

## **Legal Aid Regulations**

### **(Cap. 91 sub. leg. A)**

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## Legal Aid Regulations

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## Legal Aid Regulations

(Cap. 91, section 28)

[12 January 1967]

*(Format changes—E.R. 1 of 2013)*

### 1. Citation

These regulations may be cited as the Legal Aid Regulations.

### 2. Interpretation

In these regulations, unless the context otherwise requires—

**certificate** (證書) means a certificate or emergency certificate issued in accordance with these regulations, entitling a person to legal aid under the Ordinance.

*(L.N. 194 of 1992)*

### 3. Application for certificate

(1) Any person desiring legal aid in a civil action may apply for legal aid in the manner and form determined by the Director.  
*(L.N. 326 of 1984; L.N. 194 of 1992)*

(2) Every application for legal aid must contain any information and be accompanied by any documents that the Director may require to enable the Director to determine— *(L.N. 145 of 2012)*

(a) the nature of the proceedings in relation to which legal aid is sought and the circumstances in which legal aid is required;

- (b) the question whether it is reasonable that a certificate should be granted; and
  - (c) the financial resources of the applicant. (*L.N. 147 of 2000*)
- (3) An application made under the Supplementary Legal Aid Scheme must be accompanied by the following fee— (*L.N. 145 of 2012*)
- (a) for proceedings mentioned in paragraph 1, 2, 3 or 8 of Part 1 of Schedule 3 to the Ordinance, a fee of \$1,000; and
  - (b) for proceedings mentioned in paragraph 4, 5, 6 or 7 of that Part, a fee of \$5,000. (*L.N. 326 of 1984; L.N. 235 of 1988; L.N. 194 of 1992; L.N. 145 of 2012*)
- (E.R. 1 of 2013)*

#### **4. Applications on behalf of infants**

- (1) An application for legal aid for an infant shall be made by a person of full age and capacity on his behalf in the manner and form determined by the Director, and where the application relates to proceedings which are required by rule of court to be brought or defended by the next friend or guardian ad litem, that person shall be the next friend or guardian ad litem or, where proceedings have not actually begun, the person intending to act as next friend or guardian ad litem. (*L.N. 326 of 1984; L.N. 194 of 1992*)
- (2)-(3) (*Repealed L.N. 326 of 1984*)
- (4) Any certificate issued by virtue of this regulation shall be in the name of the infant, stating the name of the person by whom he has applied.
- (5) In any matter relating to the issue, amendment, revocation or discharge of a certificate issued by virtue of this regulation,

and in any other matter which may arise as between an aided person and the Director, the person by whom the infant has applied for a certificate shall be treated for all purposes (including the receipt of notices) as the agent of the infant.

## **5. Issue of certificate**

- (1) A certificate may be issued in respect of the whole or a part of—
  - (a) proceedings in a court of first instance; or
  - (b) proceedings in an appellate court.No certificate shall relate to proceedings (other than interlocutory appeals) both in a court of first instance and in an appellate court.
- (2) *(Repealed L.N. 326 of 1984)*
- (3) In assessing the amount of contribution, if any, payable in respect of any proceedings, the Director shall have regard to their probable cost and, save as is hereinafter provided, shall not assess an amount in excess of any maximum amount of contribution provided for by the Ordinance. Where the probable cost of the proceedings exceeds the maximum amount of contribution, the Director shall save as aforesaid assess that maximum as the amount of contribution payable in respect of the proceedings.
- (4) Where an application is approved relating to—
  - (a) proceedings (other than interlocutory proceedings) in an appellate court in any action, cause or matter, in which the applicant was an aided person in the court below; or
  - (b) proceedings by way of a new trial ordered by an appellate court before whom the applicant was an aided person,

the Director shall not redetermine the applicant's financial resources, but shall save as hereinafter provided assess the amount of contribution, if any, payable in respect of the proceedings at an amount not greater than the maximum contribution determined by the Director in relation to the previous proceedings less any amount assessed by him in respect of those proceedings: *(L.N. 194 of 1992; L.N. 147 of 2000)*

Provided nothing in this paragraph shall prevent the Director from exercising at any time his powers under regulation 6B. *(L.N. 326 of 1984)*

