

## VICTORIA.



ANNO DECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 6805.

An Act to make Provision with respect to the  
Establishment of a Scheme for Providing Legal  
Assistance for Poor Persons.

[5th December, 1961.]

**W**HEREAS the members of the Legal Profession of Victoria Preamble.  
believe that no person should be without legal assistance  
by reason of his being unable to pay therefor :

And whereas on behalf of the members of that profession  
the Victorian Bar Council and the Council of the Law Institute  
of Victoria have voluntarily offered to provide legal assistance  
for poor persons and to appoint a committee to establish and  
administer a scheme for that purpose :

And whereas it is expedient to make provision as hereinafter  
enacted :

Be it therefore enacted by the Queen's Most Excellent Majesty  
by and with the advice and consent of the Legislative Council  
and the Legislative Assembly of Victoria in this present Parliament  
assembled and by the authority of the same as follows (that is  
to say) :—

1. (1) This Act may be cited as the *Legal Aid Act 1961*.

Short title.

(2) This Act shall come into operation on a day to be fixed  
by proclamation of the Governor in Council published in the  
*Government Gazette*.

Commencement.

2. In

Interpretation.	<b>2. In this Act unless inconsistent with the context or subject-matter :—</b>
" Assisted person."	" Assisted person " means person for whom legal assistance is provided under the scheme.
" Committee."	" Committee " means the Legal Aid Committee appointed pursuant to this Act.
" Court."	" Court " includes person acting judicially within the meaning of the <i>Evidence Act 1958</i> .
" Fund."	" Fund " means the Legal Aid Fund established pursuant to this Act.
" Practising public accountant."	" Practising public accountant " has the same meaning as in the <i>Legal Profession Practice Act 1958</i> .
" Scheme."	" Scheme " means the scheme for providing legal assistance established pursuant to this Act.
" Solicitor."	" Solicitor " means a solicitor who holds a current practising certificate issued pursuant to the provisions of the <i>Legal Profession Practice Act 1958</i> .

Legal Aid Committee.

**3. (1)** For the purposes of this Act there shall be a Legal Aid Committee consisting of four members of whom two shall be appointed by the body known as the Victorian Bar Council and two shall be appointed by the Council of the Law Institute of Victoria.

(2) Three members of the committee shall be a quorum.

(3) Subject to there being a quorum the committee may act notwithstanding any vacancy in its membership.

(4) Subject to this Act the committee may regulate its own proceedings.

Legal aid scheme.

**4.** The committee shall establish and administer a scheme for providing legal assistance for poor persons either without payment therefor or upon payment of such sum or sums towards the costs and expenses thereof as the committee thinks reasonable.

Provision for payment of disbursements for assisted persons.

**5.** Where pursuant to the scheme legal assistance is granted in any matter the committee may if it thinks fit direct that such sums as may be necessary for the payment of any disbursements properly payable in that matter shall be paid out of the fund and may direct a higher amount to be so paid for any disbursement than is allowable under any regulation or rule relating thereto if it considers that it is necessary for the proper presentation of the assisted person's case that such higher amount should be paid.

**6. (1)** There

6. (1) There shall be paid to the committee out of the Consolidated Revenue (which is hereby to the necessary extent appropriated accordingly) such sum as the Treasurer of Victoria thinks proper for defraying the expenses of establishing the scheme and such sums as the said Treasurer thinks proper from time to time—

Legal aid fund.

- (a) for defraying the costs and expenses of administering the scheme ; and
- (b) for providing for the payment of disbursements in connexion with the conduct of matters in respect of which legal assistance is provided under the scheme.

(2) All moneys paid to the committee pursuant to sub-section (1) of this section shall be paid into a fund which shall be called the Legal Aid Fund and which shall be held in trust and administered by the committee for the purposes of this Act.

7. There shall be paid out of the fund—

Payments out of the fund.

