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LEGAL AID AND ADVICE ACT (CHAPTER 160)

LEGAL AID AND ADVICE (AMENDMENT NO. 2) REGULATIONS 2019

In exercise of the powers conferred by section 23(1) of the Legal Aid and Advice Act, the Minister for Law makes the following Regulations:

Citation and commencement

1. These Regulations are the Legal Aid and Advice (Amendment No. 2) Regulations 2019 and come into operation on 16 October 2019.

Amendment of regulation 2

2. Regulation 2 of the Legal Aid and Advice Regulations (Rg 1) (called in these Regulations the principal Regulations) is amended —

(a) by deleting the definition of “board” and substituting the following definition:

““board” means a board consisting of the Director and not fewer than 2 solicitors on an appropriate panel of solicitors maintained under section 4 of the Act;” and

(b) by deleting the definition of “Grant of Aid” and substituting the following definition:

““Provisional Grant of Aid” means a Grant of Aid issued on a provisional basis under section 8(2) of the Act;”.

New regulations 3 and 3A

3. The principal Regulations are amended by inserting, immediately after regulation 2A, the following regulations:

“Means criteria

3. For the purposes of section 8(1)(a) of the Act, the prescribed means criteria are set out in the First Schedule.

Prescribed classes of proceedings

3A. For the purposes of section 8(1)(b)(i) of the Act, the prescribed classes of proceedings are set out in the Second Schedule.”.

Amendment of regulation 6

4. Regulation 6 of the principal Regulations is amended —

(a) by deleting the words “in the opinion of the board,” in paragraph (b) and substituting the words “in relation to a Grant of Aid issued in connection with any proceedings mentioned in the Second Schedule, the Director is of the opinion that”; and

(b) by renumbering the regulation as paragraph (1) of that regulation, and by inserting immediately thereafter the following paragraph:

“(2) The Director may amend a Grant of Aid issued in connection with any proceedings other than those mentioned in the Second Schedule if, in the opinion of a board, the Grant of Aid should —

(a) be extended to other proceedings, being part of the same action, cause or matter to which the Grant relates, or proceedings for the enforcement of any such order or agreement mentioned in regulation 14(4); or

(b) not be extended to some of the proceedings in respect of which it was issued.”.

Deletion and substitution of regulation 7

5. Regulation 7 of the principal Regulations is deleted and the following regulation substituted therefor:

“Provisional Grant of Aid

7.—(1) A Provisional Grant of Aid remains in force for a period not exceeding 3 months, unless the period is extended under paragraph (2).

(2) The Director may, if the Director considers appropriate in any particular case, extend the period mentioned in paragraph (1) by one or more further periods not exceeding 3 months each.

(3) The Provisional Grant of Aid ceases to have effect on the date that the Director issues a Grant of Aid under section 8(1) of the Act to the applicant in respect of the proceedings to which the Provisional Grant of Aid relates.

(4) If the Director refuses an application for legal aid under section 8(1) of the Act, the Director must as soon as practicable cancel the Provisional Grant of Aid that was issued pending the determination of that application.

(5) The Director must as soon as practicable notify all parties concerned if a Provisional Grant of Aid is cancelled or extended.”.

Amendment of regulation 8

6. Regulation 8 of the principal Regulations is amended —

(a) by deleting sub-paragraphs (d) and (g) of paragraph (1);

(b) by deleting sub-paragraph (f) of paragraph (1) and substituting the following sub-paragraph:

“(f) if, as a result of a further determination, the Director is satisfied that the aided person does not satisfy the means criteria set out in the First Schedule;”;

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- (c) by deleting the words “receiving order made against him” in paragraph (1)(h) and substituting the words “bankruptcy order made against the aided person (whether in Singapore or elsewhere)”;
- (d) by inserting, immediately after paragraph (1), the following paragraph:
- “(1A) Subject to paragraph (2), the Director may cancel a Grant of Aid if —
- (a) a board is satisfied that the aided person —
- (i) has required the proceedings to be conducted unreasonably so as to incur an unjustifiable expense which will be paid out of moneys in the Fund; or
- (ii) has required unreasonably that the proceedings be continued; or
- (b) as a result of any information coming to the knowledge of members of a board, the board considers that —
- (i) the aided person no longer has reasonable grounds for taking, defending or being a party to the proceedings; or
- (ii) it is unreasonable in the particular circumstances for the aided person to continue to receive legal aid.”; and
- (e) by deleting the words “paragraph (1)(d), (e), (f), (g) or (i)” in paragraph (2) and substituting the words “paragraph (1)(e), (f) or (i) or (1A)”.

