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CHAPTER 112A
COMMUNITY LEGAL SERVICES

An Act to provide for a system of free legal services to persons of insufficient means.

1981-33

1990-5

1991/7

2000-13

Commencement:

[1st November, 1981]

CITATION

1. This Act may be cited as the Community Legal Services Act. [Short Title]

INTERPRETATION

2. In this Act

“Applicant” means an applicant for legal services under this Act;

“Certified offence” means an offence specified in paragraph (g) or paragraph (h) of Part 1 of the *First Schedule*;

“Commission” means the Director of Community Legal Services;

“Director” means the Director of Community Legal Services;

“Law student” means a person undergoing a course of study in law with the Faculty of Law of the University of the West Indies or with the Council of Legal Education;

“Legal aid certificate” mean a legal aid certificate issued under section 21;

“Legal services” means such services as the Minister may by order designate for the purposes of this Act;

“Minister” means the Attorney-General;

“Panel” means the panel of attorneys-at-law maintained by the Commission who are prepared to provide legal services in accordance with this Act;

“Scheduled offence” means an offence specified in Part 1 of the *First Schedule*.

“Scheduled matter”: means a matter specified in Part 11 of the *First Schedule*.

STATEMENT OF PURPOSES

3. (1) The purposes of this Act are to provide legal services to persons in respect of civil and criminal matters where those persons are financially unable to secure legal services from their own resources.
(2) All legal services shall, except as otherwise provided by this Act, be rendered by employees of the Commission.

4. (1) A body corporate to be known as the Community Legal Services Commission is hereby established for the purposes of this Act.
(2) Subject to this Act, section 21 of the *Interpretation Act* applies to the Commission.
(3) The *Second Schedule* applies with respect to the Constitution of the Commission and otherwise in relation thereto.

5. The Commission shall
 - (a) Receive
 - (i) Sums appropriated by Parliament, and
 - (ii) Grants made to the Commission for the purposes of the Commission and for the purpose of the administration of this Act;
 - (b) After consultation with the Bar Association and the Judicial Advisory Council, establish with the approval of the Minister a tariff of fees pursuant to which attorneys-at-law rendering their services under this Act shall receive remuneration for such services;
 - (c) Administer and make the required payments under the tariff of fees establish under paragraph (b);
 - (d) Prepare and submit annually to the Minister a summary and estimate of the financial requirements of the Commission for the next following fiscal year;
 - (e) Evaluate the legal services rendered pursuant to this Act.

6. Subject to this Act and the regulations, the Commission may,
 - (a) Establish procedures to determine eligibility of applicants for the services of an attorney-at-law under this Act;
 - (b) Establish guidelines, procedures and requirement pursuant to which legal and other services may be made available under this Act;
 - (c) Retain attorneys-at-law or other persons for the purpose of providing legal services under this Act;
 - (d) Encourage, and assist by means of grants or otherwise, the programme of any full time law student where the programme has objects consistent with the objects of this Act;
 - (e) Utilize full-time law students in providing legal services but any such student shall be supervised by an attorney-at-law and shall not appear as counsel in any court;

- (f) Make public by means of advertising or otherwise the nature and extent of the legal services that are available;
- (g) Establish and conduct such programmes as the Commission considers available to provide services to persons to prevent legal problems arising in connection with their affairs, and generally to carry out the purposes of this Act;
- (h) Retain persons to administer the provisions of this Act, and where the Commission considers it advisable, any such person shall, subject to such terms and conditions as may be prescribed by the Commission, become employees of the Commission;
- (i) Advise its employees respecting the legal needs of the applicants;
- (j) Establish committees to which applicants who have been denied legal services may appeal such denial;
- (k) Establish programmes providing information and counseling in legal aid and related matters;
- (l) Make all necessary arrangements including the acquisition of premises, supplies and furnishings as are required to provide legal services;
- (m) Do all things that are necessary, incidental or conducive to the attainment of the purposes of this Act.

