



BERMUDA

LEGAL AID ACT 1980

1980 : 56

TABLE OF CONTENTS

1	Short title
2	Interpretation
3	Scope of legal aid
3A	Limitations on grant of legal aid in civil proceedings to non-Bermudians
3B	When a legal aid certificate may be granted
4	Establishment of Committee
5	Functions of Committee
5A	Minister may give policy directions
5B	Staff of the Committee, etc.
5C	Administration of Act
5D	Protection of staff
6	Expenses of legal aid
7	Opportunity for legal advice
8	Method of application
9	Power to make inquiries as to means and merits
10	Grant of certificates
11	Contribution by assisted person
12	Assignment of counsel
13	Remuneration of counsel
13A	Charge on money or property recovered
14	Prohibition against taking fees from assisted person
15	False information
16	Power to make regulations
17	Revocation and discharge of legal aid certificate
17A	Revocation of certificate where assets subject to confiscation order
17B	No costs payable if all parties assisted
18	Annual report
19	Power to increase figures to maintain values

LEGAL AID ACT 1980

- 20 Repeal *[omitted]*
21 Commencement *[omitted]*
- FIRST SCHEDULE
- SECOND SCHEDULE
Specified Offences
- THIRD SCHEDULE
Calculation of Legal Aid Contribution

[preamble and words of enactment omitted]

Short title

- 1 This Act may be cited as the Legal Aid Act 1980.

Interpretation

- 2 In this Act, unless the context otherwise requires—
- “applicant” means an applicant for the grant of legal aid;
 - “assigned counsel” means counsel assigned pursuant to section 12 to afford legal aid to an assisted person;
 - “assisted person” means a person to whom a legal aid certificate has been granted;
 - “certificate” means a legal aid certificate granted under section 10;
 - “Committee” means the Legal Aid Committee established by section 4;
 - “counsel” means a person who is a barrister within the meaning of the Bermuda Bar Act 1974 *[title 30 item 3]*;
 - “court” means the Court of Appeal, the Supreme Court or a court of summary jurisdiction;
 - “disposable income” and “disposable capital” have the meanings respectively assigned to them in the Third Schedule;
 - “legal aid” means legal services by way of legal advice, assistance or representation provided pursuant to this Act;
 - “Legal Aid Counsel” means the Senior Legal Aid Counsel and other Legal Aid Counsel appointed under section 5B;
 - “Minister” means the Minister responsible for legal aid.

[Section 2 “legal aid” and “Minister” amended, “Legal Aid Counsel” inserted by 2003:24 s.2 effective 19 January 2004]

LEGAL AID ACT 1980

Scope of legal aid

3 (1) Legal aid may be granted in proceedings before a court in the following cases—

- (a) criminal trials on indictment, preliminary inquiries into charges of an indictable offence and summary trials on information charging an offence which is triable either summarily or on indictment;
- (b) subject to subsection (1B) civil proceedings generally in the Supreme Court or a court of summary jurisdiction; and
- (c) appeals in criminal and, subject to subsection (1B), civil cases.

(1A) For the purposes of subsection (1)(a), legal aid in respect of proceedings before a court extends to any proceedings incidental to such proceedings, including bail proceedings, whether before that or another court.

(1B) Legal aid may only be granted in family law proceedings if those proceedings involve questions of custody, access, adoption, maintenance or support of a child under the age of 18 years.

(1C) In subsection (1B), “family law proceedings” means proceedings brought under the Adoption of Children Act 1963, the Matrimonial Causes Act 1974, the Matrimonial Proceedings (Magistrates’ Courts) Act 1974, the Succession Act 1974, the Children Act 1998 or the Adoption of Children Act 2006.

(2) Subject to sections 3A, 3B, 10 and 11, legal aid may be granted to individual natural persons of the following categories—

- (a) accused persons in criminal trials;
- (aa) persons who are detained at a police station, correctional institution or other similar place;
- (b) appellants (including applicants for leave to appeal) in appeals against conviction or sentence and respondents to criminal appeals by prosecutors;
- (c) parties generally in civil proceedings; and
- (d) parties generally in civil appeals.