- (5) In fixing the method by which any contribution shall be paid, the Director shall have regard to all the circumstances, including the probable length of time which any certificate issued as a result of the application will be in force, and may order the contribution to be paid in instalments or the whole or a part of it to be paid before a certificate is issued.
- (6) After the Director has approved an application for a certificate he shall notify the applicant—
  - (a) of the maximum amount of his contribution as determined by him; and
  - (b) of the terms upon which a certificate will be issued to him.
- (7) An applicant who wishes a certificate to be issued to him on the terms notified by the Director shall within 14 days of being so notified, or within such further period as the Director may allow, signify his acceptance of those terms in the form determined by the Director and shall lodge it with the Director. *(L.N. 326 of 1984; L.N. 194 of 1992; L.N. 147 of 2000)*
- (8) *(Repealed L.N. 147 of 2000)*

- (9) When an applicant has complied with such of the provisions of paragraph (7) as may be relevant to his case, the Director shall issue a certificate in the form determined by the Director. *(L.N. 147 of 2000)*
- (10) Nothing in paragraph (3), (4) or (6)(a) shall apply where legal aid is granted under the Supplementary Legal Aid Scheme. *(L.N. 147 of 2000)*

**6. Certificate not to refer to more than one cause of action etc.**

A certificate shall not refer to more than one action, cause or matter except in the case of—

- (a) matrimonial proceedings;
- (b) an application for a grant of representation which is necessary to enable an action, which is the subject matter of the certificate, to be brought; or
- (c) where the Director exercises his powers under regulation 6A(b)(iv), proceedings which may be taken to enforce or give effect to any order or agreement made for the purposes of the proceedings to which the certificate relates.

*(L.N. 326 of 1984)*

**6A. Power to amend certificates**

The Director may amend a certificate where in his opinion—

- (a) there is an error on the face of the certificate; or *(L.N. 194 of 1992)*
- (b) it has become desirable for the certificate to extend to—
  - (i) proceedings;
  - (ii) other steps;
  - (iii) subject to regulation 6, other proceedings;

- (iv) proceedings which may be taken to enforce or give effect to any order or agreement made in the proceedings in respect of which it was issued; or
- (v) the bringing of an interlocutory appeal; or
- (c) it has become desirable for the certificate to extend to any steps having the same effect as a cross-action or reply thereto, or a cross appeal; or
- (d) it has become desirable to add or substitute parties to the proceedings in respect of which the certificate was issued; or
- (e) it has become desirable for the certificate not to extend to certain of the proceedings in respect of which it was issued; or
- (f) a change of solicitor or counsel is required. (*L.N. 194 of 1992*)

*(L.N. 326 of 1984)*

**6B. Power to amend on change of circumstances or contribution**

Without prejudice to regulation 6A or 8(2), (2A) or (3), the Director may amend a certificate, other than a certificate granted under the Supplementary Legal Aid Scheme, where the circumstances by reference to which the Director has determined an aided person's financial resources have altered.

*(L.N. 326 of 1984; L.N. 194 of 1992; L.N. 147 of 2000)*

**6C. Increase of contribution under certificates**

Where legal aid has been granted under section 5 or 5AA of the Ordinance and the Director has assessed the amount of the contribution payable at a sum less than the maximum contribution permissible under the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91 sub. leg. B), and it appears



that the costs incurred or likely to be incurred under the certificate are or are likely to exceed the contribution so assessed, the Director shall increase the amount of the contribution up to the amount or likely amount of those costs or to such maximum contribution, whichever amount is the less.

*(L.N. 326 of 1984; L.N. 147 of 2000; E.R. 1 of 2013)*

## **7. Emergency certificate**

- (1) Any person who desires legal aid as a matter of urgency may apply in the manner and form determined by the Director for an emergency certificate: *(L.N. 194 of 1992)*

Provided that no application for an emergency certificate may be made where legal aid is sought under the Supplementary Legal Aid Scheme. *(L.N. 326 of 1984)*

- (2) An application for an emergency certificate shall give such information as may be requisite to enable the Director to determine whether—
- (a) the applicant is likely to fulfil the conditions under which legal aid may be granted under the Ordinance; and
  - (b) it is in the interests of justice that the applicant should, as a matter of urgency, be granted legal aid,

and shall furnish such additional information and documents (if any) as may be sufficient to constitute an application for a legal aid certificate under the Ordinance:

Provided that, if it appears to the Director that the applicant cannot at the time of the application reasonably furnish that information, or any part of it, the Director shall nevertheless have power to issue an emergency certificate subject to such conditions as to the furnishing of additional information as he thinks reasonable.