- 7.** (1) Subject to subsection (2), the Commission may appoint for the purposes of this Act an attorney-at-law to be known as the Director of Community Legal Services.
- (2) The first Director of Community Legal Services shall be appointed by the Minister on the recommendation of the Chief Justice.
- (3) The Director shall hold office for a term of 3 years and is eligible for re-appointment, but may be removed from office by a majority vote of the members of the Commission.

8. The Director shall

- (a) Act as secretary to the Commission;
- (b) Employ with the approval of the Commission such staff as may be required for the purposes of the Commission;
- (c) Negotiate contracts for legal services;
- (d) Perform such other duties as may be assigned to him by the Commission.

- 9.** (1) Subject to subsection (2) the Commission may, on the recommendation of the Director, appoint an attorney-at-law to act as general counsel to the Commission.

(2) The first general counsel shall be appointed by the Minister.

- 10.** (1) The Commission may acquire by purchase, lease or otherwise any real or personal property that it considers necessary for the efficient operation of its business, and may sell, lease or otherwise dispose of any of its property, real or personal, that it considers to be no longer necessary for its purposes.

(2) Where the purchase price or sale price of real or personal property included in one transaction exceeds \$25 000, the transaction shall not be concluded without the prior approval of the Minister.

- 11.** (1) The Commission shall maintain a panel of attorneys-at-law who are prepared to provide legal services.
- (2) The Commission may, upon applying him with just reasons therefore, remove an attorney-at-law from the panel.
- (3) When an attorney-at-law is removed from the panel pursuant to subsection (2), he may appeal the removal to a judge in Chambers, who may order the reinstatement of the attorney-at-law.
- 12.** The Director, or such person as he might designate in writing for the purpose, may appoint a member of the panel to provide legal services for an eligible applicant in any case referred to in section 11.
- 13.** Any attorney-at-law, including an attorney-at-law who is a member of the Commission or an employee of the Commission who is desirous of providing legal services may be registered by the Commission as a member of the panel.
- 14.** (1) A member of the panel may decline to provide his services in respect of any applicant for whom the member was appointed on the ground of conflict of interest, impropriety or impossibility.
- (2) A member of the panel who declines pursuant to subsection (1) shall give his reasons in writing for so doing.
- 15.** (1) An attorney-at-law who has accepted an appointment to act for an applicant may, subject to subsection (3), withdraw his services by notifying the Chairman in writing, or such person as the Chairman may designate, of his intention to do so.
- (2) No attorney-at-law who has accepted an appointment to provide legal services may secure another attorney-at-law to render such services unless
- (a) Exceptional circumstances exist in respect of the matter for which he was appointed, and the Director approves of such action by the attorney-at-law;
- (b) The services are to be rendered to secure an adjournment in a trial or proceeding, or relate to a matter in respect of such an adjournment or motion therefore; or
- (c) The applicant in respect of whom the attorney-at-law was appointed consents in writing to such action by the attorney-at-law and the attorney-at-law or applicant has supplied the Director with a copy of the consent.
- (3) On the receipt of a notification under subsection (1), the Chairman may, if the circumstances so require, refer the matter to the Chief Justice for directions whether to grant or refuse permission to withdraw.
- (4) On reference under subsection (3), the Chief Justice may give such directions to the Commission as he thinks fit and the Commission shall comply with those directions.

(5) For the purposes of this Act, “Chairman” means the Chairman of the Commission.

PART 11
PROVISION FOR LEGAL SERVICES

16. Legal services under this Act may be provided as any person in accordance with this Part.

17. Notwithstanding anything contained in this Act or the regulations, but subject to section 20, an application for a legal aid certificate may be made by or on behalf of a person charged with a scheduled offence to,

- (a) A magistrate before whom, and at such time as, he is charged or may appear upon remand;
- (b) The examining magistrate by whom the preliminary enquiry in relation to that offence is held,
 - (i) At the commencement of the preliminary inquiry, or
 - (ii) Where the person charged is committed for trial, at the conclusion of the preliminary inquiry,
- (c) A judge at any time between committal for trial and the appearance of the person charged before the High Court to plead to the indictment;
- (d) The trial Judge in relation to a certified offence at any time during the hearing.