(3) Subject to sections 3A, 3B, 10 and 11, legal aid may be granted in such special circumstances as appear sufficient to the Committee to any individual natural person for the purpose of enabling him to appeal, or to apply for leave or special leave to appeal, to Her Majesty in Council from a decision of the Court of Appeal or to respond to any such appeal or application; and where legal aid is granted under this subsection, it shall include the necessary disbursements made on behalf of the assisted person with the approval of the Committee, including the cost of instructing English solicitors and barristers.

[Section 3 subsection (1) substituted, and (2)(aa) inserted, by 2003:24 s.3 effective 19 January 2004; Section 3 amended by 2011 : 22 s. 2 effective 1 August 2011]

LEGAL AID ACT 1980

Limitations on grant of legal aid in civil proceedings to non-Bermudians

3A (1) Subject to subsection (2), legal aid in civil proceedings may not be granted to a person unless that person—

- (a) possesses Bermudian status under the Bermuda Immigration and Protection Act 1956;
 - (b) is the spouse of a person who possesses Bermudian status; or
 - (c) holds a permanent resident's certificate under the Bermuda Immigration and Protection Act 1956.
- (2) Subsection (1) does not apply to any proceedings which relate to—
- (a) immigration;
 - (b) human rights challenges against the Government; or
 - (c) family law proceedings falling within section 3(1B).

[Section 3A inserted by 2011 : 22 s. 3 effective 1 August 2011]

When a legal aid certificate may be granted

3B (1) Legal aid in civil proceedings may only be granted if the Committee is satisfied, after making inquiries under section 9, that the applicant appears to have a reasonable prospect of succeeding on the merits of the case.

(2) The Minister may make regulations providing guidelines that the Committee shall follow in deciding whether or not to grant legal aid in judicial review proceedings.

[Section 3B inserted by 2011 : 22 s. 3 effective 1 August 2011]

Establishment of Committee

4 There shall be a Legal Aid Committee for the purpose of administering this Act. The provisions of the First Schedule shall apply to regulate the composition and procedure of the Committee and otherwise in relation thereto.

Functions of Committee

5 (1) The Committee shall in consultation with the Bermuda Bar Council prepare and maintain a list of barristers and attorneys who are in active private practice in Bermuda, from which shall be drawn the names of all counsel who are able and willing to represent applicants and assisted persons; the Committee may prepare rosters of such counsel for the more efficient administration of this Act, and such rosters shall include one of counsel who are willing and able to interview and advise persons charged with criminal offences in the circumstances set out in section 7.

(2) The Committee shall receive and consider every application for legal aid made under section 8 and, subject to the following provisions of this Act and any regulations, shall grant a certificate to an applicant in any proper case, with or without provision for payment of contributions by the applicant.

LEGAL AID ACT 1980

Minister may give policy directions

5A The Minister may, after consultation with the Committee, give such general directions as to the policy to be followed by the Committee in the performance of its functions as appear to the Minister to be necessary in the public interest, and the Committee shall give effect to any such directions.

[Section 5A inserted by 2003:24 s.4 effective 19 January 2004]

Staff of the Committee, etc.

5B (1) The staff of the Committee shall consist of a Senior Legal Aid Counsel and such other Legal Aid Counsel and other staff as the Committee considers necessary for the proper administration of this Act.

(2) The staff of the Committee shall be public officers.

(3) The Senior Legal Aid Counsel appointed prior to the coming into operation of this Act shall, on such coming into operation, be deemed to have been appointed pursuant to this section and everything lawfully done by the Senior Legal Aid Counsel prior to such coming into operation shall be deemed to have been done pursuant to a power given by this Act.

[Section 5B inserted by 2003:24 s.4 effective 19 January 2004]

Administration of Act

5C The Senior Legal Aid Counsel shall be responsible for the day to day administration of this Act and, subject to the directions of the Committee, shall be responsible for carrying out the functions of the Committee.