- (3) An emergency certificate shall be in the prescribed form.  
*(L.N. 326 of 1984)*
- (4) An emergency certificate shall have the same effect in all respects as a legal aid certificate.
- (5) An emergency certificate shall remain in force for a period of 6 weeks, or such longer period not exceeding 3 months as the Director may allow, and unless within that period a legal aid certificate is issued in respect of the proceedings to which the emergency certificate relates it shall at the end of that period be deemed to have been revoked:

Provided that if within that period he decides to refuse the application for a legal aid certificate in respect of proceedings to which the emergency certificate relates, the Director shall forthwith revoke the emergency certificate.

**7A. Period for which proceedings are stayed under section 15**

The period during which any proceedings are stayed by section 15 of the Ordinance shall be 42 days.

*(L.N. 326 of 1984)*

**8. Discharge and revocation of certificates**

- (1) A certificate may be either discharged or revoked by the Director in the circumstances specified in this regulation.
- (2) The Director may discharge a certificate—
  - (a) at any time at the request of the person to whom it is issued;
  - (b) where an aided person has been required to make a contribution and any payment in respect thereof is more than 30 days in arrears;
  - (c) if he is satisfied that the proceedings to which the certificate relates have been disposed of;

- (d) where he is satisfied that the aided person has required the proceedings to be conducted unreasonably so as to incur an unjustifiable expense to the Director or has required unreasonably that the proceedings be continued: Provided that a certificate shall not be discharged under this subparagraph until the aided person has been given an opportunity to show cause why the certificate should not be discharged;
  - (e) if he is satisfied—
    - (i) that the aided person has died; or
    - (ii) that the aided person has had a bankruptcy order made against him; (*L.N. 147 of 2000*)
  - (f) if he is satisfied that the aided person has failed to render to the counsel or solicitor assigned to him any assistance necessary or desirable to enable such counsel or solicitor to discharge in a proper or adequate manner his duties as counsel or solicitor to such person; (*L.N. 326 of 1984; L.N. 194 of 1992*)
  - (fa) if he is satisfied that the financial resources of an aided person exceed the limits prescribed in section 5 or 5A of the Ordinance:  
Provided that a certificate shall not be discharged under this subparagraph until the aided person has been given an opportunity to show cause why the certificate should not be discharged; (*L.N. 147 of 2000*)
  - (g) where an aided person has been outside Hong Kong for a continuous period exceeding 6 months. (*L.N. 194 of 1992*)
- (2A) Notwithstanding paragraph (2)(fa) and without prejudice to regulation 6B, the Director need not discharge a certificate by reason of the circumstances referred to in that paragraph if

he is satisfied that it is appropriate not to do so. (*L.N. 147 of 2000*)

- (3) The Director shall discharge a certificate if he considers that the aided person no longer has reasonable grounds for taking, defending or being a party to the proceedings or, as the case may be, that it is unreasonable in the particular circumstances for him to continue to receive legal aid:

Provided that a certificate shall not be discharged under this paragraph until the aided person has been given an opportunity to show cause why the certificate should not be discharged. (*L.N. 147 of 2000*)

- (4) The Director may revoke or discharge a certificate if he is satisfied that an aided person—
- (a) has knowingly made a false statement or false representation concerning any information furnished by him; or
  - (b) has wilfully failed—
    - (i) to disclose his financial resources;
    - (ii) to disclose any material fact concerning his financial resources;
    - (iii) to make a true and correct disclosure of his financial resources;
    - (iv) to comply with any regulation as to information to be furnished by him;
    - (v) to disclose any material fact concerning such information;
    - (vi) to comply with any regulation as to documents to be furnished by him;
    - (vii) to disclose any material fact concerning such documents;