18. Notwithstanding anything contained in this Act or the regulations, but subject to section 20, an application for a legal aid certificate may be made by or on behalf of a person convicted for a scheduled offence to,

- (a) A Judge at any time after conviction and before an appeal by the person convicted is set down for hearing before the Court of Appeal;
- (b) A Judge in relation to a certified offence at any time during the hearing;
- (c) A judge at any time after the appeal by the person convicted is determined by the Court of Appeal and before the time for applying for leave to Her Majesty in Council has expired.

19. Where any person who has not made an application for the provision of legal services appears before a magistrate charged with a scheduled offence or as a party to a scheduled matter, or where any such person is committed for trial, the magistrate shall inform the person so charged, appearing or committed of his right to make such an application.

20. Where it appears to the Magistrate or Judge that

- (a) The means of a person charged with, or convicted for, a scheduled offence, or appearing as a party to a scheduled matter, as the case may be, are insufficient to enable that person to obtain services; or
- (b) The person charged or convicted for a scheduled offence appears to be a person of unsound mind and is unrepresented by an attorney-at-law; the Magistrate or Judge shall adjourn the proceedings for inquiries to be made by the Director into the financial circumstances of that person.

21. (1) Where the Director is satisfied that an applicant or that the person referred to under section 20, as the case may be, is eligible for legal services he shall issue a legal aid certificate to the applicant or to that person.

(2) A legal aid certificate may be issued only where the person is a citizen, permanent resident or immigrant of Barbados.

(3) Where the Director is of opinion that the interests of justice demand that legal services be provided in respect of any scheduled offence or scheduled matter, he may, notwithstanding that the person is not within the category of persons specified in subsection (2), issue a legal aid certificate to that person.

(4) A legal aid certificate entitles the person to whom it is issued to such free legal services as the Director specifies in the certificate.

(5) Where the person mentioned in subsection (2), is refused a legal aid certificate the person or some other person acting on the person's behalf may appeal to the Commission.

22. An applicant who is eligible to receive the services of an attorney-at-law under this Act may with the approval of the Director select any attorney-at-law from the panel to render the legal services in respect of which the legal aid certificate relates.

23. (1) Notwithstanding section 22 and anything contained in the *Legal Profession Act*, a law student may, subject to subsection (2) provide such legal services to any person who is being provided legal services by an attorney-at-law under this Act as the attorney-at-law may assign to the student.

(2) Where an attorney-at-law assigns legal services under subsection (1) to be performed by a student, the attorney-at-law shall supervise the provision of the services by the student.

24. Where the court is satisfied that in the interests of justice another member of the panel ought to be appointed to provide the legal services for the person to whom a legal aid certificate is issued, it shall so direct.

25. (1) The Director may cancel a legal aid certificate where he is satisfied that:

(a) The legal aid certificate ought not to have been issued.

(b) The applicant has made a false statement or has concealed material information in applying for legal services; or

(c) Because of changed circumstances since the date of the issue of the certificate, the benefits of this Act ought not to be provided to the applicant.

(2) Where the Director cancels a legal aid certificate, the applicant shall, unless exempted from this provision by the Commission on the ground that its application would create a hardship to the applicant, reimburse the Commission for the cost of providing legal services to the applicant up to the time at which the certificate is cancelled, and the amount payable is a debt due by the applicant and owing to the Commission.