[Section 5C inserted by 2003:24 s.4 effective 19 January 2004]

Protection of staff

5D (1) No action or suit, prosecution or other proceedings shall be instituted against a Legal Aid Counsel personally in respect of any act or omission *bona fide* done or made by him in execution or intended execution of any function imposed upon the Committee or the Senior Legal Aid Counsel under this Act.

(2) Where a Legal Aid Counsel is exempt from liability for an act or omission by reason only of subsection (1), the Committee shall be liable for the act or omission to the extent that it would be if the Legal Aid Counsel were the Committee's servant or agent.

[Section 5D inserted by 2003:24 s.4 effective 19 January 2004]

Expenses of legal aid

6 (1) There shall be defrayed out of moneys appropriated annually by the Legislature for that purpose—

- (a) the working operations expenses and any other expenditure incurred in the proper discharge of the functions of the Committee;
- (b) the remuneration of counsel under section 13; and

LEGAL AID ACT 1980

- (c) subject to subsection (2), any other expenditure authorized by the Senior Legal Aid Counsel for the purposes of this Act;

(2) The Senior Legal Aid Counsel shall not, without the prior written approval of the Committee, authorize any expenditure in excess of \$5,000.00.

[Section 6 subsection (1)(c) substituted, and (2) added, by 2003:24 s.5 effective 19 January 2004]

Opportunity for legal advice

7 (1) Where an unrepresented accused person appears before a magistrate's court charged with a criminal offence that is specified in the Second Schedule, the magistrate shall, before requiring the accused person to plead to the charge or remanding him or otherwise dealing with him according to law—

- (a) inform him that he has the right to obtain legal advice from duty counsel or Legal Aid Counsel; and
- (b) afford him, if he so requests, an opportunity to obtain such advice before he pleads to the charge or, where the charge is one in respect of which he has an election whether to be tried summarily, before he so elects or before any evidence is called.

(2) Where—

- (a) an unrepresented accused person appears before a magistrate's court charged with a criminal offence that is not specified in the Second Schedule; and
- (b) it appears to the magistrate that the interests of justice require that the accused person should have legal advice made available to him,

the magistrate shall, before requiring the accused person to plead to the charge or remanding him or otherwise dealing with him according to law—

- (aa) inform him that such advice can be made available to him from duty counsel or Legal Aid Counsel; and
- (bb) afford him, if he so requests, such an opportunity as is described in paragraph (b) of subsection (1).

(2A) As soon as a decision has been made to detain a person at a police station, correctional institution or other similar place the person in charge of the police station, correctional institution or other similar place, as the case may be, shall inform the first mentioned person that he has a right to obtain advice and representation for the purpose of any interview from the duty counsel or Legal Aid Counsel.

(3) In this section-

“duty counsel” means a counsel whose name appears on the appropriate roster maintained by the Committee;

LEGAL AID ACT 1980

“unrepresented” means not represented by counsel.

[Section 7 subsection (1)(a) and (2)(aa) amended, and (2A) inserted, by 2003:24 s.6 effective 19 January 2004]

Method of application

8 (1) Any person who wishes to be granted legal aid shall apply in writing to the Senior Legal Aid Counsel who shall place the application before the Committee for its consideration.

(2) Every application for legal aid shall be in such form and accompanied by such statutory declaration verifying the facts stated in the application as may be prescribed by regulations.

[Section 8 subsection (1) substituted by 2003:24 s.7 effective 19 January 2004]

Power to make inquiries as to means and merits

9 Where an application for legal aid is made, the Committee may—

- (a) refer to such Government Departments as the Committee considers appropriate any question connected with the eligibility of the applicant for legal aid or as to his liability to make any contribution towards legal aid having regard to the Third Schedule;
- (b) make such other inquiries as it thinks fit as to the means and condition of the applicant and as to the merits of his case;
- (c) require the applicant to furnish such information and documents as the Committee may require for the purpose of considering his application;
- (d) require the applicant to attend personally before the Committee;
- (e) if the application relates to civil proceedings or to any appeal, refer it or any matter arising out of it to counsel to investigate and report thereon or on any question of law arising out of the application.