- (viii) to comply with regulation 10 (duty of the person concerned to report change in financial circumstances) of the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91 sub. leg. B); or
- (ix) to attend any interview when so required by the Director:

Provided that a certificate shall not be revoked or, as the case may be, discharged under this subparagraph until the aided person has been given an opportunity to show cause why the certificate should not be revoked or discharged. (*L.N. 194 of 1992*)

- (5) At any time during the hearing of any proceedings to which an aided person is a party the court may, upon application by or on behalf of any other party to the proceedings or by the Director, consider whether the aided person—
  - (a) has wilfully failed to comply with any regulation as to the information to be furnished by him; or
  - (b) in furnishing any such information has knowingly made a false statement or false representation,

and on any such application the court may make an order revoking the certificate or discharging it from such date as may be appropriate and the court's decision shall be final:

Provided that no order shall be made under this paragraph until the aided person has been given an opportunity to show cause why the certificate should not be revoked, or, as the case may be, discharged.

- (6) When the Director revokes or discharges an aided person's certificate he shall forthwith issue a notice of discharge or revocation to the aided person.

- (7) Where the certificate so revoked or discharged has been filed in the registry of any court, the Director shall forthwith file a notification in the form determined by him with the registry of such court. (*L.N. 326 of 1984; L.N. 194 of 1992*)
- (8) When the court makes an order revoking or discharging an aided person's certificate, the officer of the court shall forthwith inform the Director.

*(E.R. 1 of 2013)*

## **9. Effect of discharge and revocation**

- (1) Subject to the provisions of this regulation, a person whose certificate is revoked shall be deemed never to have been an aided person in the proceedings to which the certificate related, and a person whose certificate is discharged shall, from the date of discharge, cease to be an aided person in these proceedings.
- (2) Upon receipt by him of notice of revocation or discharge of a certificate by the Director or upon revocation or discharge of a certificate by the court, the retainer of any solicitor and counsel acting for the aided person in proceedings to which the certificate relates shall forthwith determine.
- (3) Upon determination of proceedings under this regulation—
- (a) the costs of the proceedings to which the certificate related, incurred by or on behalf of the person to whom it was issued, shall, as soon as practicable thereafter, be taxed or, as the case may be, assessed in accordance with the provisions of these regulations;
  - (b) the Director shall remain liable for the payment of any costs so taxed or assessed.
- (4) (*Repealed 60 of 1981 s. 4*)

- (5) Where a certificate has been revoked or, where aid was granted under the Supplementary Legal Aid Scheme, discharged, the Director shall have the right to recover from the person to whom the certificate was issued the costs paid or payable under paragraph (3)(b). (*L.N. 194 of 1992*)
- (5A) The amounts recoverable by the Director under paragraph (5) shall be reduced—
- (a) by any amount received by him by way of contribution if aid was not granted under the Supplementary Legal Aid Scheme; or
  - (b) where aid was granted under the Supplementary Legal Aid Scheme, by the amount of any interim contribution paid under section 32 of the Ordinance and the application fee paid under regulation 3(3). (*L.N. 326 of 1984; L.N. 147 of 2000*)
- (6) Where a certificate has been discharged and the person to whom the certificate was issued continues to take, defend or be a party to the proceedings to which the certificate related— (*L.N. 326 of 1984*)
- (a) the provisions of the Ordinance which relate to sums recovered by virtue of an agreement relating to costs made in favour of an aided person shall apply in so far as the costs were incurred while he was an aided person; and
  - (b) the provisions of the Ordinance which relate to an aided person's liability by virtue of an order for costs made against him shall apply in so far as the costs were incurred while he was an aided person.
- (6A) The Director has the right to enforce an order for costs in favour of an aided person made in proceedings for which the Director has issued a certificate, whether the certificate has been discharged or revoked, and the Director may bring



proceedings in his official name in a court of competent jurisdiction to recover the costs ordered. (*L.N. 5 of 1995*)