PART III GENERAL

- 26.** (1) The Director may require an applicant whom the Director considers to be financially able to contribute towards the cost of the services to be provided to him to pay such portion of those costs as the Director may specify.
(2) Any amount determined to be paid by an applicant under subsection (1) shall be paid to the Commission, and until it is paid it is a debt due and owing by the applicant to the Commission.
- 27.** (1) Any remuneration, other than remuneration from the Commission, received by an attorney-at-law from or on behalf of an applicant in connection with legal services which the attorney-at-law is providing to the applicant under this Act shall be paid by the attorney-at-law to the Commission.
(2) Costs that are awarded in favour of an applicant in any matter in respect of which the services of an attorney-at-law were provided under this Act shall be paid to, and become the property of the Commission.
(3) The Commission may retain out of the costs awarded under subsection (2) an amount equivalent to the cost and expense incurred under this Act in respect of the applicant, and may pay the balance of the cost, if any, to the applicant.
- 28.** (1) Cost awarded against an applicant in any matter in respect of which legal services were provided under this Act may be paid on behalf of the applicant by the Commission.
(2) Subsection (1) shall not be construed as making the Commission liable for costs in any matter.
- 29.** An attorney-at-law who has provided legal services under this Act may submit a bill of costs for such services to the Commission in the prescribed form, claiming sums for those services in accordance with the tariff of fees established by the Commission under this Act.
- 30.** Neither the Commission nor any member thereof is liable for anything done or omitted to be done by an attorney-at-law in the course of providing legal services under this Act.
- 31.** Any information disclosed by an applicant to any member of the Commission or employee thereof that would be privileged if disclosed to an attorney-at-law pursuant to an attorney-at-law and client relationship shall be privileged to the

same extent as if it had been disclosed to an attorney-at-law pursuant to an attorney-at-law and client relationship.

- 32.** Nothing done by the Commission or by any person pursuant to the provisions of section 23 or 33 of this Act shall be deemed to contravene any of the provisions of the *Legal Profession Act*.
- 33.** The Commission may employ any person who is not an attorney-at-law to provide services under this Act, provided the person is supervised by an attorney-at-law; but such employee shall not appear as counsel in any court.
- 34.** Every attorney-at-law rendering his services under this Act shall establish and maintain a trust account for moneys that come into his hands from or on behalf of eligible applicants for whom services are being or are to be provided under this Act.
- 35.** The Auditor-General shall annually audit or cause to be audited the books, records and accounts of the Commission and submit a report thereof to the Minister.
- 36.** The fiscal year of the Commission is the period commencing on 1st April in one calendar year and ending on 21st March in the next calendar year.
- 37.** (1) The Commission shall prepare and submit to the Minister for tabling in both Houses of Parliament.
- (a) A report respecting the conduct of the business and affairs of the Commission for its immediately preceding fiscal year; and
 - (b) A financial statement showing the business of the Commission for such fiscal year, in such form as may be required by the Auditor-General.
- (2) The Minister shall, without undue delay, cause the report and statement received by him under subsection (1) to be laid before both Houses of Parliament.
- 38.** (1) For the purpose of carrying out the provisions of this Act, the Commission may with the approval of the Minister make regulations,
- (a) Prescribing the qualification of applicants to be eligible for legal services under this Act;
 - (b) Classifying legal services for the purposes of this Act and prescribing the class or classes of legal services that may be provided under this Act; and
 - (c) Prescribing a tariff of fees in respect of the classes of legal services to be provided under this Act.
- (2) Regulations made under this section are subject to negative resolution.

39. The minister on the recommendation of the Commission may by order amend the *First Schedule* by the addition thereto or the deletion therefrom of any offence or other matter.

40. A person who, for the purpose of obtaining legal services under this Act, whether for himself or some other person, knowingly makes a false statement or false representation, either verbally or in writing, or knowingly conceals any material fact, is guilty of an offence, and, in addition to any other remedy provided by this Act, is liable on summary conviction to a fine of \$1000 or to imprisonment for 12 months, or both.

FIRST SCHEDULE

Matters in respect of which legal services may be provided on the grant of a legal aid certificate.

