 6 of the Legal Aid Amendment Act 1980).

(2) The following enactments are hereby consequentially repealed:

- (a) Section 7 of the Legal Aid Amendment Act 1971:
- (b) Section 6 of the Legal Aid Amendment Act 1980.

**8. Remuneration of persons giving legal aid**—Section 32 of the principal Act (as substituted by section 8 (1) of the Legal Aid Amendment Act 1980) is hereby amended—

- (a) By omitting from subsection (4) the words “Minister of Justice”, and substituting the words “District Committee”:
- (b) By omitting from that subsection the word “he”, and substituting the word “it”:
- (c) By omitting from subsection (5) the words “Minister of Justice”, and substituting the words “District Committee”.

**9. Transitional provisions**—(1) Where, immediately before the commencement of this Act, there was under consideration by a District Committee or by the Minister of Justice an application for legal aid made by or on behalf of a person who was not resident in New Zealand at the time when the application was made, the following provisions shall apply:

- (a) In the case of such an application before a District Committee, the Committee shall deal with the application as if the application had been made to the Committee under section 20 of the principal Act after this Act had come into force; or
- (b) In the case of such an application before the Minister of Justice, the advice given to the Minister by the District Committee shall be deemed to be the decision of the Committee, and shall have effect as if made under section 22 of the principal Act after this Act had come into force.

(2) Where, immediately before the commencement of this Act, there was under consideration by a District Committee or by the Minister of Justice an application under section 25 (4) of the principal Act to increase the amount of legal aid granted to a person who was not resident in New Zealand at the time when the application for aid was made, the following provisions shall apply:

- (a) In the case of such an application before a District Committee, the Committee shall deal with the application as if the application had been made to the Committee under section 22 (4) of the principal Act after this Act had come into force:

(b) In the case of such an application before the Minister of Justice, the advice given to the Minister by the District Committee shall be deemed to be the decision of the Committee, and shall have effect as if made under section 22 (4) of the principal Act after this Act had come into force.

(3) Section 22 (4) of the principal Act (as substituted by section 5 of this Act) shall, from the date of the commencement of this Act, apply to cases where, before that date, aid was granted by the Minister of Justice to any person who was not resident in New Zealand at the time when the application for aid was made.

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This Act is administered in the Department of Justice.

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