[Section 9 para (a) amended by 2003:24 s.8 effective 19 January 2004; Section 9 Heading amended by 2011 : 22 s. 4 effective 1 August 2011]

Grant of certificates

10 (1) Subject to section 3 a legal aid certificate may be granted to an applicant by the Committee if his disposable income is less than \$18,000 a year:

Provided that an applicant shall be refused a certificate if he has a disposable capital of \$20,000 or more.

(2) An applicant who—

- (a) is charged before a court with any offence specified in the Second Schedule;
- or

LEGAL AID ACT 1980

- (b) is a party to a criminal appeal before a court in connection with any such charge and satisfies the Committee that there are reasonable grounds of appeal,

shall, if he qualifies for the grant of a certificate under subsection (1), be entitled as of right to have a certificate granted to him by the Committee.

(3) An applicant eligible for legal aid under section 3, other than one entitled as of right under subsection (2) to the grant of a certificate, may, if he qualifies under subsection (1), be granted a certificate by the Committee in their discretion, and in the exercise of that discretion the Committee shall, *inter alia*, consider whether it is in the interests of justice to grant legal aid.

(4) The Senior Legal Aid Counsel may in any case of urgency grant a certificate to an applicant for a temporary period not exceeding twenty-eight days at a time pending the exercise by the Committee of its powers under section 9 and the consideration by them of the grant to him of a certificate under either subsection (2) or subsection (3).

(5) The Third Schedule shall govern the calculation of the disposable income and disposable capital of an assisted person and the assessment of the amount of any contribution which he may be required to pay under section 11 having regard to the amount so calculated.

(6) The Minister may, acting with and in accordance with the advice of the Committee by order published in the Gazette add to, delete or otherwise vary the Second Schedule.

(7) An order made under subsection (6) shall be subject to the negative resolution procedure.

[Section 10 subsections (1) and (4) amended, (2) substituted, and (5)-(7) added, by 2003:24 s.9 effective 19 January 2004]

Contribution by assisted person

11 (1) The Committee on granting a certificate shall require an assisted person to pay into the Consolidated Fund a contribution towards the sums payable out of the Fund on his account under the authority of the certificate.

(2) *[Repealed by 2011 : 22 s. 5]*

(3) The Third Schedule shall govern the calculation of the disposable income and disposable capital of an assisted person and the assessment of the amount of any contribution which he may be required to pay under this section having regard to the amounts so calculated.

(4) If the Committee require an assisted person to pay a contribution, they shall either require him to pay the same forthwith or by way of such periodical instalments as may be specified in the certificate granted to him.

(5) The amount of any contribution or instalment thereof becoming due may be recovered by the Accountant General by civil action in a court of summary jurisdiction.

LEGAL AID ACT 1980

(6) Notwithstanding the provisions of this section, where in the circumstances of a particular case the Committee is satisfied that it is appropriate in the interest of justice so to do, the Committee may disregard the disposable income of an assisted person.

[Section 11 subsections (1) and (2) amended, and (6) inserted, by 2003:24 s. 10 effective 19 January 2004; Section 11 amended by 2011 : 22 s. 5 effective 1 August 2011]

Assignment of counsel

12 (1) Subject to subsection (2), whenever a certificate is granted by the Committee, the Committee shall direct the Senior Legal Aid Counsel to assign Legal Aid Counsel to the assisted person.

(2) But if the Committee, on the advice of the Senior Legal Aid Counsel, determine that assignment of Legal Aid Counsel in a particular case—

- (a) is not practical;
- (b) is not appropriate to the nature of the proceedings for which the certificate is granted; or
- (c) might give rise to a conflict of interest,

the Committee shall direct the Senior Legal Aid Counsel to assign to the assisted person the external counsel of the assisted person's choice.

(3) Notwithstanding subsection (2), if the assisted person's external counsel of choice—

- (a) is unavailable;
- (b) is unwilling to take on the case; or
- (c) refuses to be bound by the Schedule of Fees annexed to the Legal Aid (Scale of Fees) Regulations 1980,

the Committee shall direct the Senior Legal Aid Counsel to assign another counsel to the assisted person.