- (a) the capital cost of altering buildings and providing office fittings fixtures furniture and equipment and all other expenses whether of the same kind or not incurred by the committee in establishing the scheme ;
- (b) all expenses incurred by the committee in administering the scheme ; and
- (c) any sums directed to be paid thereout pursuant to section five of this Act.

8. (1) A court may make in favour of an assisted person any such order for costs (except against another assisted person) as it may make in favour of a person who is not an assisted person notwithstanding that no amount has been paid or is or will be payable for costs by the assisted person in whose favour the order is made or that the costs so ordered are in excess of the total amount paid or payable for costs by the assisted person.

Legal costs.

(2) All costs payable under the terms of any judgment or order or of any settlement of an action or claim to a person who has been assisted under the scheme in the obtaining of such judgment order or settlement (except any portion of such costs as may be for services rendered or disbursements paid for that person before he was so assisted) shall be payable to the committee which shall be entitled to exercise in the name of that person all the rights and remedies in relation to the recovery of such costs which that person would be entitled to exercise if he were not an assisted person.

(3) A person who is liable to pay any costs payable under this section to the committee and to whom or to whose solicitor notice in writing of the rights of the committee in relation thereto has been

been

been given by the committee or the solicitor who obtained the judgment order or settlement for the assisted person shall not be discharged from his liability by reason only of his making any payment in respect thereof to any person other than the committee or such solicitor.

(4) On the taxation of costs payable under the terms of any judgment or order or of any settlement of an action or claim to an assisted person no item thereof shall be disallowed merely because the assisted person is by reason of his being an assisted person under no obligation to pay in whole or in part for the service to which the item relates or in the case of a disbursement (whether for counsel's fees or otherwise) merely because the amount thereof has not been paid prior to the taxation.

Disposal of costs.

9. (1) All costs received or recovered which are payable to the committee under section eight of this Act and all moneys paid by assisted persons towards costs under any direction of the committee shall be paid by the committee to the credit of a special trust account.

(2) Where the costs paid into the said trust account in any matter and all moneys paid by the assisted person in respect of that matter together exceed the amount which in the opinion of the committee would if the assisted person were not an assisted person be properly chargeable to him for costs as between solicitor and client in that matter the amount of the excess shall be paid out of the said trust account to the assisted person.

(3) Not later than the thirtieth day of July in each year so much of the amount then standing to the credit of the said trust account as was received or recovered in respect of disbursements which were paid for out of the fund pursuant to section five of this Act shall be paid to the Treasurer of Victoria.

(4) The balance of the amount standing to the credit of the said trust account after the payment thereof of any amounts payable pursuant to sub-sections (2) and (3) of this section shall be distributed among solicitors and counsel assisting in the scheme in such proportions as the committee considers equitable.

Accounts and audit.

10. (1) The committee shall keep proper accounts of all moneys paid into the fund or paid out of the fund and of all moneys paid into or out of the said special trust account and shall prepare a statement of accounts as at the thirtieth day of June in each year.

(2) The

(2) The said accounts and statement of accounts shall be audited by the Auditor-General who shall have with respect to the said accounts and statement of accounts all the powers conferred on him by any law relating to the auditing of public accounts.

(3) As soon as the accounts have been audited the committee shall send to the Attorney-General a copy of the statement of accounts and of the report of the Auditor-General thereon.

11. (1) No officer or employee of the committee shall, without the consent of the committee—

(a) produce in any court any document received by the committee or any officer or employee of the committee in relation to any application for legal assistance ;

(b) communicate or permit to be communicated to any person other than the solicitor acting for the assisted person or give in evidence in any court any information received by the committee or any officer or employee of the committee in relation to any application for legal assistance.

(2) No court shall have power to compel any such officer or employee to produce any such document or communicate or give in evidence any such information unless the committee has consented to that production or communication.

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Certain  
information  
not to be  
disclosed or  
given in  
evidence  
without consent  
of committee.