- (7) Where a notification of the discharge or revocation in the form determined by the Director is filed in the registry of the court, all proceedings in the litigation shall, unless the court otherwise orders, be stayed for a period of 14 days and during such period time fixed by or under any law or otherwise for the doing of any act or the taking of any step in the proceedings shall not run. (*L.N. 89 of 1982; L.N. 326 of 1984; L.N. 194 of 1992; 79 of 1995 s. 50*)
- (8) The time during which proceedings are stayed by virtue of paragraph (7) may be reduced or extended by order of a judge of the court in which the litigation is pending.
- (9) Where a certificate, other than a certificate granted under the Supplementary Legal Aid Scheme, has been discharged the person to whom the certificate was issued shall remain liable for the payment of his maximum contribution, if any, as determined by the Director up to the amount paid or payable by the Director under paragraph (3)(b). (*L.N. 326 of 1984*)
- (10) Where a certificate granted under the Supplementary Legal Aid Scheme is revoked or discharged and the person to whom the certificate was issued continues to take, defend or be a party to the proceedings to which the certificate related and is successful in those proceedings in circumstances where, had the certificate not been revoked or discharged, a contribution would have been payable under section 32 of the Ordinance, he shall be liable to pay, in addition to any amount payable under paragraph (5), a contribution equivalent in amount to the contribution which would have been payable under section 32 of the Ordinance had the proceedings been settled at the time of the revocation or discharge and the value of the property subsequently recovered or preserved for the person to whom the certificate was issued in the proceedings,



or by virtue of any compromise arrived at in order to bring the proceedings to an end, had been the value of property recovered or preserved for that person in the settlement:

Provided that—

- (a) nothing in this paragraph shall apply if the certificate was discharged under regulation 8(3); (*L.N. 147 of 2000*)
- (b) if the certificate was discharged under regulation 8(2)(d) because the aided person rejected an offer in settlement and value of the property as subsequently recovered or preserved for him in such proceedings or by virtue of any compromise arrived at in order to bring the proceedings to an end is of an amount greater than the value of the offer, this paragraph shall apply as though the value of such property were the value of the offer. (*L.N. 326 of 1984*)

## **10. Legal aid after commencement of proceedings**

- (1) Where, after proceedings have been instituted in any court or the Court of Final Appeal, any party becomes an aided person in regard to those proceedings, the Director shall only be liable to pay so much of the costs of the proceedings as are incurred while a certificate is in force. (*L.N. 89 of 1982; L.N. 194 of 1992; 79 of 1995 s. 50*)
- (2) Any solicitor who has acted in the proceedings on behalf of the aided person before the date of the certificate, and any solicitor who has by law a lien on any documents necessary for the proceedings to which the certificate relates and who has delivered them up subject to his lien, may give notice of the fact to the Director.
- (3) If damages or costs are recovered for the aided person in the proceedings, the Director shall pay to such solicitor out of

the sum so recovered the costs to which he would have been entitled on a taxation between solicitor and own client:

Provided that in any case where legal aid was granted under section 5 of the Ordinance and where the sums so recovered are insufficient to pay these costs in full in accordance with this paragraph and also to meet the net liability of the Director on the aided person's account the sum recovered in the proceedings shall be divided between the Director and the solicitor in proportion to the amount owing to each, and the first charge for the benefit of the Director imposed by virtue of the Ordinance on property recovered or preserved in the proceedings shall take effect accordingly. (*L.N. 326 of 1984*)

- (4) In any case where there has been no order for taxation, the amount of the costs shall be fixed by the Director.

## **11. Repeated refusal of certificates**

- (1) Where a person has applied for and been refused a certificate—
- (a) on 2 or more occasions where the applications relate to substantially the same cause or matter; or
  - (b) in any other case, on 4 or more occasions,
- and it appears to the Director that his conduct has amounted to an abuse of the facilities provided by the Ordinance, the Director may order that no consideration shall be given to any future application by that person. (*L.N. 326 of 1984; L.N. 235 of 1988*)
- (2) No such direction shall—
- (a) apply to any application by that person on behalf of an infant; or
  - (b) remain in force for a period longer than 3 years.

