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LEGAL AID ACT 1986

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LEGAL AID ACT 1986

Received Royal Assent: 13 June 1986
Passed: 17 June 1986
Commenced: See endnotes

AN ACT to re-enact the *Legal Aid (Isle of Man) Act 1973* as amended; to make new provision for legal advice or assistance to persons of small means; to repeal and replace the enactments relating to criminal legal aid; and for connected purposes.

PART I – CIVIL LEGAL AID AND LEGAL ADVICE AND ASSISTANCE

Civil legal aid

1 Scope of legal aid

[1973/8/1; 1986/6/1/12]

- (1) Subject to the provisions of this Act, legal aid in connection with proceedings in any court not being proceedings in which legal aid may be given under Part II, shall be available under this Part to any person.
- [See Schedule 1 for proceedings which are, for the purposes of this Act, proceedings in a court.](#)
- (2) Nothing in subsection (1) prevents legal aid being given under this Part to a person in proceedings in which legal aid may be given under Part II, where the status of that person in those proceedings is not such as to entitle [him that person](#) to legal aid under that Part.
- (3) Subject to the provisions of this Act, legal aid is also available under this Part in relation to mediation whenever it is available in connection with proceedings.

- (4) Where legal aid is given for mediation it is not to be available in connection with proceedings in relation to the same matter during the currency of the mediation process, except where a Legal Aid Certifying Officer certifies otherwise.

24.10.25.ConDraft

2 Extent of, and eligibility for, legal aid

- (1) Unless and until regulations otherwise provide, the proceedings in connection with which legal aid may be given under this Part are any proceedings of a description mentioned in Part I of Schedule 1, except proceedings mentioned in Part II of that Schedule.

- (1A) The Board may, by order, amend Schedule 1.
- (1B) Before making an order under subsection (1A) the Board must consult the Deemsters.

- (2) Subject to the provisions of this section, the proceedings in connection with which legal aid may be given may be varied by regulations, and the regulations may describe the proceedings to be included or excluded by reference to the court, to the issues involved, to the capacity in which the person requiring legal aid is concerned, or otherwise.
- (3) Legal aid shall consist of representation, on the terms provided for by this Part, by an advocate, and shall include all such assistance as is usually given by an advocate in the steps preliminary or incidental to any proceedings or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings.
- (4) A person must not be given legal aid in connection with any proceedings —
- (a) if the person fails to show reasonable grounds for taking, defending or being party to the proceedings;
 - (b) if it appears unreasonable that the person should receive it in the particular circumstances; or
 - (c) if the person fails to meet the financial conditions described in section 3(1).
- (5) Save as expressly provided by this Part or by regulations made thereunder —
- (a) the fact that the services of an advocate are given by way of legal aid shall not affect the relationship between advocate and client or any privilege arising out of such relationship; and
 - (b) the rights conferred by this Part on a person receiving legal aid shall not affect the rights or liabilities of other parties to the proceedings or the principles on which the discretion of any court is normally exercised.

3 Financial conditions of legal aid

- (1) Subject to the provisions of this Part, legal aid under this Part shall be available for any person —
- (a) whose financial resources do not exceed such figure as may be prescribed; or
 - (b) who is (directly or indirectly) in receipt of such social security benefits as may be prescribed.

(1ZA) Where a person's assets are not available to them in consequence of a relevant order those assets shall be ignored for the purposes of subsection (1)(a).

For the purposes of this subsection a relevant order is an order under Manx legislation prohibiting a person's access to, or use of, assets and includes a restraint order (for example, under the *Proceeds of Crime Act 2008* or the *Anti-Terrorism and Crime Act 2003*), an injunction, freezing or similar legal order.^[R5]

(1A) For the purposes of proceedings relating to the lawfulness of a person's detention under the *Mental Health Act 1998*, ~~that person's resources shall be ignored~~ legal aid under this Part shall be available for such a person regardless of their financial resources and receipt (or otherwise) of prescribed social security benefits.

(1B) For the purposes of proceedings under Part 4 or 5 of the *Children and Young Persons Act 2001* ~~there shall be disregarded any resources of~~, legal aid under this Part shall be available for the following regardless of their financial resources and receipt (or otherwise) of prescribed social security benefits —

- (a) the child or young person who is the subject of the proceedings;
- (b) any parent or guardian who is a party to the proceedings; and
- (c) any other natural person who is a party to the proceedings because the court is considering making a residence order or a contact order in favour of the person.