(4) In this section, "external counsel" means counsel whose name appears on the appropriate roster maintained under section 5.

[Section 12 repealed and replaced by 2003:24 s. 11 effective 19 January 2004; Section 12 repealed and replaced by 2018 : 36 s. 2 effective 1 March 2019]

Remuneration of counsel

13 (1) Subject to the provisions of this section, there shall be paid out of the Consolidated Fund to assigned counsel such fees and costs as may be prescribed by regulations made under section 16.

(2) An assigned counsel shall in due course submit his bill of costs to the Committee for taxation under subsection (6).

(3) A bill of costs so submitted by assigned counsel may be either a single bill covering the whole of the legal aid rendered by him or one of a series of bills.

LEGAL AID ACT 1980

(3A) Where assigned counsel submits a series of bills then, each bill in the series shall—

- (a) clearly indicate that it is one of a series;
- (b) be accompanied by a report on the status of the proceedings as of the date of the bill;
- (c) indicate the estimated time for completion of the proceedings;
- (d) be in respect of an amount of \$2,000 or more; and
- (e) in the case of the final bill, indicate that fact and be accompanied by a report on the outcome of the proceedings which report shall indicate whether the assisted person has recovered any capital money or property.

(4) Where any fees or costs that could have been included in a bill of costs have actually been scrutinised and approved by the Registrar, assigned counsel may retain those fees or costs, deducting them from, and accounting for them in, any subsequent bill submitted by him to the Committee.

(4A) Except as provided in subsection (4), all costs awarded in favour of an assisted person shall be paid to the Accountant-General.

(4B) Costs referred to in subsection (4A) may be recovered by the Attorney-General in any court of competent jurisdiction as a debt due to the Accountant-General.

(5) A bill of costs submitted to the Committee under this section shall be in such form as the Committee may require.

(6) The Committee shall tax every bill of costs submitted under this section—

- (a) in accordance with regulations made under section 16; and
- (b) on the basis of what is necessary and reasonable having regard to the difficulty of the case and, in particular—
 - (i) in the case of criminal proceedings, the gravity of the charge; and
 - (ii) in the case of civil proceedings, the amount at issue.

(7) For the purpose of taxing a bill of costs the Committee may, with the prior written approval of the Chief Justice, review the records of a court in order to verify any matter relevant to such taxation.

[Section 13 subsection (1) amended, subsections (3A), (4A), (4B) and (7) inserted, and (6) substituted, by 2003:24 s.12 effective 19 January 2004]

Charge on money or property recovered

13A (1) Subject to subsection (2), any capital money actually recovered by an assisted person in or as a result of any relevant proceedings, and any property actually so recovered, shall stand charged in favour of the Government with the full amount paid in respect of the certificate granted to that person in respect of those proceedings, less the amount of any contribution paid by him in respect of that certificate.

LEGAL AID ACT 1980

(2) In subsection (1), “relevant proceedings” means any proceedings described in section 3(1)(b) or any court appeal in a civil cause or matter.

(3) *[Deleted by 2003:24]*

(4) The charge created by subsection (1) may be enforced by the Attorney-General in any court of competent jurisdiction.

[Section 13A subsection (1) amended, and (3) deleted, by 2003:24 s.13 effective 19 January 2004; Section 13A amended by 2011 : 22 s. 6 effective 1 August 2011]

Prohibition against taking fees from assisted person

14 No counsel who acts for an assisted person under the authority of a certificate shall take or agree to take or seek from that assisted person or from any other person any fee, profit or reward, pecuniary or otherwise in respect of any work done for or on behalf of the assisted person after the issue of that certificate and included within the scope of that certificate.

False information

15 Any applicant or assisted person who for the purposes of this Act knowingly makes any false statement or knowingly supplies any false information commits an offence:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$1,500.

[Section 15 amended by 2003:24 s.14 effective 19 January 2004]

Power to make regulations

16 (1) The Minister after consultation with the Chief Justice may make regulations consistent with this Act prescribing anything which by this Act is to be or may be prescribed and generally for the better carrying out of its purposes and provisions.