**12. Conduct of proceedings by solicitors**

- (1) Every set of papers, whether delivered by the Director to a solicitor or to counsel or by a solicitor to counsel, shall be marked “Legal Aid” or “法律援助”. (*L.N. 326 of 1984; 32 of 2000 s. 48*)
- (2) Where it appears to the aided person’s solicitor necessary for the proper conduct of the proceedings to take or to apply to the court for leave to take any one or more of the following steps, namely—
  - (a) to add any further party to the proceedings; or
  - (b) to bespeak any transcript of shorthand notes of any proceedings; or
  - (c) to lodge any interlocutory appeal; or
  - (d) to instruct more than one counsel; or
  - (e) to set up or set off any right or claim having the same effect as a cross-action (other than a counter-claim or set-off arising out of the same transaction and capable of being pleaded as a defence), or to reply to any right or claim so set up or so set off by any other party; or
  - (f) to file any counter-claim, cross-petition or cross-appeal; or (*L.N. 235 of 1988; L.N 147 of 2000*)
  - (g) to represent the aided person at an inquest into the death of a person under the Coroners Ordinance (Cap. 504) which gives rise to the proceedings to which the certificate relates, (*L.N. 147 of 2000*)

he shall (unless the certificate provides for the act in question to be done) apply to the Director for authority so to do, and no payment shall be allowed on taxation for any such step taken without the approval of the Director.

- (3) The Director may give general authority to solicitors acting for aided persons in any particular class of case to obtain experts' opinion and to tender expert evidence, and if so he shall state the maximum fee to be paid for any report or opinion or expert witness.
- (4) Where it appears to an aided person's solicitor necessary for the proper conduct of the proceedings either—
- (a) to obtain a report or opinion of one or more experts or to tender expert evidence in a case of a class not included in any general authority under paragraph (3); or
  - (b) in a case of a class so included, to pay a higher fee than that stated by the Director or to obtain more reports or opinions or to tender more experts as witnesses than have been authorized,
- he may apply to the Director for authority so to do and if the Director gives authority he shall state the maximum number of reports or opinions that may be obtained or the maximum number of persons who may be tendered to give expert evidence and the maximum total fee to be paid therefor.
- (5) Save as provided by this regulation, no payment shall be made for the report or opinion of an expert or for expert's evidence tendered by or on behalf of an aided person.
- (6) Where it appears to the aided person's solicitor necessary for the proper conduct of the proceedings for an act to be done, but that act is either unusual in its nature or involves unusually large expenditure, he shall request the Director's prior approval of the act, and, where such prior approval has been obtained, no question as to the propriety of the act shall be raised on taxation as between solicitor and client.  
*(L.N. 326 of 1984)*

- (7) Without prejudice to the right of solicitor or counsel to give up a case for good reason, any solicitor or counsel may give up an aided person's case if, in his opinion, the aided person has required the proceedings to be conducted unreasonably so as to incur an unjustifiable expense to the Director or has required unreasonably that the proceedings be continued.
- (8) Where any solicitor or counsel exercises the right to give up an aided person's case—
- (a) under the provisions of paragraph (7); or
  - (b) on the ground that the aided person has wilfully failed to provide the information to be furnished by him or in furnishing such information has knowingly made a false representation,
- the solicitor or counsel shall make a report to the Director of the circumstances in which that right was exercised.
- (9) An aided person's solicitor shall give the Director such information regarding the progress and disposal of proceedings to which the certificate relates as the Director may from time to time require for the purpose of performing his functions under the Ordinance and without prejudice to the generality of the preceding words, a solicitor who has acted or is acting for an aided person, on being satisfied that the aided person has died or has had a receiving order made against him, shall report the facts to the Director.
- (10) A solicitor shall not be precluded, by reason of any privilege arising out of the relationship between solicitor and client from disclosing to the Director any information or from giving any opinion which may enable the Director to perform his functions under the Ordinance.
- (11) The Director may at any time, while a certificate is in force, pay to the aided person's solicitor such sums as the Director may approve for disbursements to be made by the solicitor

in respect of the proceedings to which the certificate relates. Where such approval is obtained, no question shall be raised on taxation as between solicitor and client as to the propriety of any disbursements made in accordance with such approval. *(L.N. 56 of 1967)*