Amendment of regulation 12

7. Regulation 12(10) of the principal Regulations is amended by deleting the words “receiving order made against him” and

substituting the words “bankruptcy order made against the aided person (whether in Singapore or elsewhere)”.

New First and Second Schedules

8. The principal Regulations are amended by inserting, immediately after regulation 18, the following Schedules:

“FIRST SCHEDULE

Regulations 3 and 8(1)(f)

PRESCRIBED MEANS CRITERIA

1. The prescribed means criteria for legal aid are all the following:
 - (a) the average per capita gross monthly household income for the household of the applicant during the relevant period must be \$950 or lower;
 - (b) on the date of the application, the applicant —
 - (i) is not the owner of any property; or
 - (ii) is the owner of only one property (whether by himself, or jointly with any other individual) that satisfies the requirements of sub-paragraph (c);
 - (c) where the applicant is the owner of a property —
 - (i) the property must be used by the applicant (whether by himself, or together with any other individual) as his place of residence; and
 - (ii) the annual value of that property during the relevant period must be \$13,000 or lower;
 - (d) the total amount of savings and investments of the applicant on the date of the application must be —
 - (i) in a case where the applicant is 60 years of age or older on the date of the application — \$40,000 or lower; and
 - (ii) in any other case — \$10,000 or lower.
2. In this Schedule —

“annual value” has the meaning given by section 2(1) of the Property Tax Act (Cap. 254);

“applicant” means an applicant for legal aid;

“application” means an application for legal aid;

“gross monthly household income”, in relation to the household of an applicant, means the total sum of the gross monthly income payable for any month to the applicant and every other individual (if any) in that household;

“household”, in relation to an applicant, means —

- (a) the applicant; and
- (b) every other individual (if any) who lives in the same place of residence as the applicant and is related to the applicant by adoption (by virtue of a court order in Singapore or elsewhere), blood or marriage;

“investment” excludes any investment, using moneys withdrawn from an applicant’s account in the Central Provident Fund, made in accordance with the Central Provident Fund (Investment Schemes) Regulations (Cap. 36, Rg 9);

“owner”, in relation to any property, includes —

- (a) a purchaser of any property sold under Part IV or IVB of the Housing and Development Act (Cap. 129); and
- (b) a purchaser of any property sold under an executive condominium scheme within the meaning of section 2(1) of the Executive Condominium Housing Scheme Act (Cap. 99A);

“per capita gross monthly household income”, in relation to the household of the applicant, means the gross monthly household income of that household divided by the total number of individuals (including the applicant) in that household;

“place of residence” means the address specified on the applicant’s identity card on the date of the application;

“relevant period”, in relation to an application, means a continuous period of 12 months immediately preceding the date of the application.

SECOND SCHEDULE

Regulations 3A and 6(1)(b) and (2)

PRESCRIBED CLASSES OF PROCEEDINGS

1. Any of the following proceedings that are uncontested:
 - (a) proceedings for adoption under the Adoption of Children Act (Cap. 4);

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- (b) proceedings for guardianship under the Guardianship of Infants Act (Cap. 122);
 - (c) proceedings for grant of letters of administration or grant of probate under the Probate and Administration Act (Cap. 251);
 - (d) proceedings for a divorce under the Women's Charter (Cap. 353).
2. Any of the following proceedings under the Administration of Muslim Law Act (Cap. 3):
- (a) proceedings arising from a married man's pronouncement of divorce under section 46B(3) of that Act;
 - (b) proceedings for a divorce under section 48(1) of that Act;
 - (c) proceedings for a decree of fasakh under section 49(1)(a) or (b) of that Act."

*[G.N. Nos. S 299/2002; S 428/2003; S 399/2005;
S 309/2007; S 612/2012; S 355/2013; S 150/2014;
S 271/2016; S 400/2019]*

Made on 14 October 2019.

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(To be presented to Parliament under section 23(5) of the Legal Aid and Advice Act).