(2) Without prejudice to the generality of subsection (1), regulations may make provision—

- (a) as to the information to be supplied by an applicant to the Committee;
- (b) as to the cases in which a person may be refused legal aid by reason of his conduct as an applicant or assisted person;
- (c) for the recovery of contributions from assisted persons;
- (d) for the recovery in civil cases of costs awarded to an assisted person by order of the court;
- (e) for taxation of bills of costs submitted by counsel in legal aid cases and for review of and appeals from such taxation;
- (f) to meet the special circumstances arising where—
 - (i) an applicant seeks legal aid in a matter of special urgency;
 - (ii) an assisted person is granted a certificate after having previously retained counsel privately in regard to the same proceedings;

LEGAL AID ACT 1980

- (iii) there is a relevant change in financial circumstances of an assisted person before proceedings are concluded;
- (g) as to the cases in respect of which set fees are payable; and
- (h) as to the cases in respect of which fees and the amount of such fees may be agreed in advance; and
- (i) for the recovery of costs from a successful party;

(3) Regulations under this section shall be subject to the affirmative resolution procedure.

[Section 16 subsections (2) and (3) amended by 2003:24 s.15 effective 19 January 2004; Section 16 subsection (2)(d) amended by 2011 : 22 s. 7 effective 1 August 2011]

Revocation and discharge of legal aid certificate

17 (1) Where the Committee is satisfied that an assisted person has wilfully failed to comply with any provision of this Act or the regulations as to information to be supplied by him, or in furnishing such information has wilfully or recklessly made a false statement or false representation, they may if they think fit—

- (a) where such act or omission took place prior to the grant of the certificate, revoke the certificate *ab initio*; or
- (b) where the act or omission took place after the grant of the certificate, discharge the certificate with effect from the date when the act or omission occurred.

(1A) If on account of information received by him from any source assigned counsel is at any time of the opinion that by reason of a change in the circumstances of the assisted person the continued extension of legal aid to the assisted person can or may no longer be justified, assigned counsel shall—

- (a) inform the Committee by notice in writing of the facts so far as they are known to him, specifying to the best of his ability the time when the change occurred; and
- (b) give a copy of the notice to the assisted person.

(1B) Upon receipt of a notice under subsection (1A), the Committee may adjudge that such a change as aforesaid has indeed occurred, determine the date on which it occurred and discharge the certificate.

(1C) The Committee shall not exercise any of its powers under subsection (1) or (1B) until the assisted person has been given an opportunity to show cause why the certificate should not be revoked or discharged, as the case may be.

(2) The revocation or discharge of a certificate shall not affect the right of counsel to receive remuneration under section 13 in respect of any work done by him which is included within the scope of that certificate before the revocation or discharge thereof took effect.

LEGAL AID ACT 1980

(3) Notice of revocation or discharge of a legal aid certificate shall forthwith be given in writing to the Registrar and to assigned counsel.

(4) The Attorney-General may, by action in any Court of competent jurisdiction, recover from an assisted person whose certificate has been revoked or discharged, for the benefit of the Consolidated Fund, any amount which has been paid thereout in consequence of the grant of that certificate, with effect in the case of revocation from the date of the grant and in the case of discharge from the date of the discharge.

Revocation of certificate where assets subject to confiscation order

17A (1) An assigned counsel shall, upon receipt of information from any source that an assisted person he is representing is subject to a confiscation order under section 9 or 10 of the Proceeds of Crime Act 1997 (“a confiscation order”)—

- (a) notify the Committee in writing immediately, attaching a copy of the confiscation order; and
- (b) give a copy of the notice to the assisted person.

(2) When the Committee receives information under subsection (1) or is otherwise informed of the issue of a confiscation order in relation to an assisted person, the Committee shall if it thinks fit—

- (a) if the confiscation order is issued prior to the grant of the certificate, revoke the person’s certificate *ab initio*; or
- (b) if the confiscation order is issued after the grant of the certificate, discharge the person’s certificate with effect from the date of the confiscation order.