**12A. Deposit under r. 52 of Bankruptcy Rules and r. 22A of Companies (Winding-up) Rules**

- (1) Where a legal aid certificate is granted to bring proceedings in bankruptcy or to wind up a company, the Director may deposit any sum required to be deposited under rule 52 of the Bankruptcy Rules (Cap. 6 sub. leg. A) or rule 22A of the Companies (Winding-up) Rules (Cap. 32 sub. leg. H), as the case may be, and a further such deposit may be made notwithstanding that the proceedings to which the legal aid certificate relates have been determined. *(L.N. 184 of 1974)*

- (2) *(Repealed L.N. 194 of 1992)*

*(E.R. 1 of 2013)*

**13. Service of notices**

- (1) Any notice or notification required to be served under any provision of the Ordinance shall be served either personally or by post to the last known address of the person required to be served. *(L.N. 326 of 1984)*
- (2) Whenever an aided person becomes a party to proceedings, or a party to proceedings becomes an aided person, the Director shall forthwith serve all other parties with a notice in the prescribed form and the aided person's solicitor shall if at any time thereafter any other person becomes a party to the proceedings, forthwith serve similar notice upon such person. *(L.N. 56 of 1967)*

**14. Property recovered for and costs awarded to aided person**

- (1) *(Repealed L.N. 56 of 1967)*
- (2) Where in any proceedings to which an aided person is a party—
  - (a) an order or agreement is made providing for the recovery or preservation of property for the benefit of the aided person and, by virtue of the Ordinance, there is a first charge on the property for the benefit of the Director; or
  - (b) an order or agreement is made for the payment of costs to the aided person,the aided person shall, subject to the provisions of paragraph (3), take such proceedings, being proceedings which may be taken under section 5 of the Ordinance, as may be necessary to enforce or give effect to such order or agreement.
- (3) Any aided person may apply to the Director for a direction that paragraph (2) shall not apply to him on the ground that, having regard to the probable cost of any proceedings referred to or to the likelihood of their being successful, it would be unreasonable to take them and, if the Director agrees, he shall direct that the proceedings be not taken and shall amend the aided person's certificate so as to exclude such proceedings therefrom.

The power conferred on the Director by this paragraph may be exercised without an application being made by an aided person.
- (4) Where the Director, having directed that proceedings be not taken by the aided person, is of the opinion that it is expedient so to do he may enforce any order for the payment of money in his name.

## 15. Miscellaneous provisions

- (1) Where in any proceedings to which an aided person is a



party—

- (a) judgment is signed in default of appearance or defence, the judgment shall contain a direction that the costs of the aided person shall be taxed;
  - (b) the court gives judgment or makes a final order in the proceedings, the judgment shall contain a direction (in addition to any other direction as to taxation contained in the judgment or order) that the costs of any aided person shall be so taxed.
- (2) Where in any proceedings to which an aided person is a party—
- (a) the proceedings are, or have been, brought to an end without a direction having been given, whether under paragraph (1)(a) or (b) or otherwise, as to the aided person's costs being taxed; or
  - (b) a judgment or order in favour of an opposite party, that included a direction that the aided person's costs be taxed has not been drawn up or as the case may be entered by him,

an order that the aided person's costs be taxed shall be made on ex parte application to the Registrar by his solicitor or the Director and the costs of the application and taxation shall be deemed to be costs in the proceedings to which the certificate relates or related.

**15A. Category of persons who may be granted legal aid in coroners inquests**

- (1) For the purposes of section 28(2) of and paragraph 3 of Part 1 of Schedule 2 to the Ordinance and the grant of legal aid to the family of a deceased person in respect of an inquest into deaths under the Coroners Ordinance (Cap. 504), the Director may approve the grant of legal aid to one and, only



one, person being the surviving spouse, child, father, mother, brother or sister of the deceased.

- (2) Notwithstanding paragraph (1), where the Director is satisfied that there is no person of any description in that paragraph either in being or, to whom a grant of legal aid can reasonably be made, he may for that reason approve the grant of legal aid for the purposes mentioned in that paragraph to any other person who, in the opinion of the Director, may reasonably be regarded as a surviving close relative of the deceased if he is satisfied that it is appropriate to do so.