(2) Where a person P receives legal aid in connection with any proceedings —

- (a) the expenses incurred in connection with the proceedings, so far as they would ordinarily be paid in the first instance by or on behalf of the advocate acting for him P, shall be so paid except in the case of those paid by the Treasury as provided by this Part;

- (b) his P's advocate shall not take any payment in respect of legal aid except such payment as is directed by this Part to be made by the Treasury;
 - (c) regulations under section 4 shall determine the extent, if any, of the person's P's financial contribution;
 - (d) unless regulations provide otherwise any sums recovered by virtue of an order or agreement for costs made in his P's favour with respect to the proceedings shall be paid to the Treasury.
- (3) No order as to costs shall be made against an assisted party in respect of proceedings, or part thereof, to which a legal aid certificate under this Part relates.

3A Financial conditions: proceedings following death in care or custody of the State

- (1) This section applies where a person (“D”) has died whilst in the care or custody of the State and their death is the subject of proceedings under the *Coroners of Inquests Act 1987*.
 - (2) D’s “relevant relative” is entitled to advice, assistance and representation in respect of the inquest regardless of their –
 - (a) resources; and
 - (b) receipt of prescribed social security benefits.
 - (3) The cost of any advice, assistance and representation referred to in subsection (2) is to be met by the Treasury.
 - (4) For the purposes of this section, D’s relatives are D’s —
 - (a) spouse or civil partner within the meaning of the Civil Partnership Act 2011;
 - (b) children in descending age order;
 - (c) father or mother in descending age order;
 - (d) brothers and sisters in descending age order;
 - (e) grandparents in descending age order;
 - (f) grandchildren in descending age order;
 - (g) uncles and aunts in descending age order; and
 - (h) nephews and nieces in descending age order.
 - (5) D’s relevant relative is the relative referred to in whichever of paragraph (a) to (h) of subsection (4) is first satisfied when applied in alphabetical order. [R24]
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4 Funding of legal aid

(A1) In a case referred to in subsection (1ZA) of section 3, the Treasury shall have a charge on the assisted person's assets referred to in that subsection equal to —

- (a) the amount of legal aid funding received by that person; and
- (b) any prescribed interest on it.

The charge may be enforced once the assets are no longer subject to the order referred to in that subsection. [R24]

- (1) Regulations shall provide for the funding of legal aid to be met in whole or in part —
 - (a) by contributions made by assisted persons; or
 - (b) by some or all of the expenditure being by way of loans to be repaid by assisted persons,in accordance with the regulations.
- (2) The regulations may in particular provide —
 - (a) for the recovery of unpaid contributions or outstanding loan together with interest at the prescribed rate;
 - (b) that the amount of funding of legal aid (whether or not an amount due by way of contribution or outstanding loan), and any prescribed interest on it, is a first charge for the benefit of the Treasury on any property recovered or preserved by the assisted person (whether for the benefit of that person or another).
- (3) The regulations may make such further provision about the funding of legal aid as the Committee Board considers expedient.
- (4) In this section —
 - (a) “assisted person” means a person who has received legal aid;
 - (b) “property” means property of any nature and wherever situated and includes any sums recovered by virtue of an order for costs;
 - (c) a reference to property recovered or preserved in proceedings includes property recovered or preserved as a result of any compromise or settlement of the proceedings.
- (5) References in this section to the funding of legal aid are to the aggregate amount of the sums paid or payable by the Treasury in respect of the proceedings for which

legal aid is granted to any advocate or to any unassisted party that are not recovered by way of an order or agreement for costs made in favour of the assisted person.

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5 Remuneration of persons giving legal aid

[1973/8/6(7)-(9)]

- (1) Subject to the provisions of this Part, an advocate who has acted for a person receiving legal aid under this Part shall be paid for so acting by the Treasury.
- (2) The sums payable under subsection (1) shall not exceed those prescribed under Schedule 2.
- (3) Nothing in this section shall prejudice section 2(5)(b) and in particular subsection (2) shall not affect the sums recoverable by virtue of an order for costs made in favour of a person who has received legal aid or of an agreement for costs so made which provides for taxation.
- (4) No rule of law that limits the costs recoverable by a party to proceedings to the amount which that party is liable to pay shall affect the entitlement of a person receiving legal aid to costs on the same basis as if the person were not receiving legal aid.