(3) Subsections (1C), (2), (3) and (4) of section 17 shall, with the necessary modifications, apply where a certificate is revoked or discharged under this section.

[Section 17A inserted by 2011 : 22 s. 8 effective 1 August 2011]

No costs payable if all parties assisted

17B Notwithstanding any other law, no court shall, upon determining any cause or matter in which all parties are assisted persons, make any order as to the payment of costs by any such assisted person to any other party in the cause or matter.

[Section 17B inserted by 2011 : 22 s. 8 effective 1 August 2011]

Annual report

18 (1) The Committee shall, as soon as practicable after the 31st day of March in every year submit a report to the Minister on the work of the Committee during the preceding year.

(2) The Minister shall, as soon as practicable after receiving the report of the Committee, lay a copy of the report before each House of the Legislature.

LEGAL AID ACT 1980

Power to increase figures to maintain values

19 (1) The Minister may by Order, whenever it appears to him to be necessary to do so by reason of changes in the value of money, increase any of the figures specified in section 10, section 11 or the Third Schedule and, upon the coming into effect of any such Order, the respective provisions of this Act shall be amended accordingly.

(2) An Order under this section shall be subject to the affirmative resolution procedure.

Repeal

20 *[omitted]*

Commencement

21 *[omitted]*

FIRST SCHEDULE

(Section 4)

LEGAL AID COMMITTEE

1 (1) The Committee shall consist of five members resident in Bermuda to be appointed by the Minister acting after consultation with the Chief Justice, one of whom shall be appointed Chairman.

(2) The Chairman shall be a person who holds or has held the judicial office of a judge or magistrate in some part of the Commonwealth.

(3) The other members shall be two members in good standing of the Bermuda Bar nominated by the Bermuda Bar Council, an accountant nominated by the Bermuda Institute of Chartered Accountants and a person having relevant experience of social work in Bermuda.

2 (1) The members of the Committee shall hold office for a term of three years from the dates of their respective appointments.

(2) Vacancies arising shall be filled by appointment in accordance with paragraph 1(1), having regard to the qualifications of the retiring member.

(3) A retiring member shall be eligible for reappointment.

3 Any three members of the Committee shall constitute a quorum at any meeting thereof.

4 Matters before the Committee shall be decided by a majority of the members present and voting and in the event of an equality of votes the Chairman, or other person presiding shall have an additional casting vote.

5 In the absence of the Chairman from any meeting of the Committee the members present may elect one of their number to preside thereat.

6 The Committee may delegate to any one or more of its members power to grant a temporary legal aid certificate in accordance with section 10(4).

7 Fees shall be payable to the Chairman and members of the Committee in accordance with provisions made under the Government Authorities (Fees) Act 1971 [*title 14 item 6*].

8 No member of the Committee shall be liable in any proceedings criminal or civil for anything done or omitted to be done by him bona fide in the exercise of the functions of the Committee under this Act.

LEGAL AID ACT 1980

9 The Minister shall assign a public officer to act as the secretary to the Committee.
[First Schedule amended by 2011 : 22 s. 9 effective 1 August 2011]

SECOND SCHEDULE

(Section 10(2))

SPECIFIED OFFENCES

(a) Under the Criminal Code [*title 8 item 31*]

Treason	s.82
Accessory to treason	s.83
Concealment of treason	s.84
Treasonable felonies	s.85
Inciting to mutiny	s.88
Seditious offences	s.94
Unlawful assembly	s.99
Riot and other riotous offences	ss. 100, 102,103 or 104
Corruption	ss. 111, 116 or 117
Perjury	s.120
Piracy and related offences	ss.159, 160 or 161
Hijacking aircraft	s.162
Counterfeiting and other coinage offences	ss. 164, 165, 167, 168 or 169
Unnatural offences	ss.177 or 178
Carnal knowledge	s.180
Incest	ss.191 or 192
Bigamy	s.201
Defamation	ss.214 or 215
Explosive offences	ss.224, 225, 226, 227, 228 or 229
Premeditated murder	s.286A
Murder	s.288
Attempted murder	s.289
Threats to murder	s.290
Conspiracy to murder	s.291
Manslaughter	s.293
Rape or attempt	s.324 or 325
Assault with intent to rape	s.326
Robbery	s.345
Assault with intent to rob	s.346
Burglary	s.354(2)
Housebreaking etc.	ss.354, 356
(when prosecuted indictably)	356 or 357
False pretences	s.369
Receiving	s.374
False accounting	ss.397 or 398
Bankruptcy fraud	ss.400 or 401
Forgery	s.409
Uttering	s.410
Arson or attempt	ss.426, 427 or 430