PART I CRIMINAL

- (a) Any capital offence;
- (b) Manslaughter;
- (c) Infanticide;
- (d) Concealment of birth;
- (e) Rape;
- (f) All offences where the person charged is a minor;
- (g) Any indictable offence the trial of which is certified by the trial Judge to be, or is likely to be, of difficulty and to require the assistance of an attorney-at-law on behalf of the person charged therewith for its proper determination;
- (h) Any indictable offence the trial of which or an appeal from the conviction of which is certified by the trial Judge or the Court of Appeal, as the case may be, to involve, or as likely to involve, a point of law of public importance and require the assistance of an attorney-at-law on behalf of the person charged or convicted, as the case may be, for its proper determination.

PART II FAMILY LAW

All family law matters except divorce.

OTHER MATTERS INVOLVING

- (a) Minors;
- (b) Tenants and tenancies within the meaning of the *Security and Tenure of Small Holdings Act, Tenancies Control Act and the Tenancies Freehold Purchase Act*;

- (c) An application under section 24 of the Constitution;
- (d) An application for a Writ of *habeas corpus ad subjiciendum*.

SECOND SCHEDULE

CONSTITUTION OF THE COMMISSION AND RELATED MATTERS.

1. (1) The Commission shall consist of,
 - (a) Two members appointed by the Chief Justice on the nomination of the Council of the Bar Association;
 - (b) One member appointed by the Chief Justice on the nomination of the Dean of the Faculty of Law of the University of the West Indies;
 - (c) Two members appointed by the Chief Justice in his absolute discretion;
 - (d) One member selected from among the public and appointed by the Minister; and
 - (e) The Solicitor-General *ex officio* or his nominee.

(2) Where the required number of members has not been appointed under paragraph 1 (1)(a), or no member has been appointed under paragraph 1 (1) (b) or (d) within 30 days after the 1st November, 1981, the Chief Justice may make such appointment to the membership of the Commission as the case requires.

(3) The members must be appointed by instrument in writing, and shall, subject to this Schedule, hold office for such period, not exceeding 3 years, as is specified in the instrument of appointment.

(4) Each member is eligible for re-appointment.
2. The Chief Justice shall designate 2 members, other than the Solicitor-General and the Director, to be Chairman and deputy chairman of the Commission.
3. (1) The Commission shall meet at least once every 4 months at such times and places as are necessary or expedient for the transaction of its business.
 - (2) The chairman, or, in the event of his absence from Barbados or inability to act as such, the deputy chairman, may t any time call a special meeting of the Commission.
 - (3) Subject to sub-paragraph (4), the chairman, or in his absence the deputy chairman shall preside at all meetings of the Commission.
 - (4) In the absence of both the chairman and the deputy chairman, the members present and constituting a quorum shall elect a chairman from among their number to preside at the meeting.
 - (5) Three members shall form a quorum.

LAWS OF BARBADOS
COMMUNITY LEGAL SERVICES ACT CHAPTER 112A
(SUBSIDIARY LEGISLATION)

COMMUNITY LEGAL SERVICES

1. (Tariff of Fees) Regulations,
2000.....A1.

COMMUNITY LEGAL SERVICES
COMMUNITY LEGAL SERVICES (TARIFF OF FEES REGULATIONS),
2000

AUTHORITY: These regulations were made on 23rd August, 2000 by the Community Legal Services Commission under section 5 and 38 (1) (c) of the Community Legal Services Act, after consultation with the Bar Association and the Judicial Advisory Council and with the approval of the Minister.

COMMENCEMENT: 18th September, 2000.

1. These Regulations may be cited as the *Community Legal Services (Tariff of Fees) Regulations, 2000*.
2. The classes of legal services to be provided for the purposes of the Act and the fees payable to attorneys-at-law for those services are those set out in the *Schedule*.

