

## LEGAL ASSISTANCE (AMENDMENT) ACT.

### Act No. 63, 1957.

**Elizabeth II,**  
**No. 63, 1957.**  
An Act to authorise the granting of legal assistance to additional classes of persons; for this and other purposes to amend the Legal Assistance Act, 1943, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 9th December, 1957.]

**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 citation.** **1.** (1) This Act may be cited as the "Legal Assistance (Amendment) Act, 1957".

(2)

(2) The Legal Assistance Act, 1943, as amended by subsequent Acts and by this Act, may be cited as the Legal Assistance Act, 1943-1957. No. 63, 1957.

2. The Legal Assistance Act, 1943, as amended by subsequent Acts, is amended— Amendment  
of Act No.  
17, 1943.

- (a) (i) by inserting in paragraph (b) of subsection two of section six after the words and symbols “(as modified by subsection (4A) of this section)” the words “to an ‘applicant’ ”; Sec. 6.  
(Applica-  
tion for  
assistance.)
- (ii) by omitting from paragraph (b) of subsection four of the same section the words “one hundred pounds” and by inserting in lieu thereof the words “two hundred pounds”;
- (iii) by omitting from subparagraph (v) of the same paragraph the words “seven hundred and fifty pounds” and by inserting in lieu thereof the words “three thousand pounds”;
- (iv) by omitting from paragraph (c) of the same subsection the word “fifty” where firstly occurring and by inserting in lieu thereof the word “seventy-five”;
- (v) by omitting from the same paragraph the words “the needs basic wage assessed on the index number for Sydney for the quarter current at the date of the application, together with the fixed loading addition applicable to the needs basic wage so assessed” and by inserting in lieu thereof the words “the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61k of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61m of that Act, as so amended, before the application is made”;
- (vi)

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(vi) by inserting at the end of subsection (4A) of the same section the following new paragraphs and subsection:—

- (d) the Public Solicitor may, in any case where the application is made on behalf of an infant who is unmarried and the next friend making the application is a near relative (as defined in subsection two of this section) of the infant and where it appears to the Public Solicitor in his absolute discretion to be reasonable to do so to relieve hardship, disregard the income of the near relative;
- (e) the spouse of an applicant shall be deemed to be totally dependent on the applicant;
- (f) where the applicant's spouse is dead any income of such deceased spouse during the period of twelve months preceding the making of the application shall not be taken into account.

(4B) The provisions of this section extend—

- (a) to any person applying for legal assistance under this section whose ordinary place of residence is without New South Wales but within the British Commonwealth of Nations:

Provided that for the purposes only of the application of this section to any such person whose ordinary place of residence is without the Commonwealth of Australia, this section shall be deemed to be amended—

- (i) by omitting paragraph (c) of subsection three;

(ii)

(ii) by omitting subparagraph (v) of paragraph (b) of subsection four; No. 63, 1957.

(iii) by omitting paragraph (c) of the same subsection and by inserting in lieu thereof the following paragraph:—

(c) having regard to the value of any dwelling house owned and used by the applicant as his home, to the income of the applicant and of the spouse of the applicant during the period of twelve months preceding the making of the application and to the number of persons totally dependent on the applicant or spouse, a certificate under this subsection ought to be granted;

(b) to any person applying for legal assistance under this section in his capacity as an executor, administrator or trustee: Provided that for the purposes only of the application of this section to any person in any such capacity, this section shall be deemed to be amended—

(i) by omitting subsection two;

(ii) by omitting from paragraph (a) of subsection three the words “means and condition of the applicant” and by inserting in lieu thereof the  
words

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words "net value, at the date of the application, of the estate of the deceased person of which estate the applicant is the executor, administrator or trustee";

- (iii) by omitting paragraphs (b) and (c) of subsection four and by inserting in lieu thereof the following paragraphs:—
- (b) the net value, at the date of the application, of the estate of the deceased person of which estate the applicant is the executor, administrator or trustee does not exceed three thousand pounds; and
  - (c) refusal to grant a certificate under this subsection would cause undue hardship to any person entitled to any beneficial interest in the estate of the deceased person of which estate the applicant is the executor, administrator or trustee.
- (iv) by omitting from subsection (4A) the words, symbols and letters "paragraphs (b) and (c)" and by inserting in lieu thereof the word, symbols and letter "paragraph (b)";
- (v) by omitting paragraphs (b), (c), (d), (e) and (f) of the same subsection.

Where

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Where any application for legal assistance is made under this section or section seventeen of this Act by a person in his capacity as an executor, administrator or trustee a reference in this Act to an "applicant" shall be construed as a reference to the applicant in his capacity as an executor, administrator or trustee, as the case may be, and where such person has, pursuant to such application, been granted a certificate that he is entitled to legal assistance under this Act, such person shall, by virtue of that certificate, be deemed to be an assisted person only in such capacity as aforesaid. No. 63, 1957.

In subsection four of this section, as deemed to be amended by paragraph (b) of this subsection, and in this subsection—

“Administrator” means administrator within the meaning of the Wills, Probate and Administration Act, 1898, as amended by subsequent Acts.

“Executor” means the executor to whom probate has been granted and includes executor by right of representation.

“Trustee” means trustee of the estate of a deceased person.

- (b) (i) by inserting in subsection one of section Sec. 17.  
seventeen after the word “has,” the words (Appeals  
to High  
Court and  
Privy  
Council.)  
“whether or not”;
- (ii) by inserting in subsection two of the same section after the words “so to act” the following new proviso:—

Provided that where an application is made under subsection one of this section for the purpose of taking or contesting an appeal

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appeal against the decision of a court in New South Wales in proceedings to which the applicant was, otherwise than as an assisted person, a party, the Public Solicitor shall not exercise his powers under this subsection unless he is satisfied that, if the application were an application for legal assistance in respect of such proceedings being made under section six of this Act by the applicant, it would not be refused under that section.

- (iii) by inserting in the same subsection after the words "under this section" the words "in relation to an assisted person";
  - (iv) by omitting from the same subsection the words "such person and" and by inserting in lieu thereof the words "any person whose application under this section is granted and to".
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