LEGAL AID ACT 1980

- (b) Firearms Act 1973 [*title 10 item 5*]
Firearm offences with intent ss.15, 16 or 17
- (c) Misuse of Drugs Act 1972 [*title 11 item 14*]
[when prosecuted indictably]
Importing or exporting controlled drug s.4
Producing or supplying controlled drug s.5
Handling controlled drug s.7
- (d) Any other Act
Any other offence for which on a first conviction the offender may be liable to imprisonment for 5 years or upwards

THIRD SCHEDULE

(Section 11(3))

CALCULATION OF LEGAL AID CONTRIBUTION

- 1 (1) A person's legal aid contribution shall be the aggregate of -
- (a) an amount, as calculated under sub-paragraph (3), ("the income portion") referable to his disposable income; and
 - (b) an amount, as also so calculated, ("the capital portion") referable to his disposable capital.
- (2) An assisted person's contribution shall be endorsed on his certificate as a single amount.
- (3) The income portion and the capital portion, in relation to an assisted person, are respectively the amount set forth or prescribed in the second column of the following Table opposite the relevant bracket of disposable income, or, as the case may be, disposable capital, set forth in the first column of that Table, except to the extent to which the Committee for good cause in its discretion thinks fit in any particular case to reduce either such amount, that is to say—

TABLE

Part A - Income

Disposable Income Bracket	Income Portion
Less than \$10,000	Nil
\$10,000 or more but less than \$12,500	\$150
\$12,500 or more but less than \$15,000	\$375
\$15,000 or more but less than \$18,000	\$750

Part B - Capital

Disposable Capital Bracket	Capital Portion
Less than \$10,000	\$500
\$10,000 or more but less than \$15,000	50% of the amount by which the disposable capital exceeds \$10,000
\$15,000 or more but less than \$20,000	75% of the amount by which the disposable capital exceeds \$10,000

- 2 (1) A person's disposable income is the aggregate annual gross income of the household of which he is a member, less—
- (a) \$2,000 for that person's spouse;

LEGAL AID ACT 1980

(b) money actually paid annually by that person (whether or not under a court order) for the support of a person under eighteen years of age who is not a member of that household;

(c) \$2,000 for each member of that household (whether or not under twenty-one years of age) who the Committee is satisfied is not financially independent; and

(d) rent or mortgage interest not exceeding \$9,600 actually paid annually in respect of the premises where that household lives.

(2) In sub-paragraph (1), the words “annual” and “annually” refer to the period of twelve calendar months immediately preceding the date of the application for legal aid or, if in the Committee’s opinion to take that period would on account of special circumstances distort the true current financial position of the applicant for legal aid, such other period of twelve calendar months as the Committee considers it just and proper to take instead.

3 A person’s disposable capital includes all assets located in Bermuda and overseas (including land, timeshares, private vehicles, shares and fixed deposits) less the value of any of the following if owned by him—

(a) clothes;

(b) occupational tools;

(c) household furniture and effects; and

(d) any owner-occupied single unit dwelling with an annual rental value not exceeding \$24,000 as assessed under the Land Valuation and Tax Act 1967.

[Third Schedule para 2(1)(b) amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001; Table in paragraph 1 substituted, and paragraph 3 amended, by 2003:24 s. 16 effective 19 January 2004; Schedule amended by 2011 : 22 s. 10 effective 1 August 2011]

[Assent Date: 7 July 1980]

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[Amended by:

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1989 : 43

2001 : 20

2003 : 24

2011 : 22

2018 : 36]