SCHEDULE

TARIFF OF FEES FOR LEGAL SERVICES

MATTERS UNDER PART 1 OF THE FIRST SCHEDULE TO THE ACT

CLASS OF LEGAL SERVICES	FEES
	\$
A. 1. Preliminary Inquiry	750
2. Where the preliminary inquiry lasts longer than one day, for each day after the first, an additional.....	100
3. The total shall not in any single case exceed	1 500

B. A capital case at Assizes

1.	(a) For Queen's Counsel	6 000
	(b) For Junior Counsel	4 500
2.	Only one legal aid assignment shall be issued in each case.	
3.	Where trial last longer than one day, an additional fee for each day after the first, up to a maximum of 5 days	500

C. An indictable case other than a capital case

1.	In event of a trial	2 500
2.	If the trial lasts longer than one day, an additional fee for each day after the first, up to a maximum of 5 days	500
3.	In the event of a guilty plea	1 500

D. On appeal from conviction

1.	For advice to the convicted person as to whether there is any ground for appeal.....	500
2.	For drafting application for leave to appeal or notice of appeal and all necessary documents ...	250
3.	Where a person convicted of a capital offence applies for leave to appeal. (a) for attendance in Court on the hearing of the appeal or the application	6 000
	(b) Where the hearing lasts more than one day, for each day after the first	600
4.	Where a person convicted of an indictable offence other than a capital offence appeals or applies for leave to appeal (a) For attendance in Court for the conduct of appeal or the application	3 500

	(b) Where the hearing lasts more than one day, for each day after the first	600
E.	On appeal from sentence only	1 000
F.	Appeals to Her Majesty in Council and to local Privy Council.	
1.	For advising on and preparing an appeal by a convicted person to the Governor- General's Privy Council	500
2.	On appeal to Her Majesty in Council	
	(a) For advice to the convicted person as to whether there is any ground for appeal	250
	(b) For drafting the application and all necessary documents where the convicted person appeals or applies for leave to appeal	750

**MATTERS UNDER PART 11 OF THE FIRST SCHEDULE TO THE
ACT**

A.	Magistrates' Court	
1.	Paternity accepted	
	(a) Order made in terms of application for maintenance	250
	(b) Interim order for maintenance and means report where the attorney-at-law attends Court on more than 2 occasions.....	500-700
	(c) Interim order for maintenance and means report where the attorney-at-law attends Court on more than 2 occasions and cross- examines probation officer and respondent	750
2.	Paternity in issue	
	(a) Blood tests or DNA tests required but no trial	500

(b) Trial of issues	1 000
3. Custody and Access	
(a) Application for access only	350
(c) Application for custody with a report from The Child Care Board or Welfare Department	750
3. Settlement	
(a) Pre-trial settlement with consent order	250
(b) Settlement without application to court	250

B High Court

APPLICATIONS UNDER THE FAMILY LAW ACT

1. Maintenance and Access	
(a) Application for maintenance or access with consent order	1 500
(b) Contested application for property settlement, maintenance or access or custody with order otherwise than by consent	2 000
2. Where the trial lasts longer than one day, for each day after the first, up to a maximum of 4 days	500

Applications under Minors Act and Status of Children (Reform) Act

1. Paternity admitted, order in terms of application	1 000
2. Paternity admitted, means enquiry and uncontested order	1 250
3. Paternity denied, medical test, trial on maintenance Issues only	1 500
4. Paternity denied and trial on all issues	2 500
5. Application for custody or access only	1 250
6. If the trial lasts longer than one day, for each day	

after the first, up to a maximum of 4 days	500
7. Pre-trial settlement and consent order	750
C. Court of Appeal	
1. Minimum fee	2 000
2. For preparation of a Brief	500
D. Matters involving	
1. Application under section 24 of the <i>Constitution</i> , and for a Writ of <i>Habeas Corpus ad subjiciendum</i> . the total fee shall not in any single case exceed	6 000
2. Tenants and tenancies within the meaning of the <i>Security of Tenure of Small Holdings Act, The</i> <i>Tenancies Control Act</i> and the <i>Tenancies Freehold</i> <i>Purchase Act</i> . The total fee shall not in any single case exceed	750

The sums allowed to an attorney-at-law in connection with proceedings in any court shall, subject to any maximum amounts set out herein, be the full amount awarded of the costs whether on account of disbursements or of attorney-at-law costs.