*(L.N. 147 of 2000; E.R. 1 of 2013)*

## **16. Procedure**

Save as is otherwise provided by these regulations, in any proceedings in any court to which an aided person is party the procedure shall be regulated by the rules of procedure for that court.

## **17. Obligations of counsel and a solicitor**

- (1) Where the name of counsel or a solicitor is entered on the panel, the presence of his name on the list shall carry with it the obligation of such counsel or solicitor also to act for an aided person—
- (a) in any appeal from the court in which he has so acted; and
  - (b) in any proceedings before any person to whom the proceedings are referred by the court in which he has so acted.
- (2) For the removal of doubt, it is hereby declared that where any solicitor is assigned for the purpose of any proceedings any other solicitor in the same firm may act for the aided person therein.

*(L.N. 326 of 1984)*

## **18. Fees and costs in contentious proceedings**

- (1) In any proceedings before a court or tribunal with regard to any matter involving any officer holding office under section 3 of the Ordinance, the fees and costs of and incidental to the conduct of the proceedings (including all matters preliminary to the proceedings) and the appearance of any such officer shall be governed by the Hong Kong Court of Final Appeal Rules (Cap. 484 sub. leg. A) and Order 62 of the Rules of the High Court (Cap. 4 sub. leg. A). *(79 of 1995 s. 50; 25 of 1998 s. 2)*
- (2) For the purpose of the Hong Kong Court of Final Appeal Rules (Cap. 484 sub. leg. A) and the Rules of the High Court (Cap. 4 sub. leg. A), and in the application of any other legislative provision as to fees and costs or the practice relating to fees and costs, an officer holding office under section 3 of the Ordinance is deemed to have the status of a barrister and solicitor duly admitted under the Legal Practitioners Ordinance (Cap. 159), except that, in consideration of an item which in a bill rendered by or against a party who is not an aided person would— *(79 of 1995 s. 50; 25 of 1998 s. 2)*
  - (a) consist of costs allowable to a solicitor solely in relation to the employment of counsel; or
  - (b) consist of fees payable to counsel solely in relation to his instruction by a solicitor; or
  - (c) involve remuneration to both solicitor and counsel in respect of the same event,

the Registrar, on taxation, shall be informed of that fact and shall take into consideration whether one or more of the

officers holding office under section 3 of the Ordinance were engaged on the preparation or hearing of the case.

- (3) If in any proceedings referred to in paragraph (1) the Director of Legal Aid appears before any court or tribunal in person, whether the Director is a Senior Counsel or not, that court or tribunal, or the Registrar on taxation, may provide for such fees and costs as are consequent on the appearance of leading counsel. *(94 of 1997 s. 18)*

*(L.N. 172 of 1972)*

#### **19. Fees and costs in non-contentious proceedings**

For the purpose of any agreement for the payment of fees and costs in non-contentious matters an officer holding office under section 3 of the Ordinance is deemed to have the status of a barrister and solicitor duly admitted under the Legal Practitioners Ordinance (Cap. 159).

*(L.N. 172 of 1972)*

#### **20. Costs, etc. to be paid into general revenue**

Any costs or fees received by an officer under regulation 18 or 19 shall be paid into the general revenue unless legal aid has been granted under the Supplementary Legal Aid Scheme, in which case they shall be paid into the Fund.

*(L.N. 172 of 1972; L.N. 326 of 1984)*

#### **21. Duty to report abuse of legal aid**

- (1) Where an aided person's solicitor or counsel has reason to believe that the aided person—
- (a) has required his case to be conducted unreasonably so as to incur unjustifiable expense or has required unreasonably that the case be continued; or

(b) has wilfully failed to comply with any regulation requiring him to provide information or in furnishing such information has knowingly made a false statement or a false representation,

the solicitor or counsel shall forthwith report the fact to the Director.

(2) Where the solicitor or counsel is uncertain whether it would be reasonable for him to continue acting for an aided person, he shall report the circumstances to the Director.

*(L.N. 326 of 1984)*

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**Schedule**

*(Repealed L.N. 194 of 1992)*