6 Award of costs to unassisted party

[1973/8/7]

- (1) ~~Where a party receives legal aid under this Part in connection with any proceedings between him and a party not receiving legal aid (in this Part referred to as an "unassisted party"), and those proceedings~~ Where proceedings between an assisted person and an unassisted party are finally decided in favour of the unassisted party, the court by which the proceedings are so decided may, subject to the provisions of this section, in the exercise of its discretion make an order for the payment to the unassisted party by the Treasury of the costs incurred by ~~him~~ that party in those proceedings.
- (2) An order under this section shall not be made by any court in respect of costs incurred by the unassisted party in any proceedings in which, apart from this Part, no order would be made for the payment of ~~his~~ those costs.
- (3) In this section "costs" means costs as between party and party.
- (4) For the purposes of this section proceedings shall be treated as finally decided in favour of the unassisted party —
- (a) if no appeal lies against the decision in ~~his~~ that party's favour;
 - (b) if an appeal lies against the decision with leave, and the time limited for applications for leave expires without leave being granted; or
 - (c) if leave to appeal against the decision is granted or is not required, and no appeal is brought within the time limited for appeal;
- and where an appeal against the decision is brought out of time, the court by which the appeal (or any further appeal in those proceedings) is determined may make an order for the repayment by the unassisted party to the Treasury of the whole or any part of any sum previously paid to ~~him~~ that party in respect of those proceedings under this section.
- (5) Where a court decides any proceedings in favour of the unassisted party and an appeal lies (with or without leave) against that decision, the court may, if it thinks fit, make or refuse to make an order under this Part forthwith, but any order so made shall not take effect —
- (a) where leave to appeal is required, unless the time limited for application for leave to appeal expires without leave being granted;

- (b) where leave to appeal is granted or is not required, unless the time for appeal expires without an appeal being brought.
- (6) Where a party begins to receive legal aid in connection with any proceedings after those proceedings have been instituted or ceases to receive legal aid before they are finally decided, or otherwise receives legal aid in connection with part only of any proceedings, the reference in subsection (1) to the costs incurred by the unassisted party in those proceedings shall be construed as a reference to so much of those costs as is attributable to that part.
- (7) Regulations may make provision for —
 - (a) determining the proceedings which are or are not to be separate proceedings for the purposes of this section;
 - (b) regulating the procedure to be followed in connection with orders made under this section; and
 - (c) regulating the taxation, or otherwise, of costs ordered to be paid under this section.

*Legal advice and assistance***7 Persons eligible for advice and assistance**

[P1974/4/1]

Advice and assistance to which this section applies shall, subject to the following provisions of this Part, be available in the Island for any person P if —

- (a) his P's financial resources do not exceed such figure as may be prescribed; or
- (b) he P is (directly or indirectly) in receipt of such social security benefits as may be prescribed.

8 Scope and conditions of advice and assistance

[P1974/4/2]

(1) Subject to subsection (2) and to any prescribed exceptions or conditions, section 7 applies to any oral or written advice given by an advocate —

- (a) on the application of Manx law to any particular circumstances which have arisen in relation to the person P seeking the advice, and
- (b) as to any steps which P ~~that person~~ might appropriately take (whether by way of settling any claim, bringing or defending any proceedings, making any agreement, will or other instrument or transaction, obtaining further legal or other advice or assistance, or otherwise) having regard to the application of Manx law to those circumstances,

and applies to any assistance given by an advocate to any person taking any such steps as are mentioned in paragraph (b), whether the assistance is given by taking any such steps on his P's behalf or by assisting P him in taking them on his P's own behalf.

(2) Section 7 does not apply to any advice or assistance given to a person in connection with any proceedings before a court, at a time when there is in force a legal aid certificate under this Part or Part II granted to or in respect of him that person in connection with or for the purposes of those proceedings.

See Schedule 1 for proceedings which are, for the purposes of this Act, proceedings in a court.

(3) Except as expressly provided by this Part or by regulations —

- (a) the fact that the services of an advocate are given by way of advice or assistance shall not affect the relationship between or the rights of advocate and client or any privilege arising out of such relationship; and
- (b) the rights conferred by this Part on a person receiving advice or assistance shall not affect the rights and liabilities of other parties to any proceedings or the principles on which the discretion of any court or tribunal is normally exercised.

9 Financial limit on prospective cost

[P1974/4/3]

- (1) Where a person seeks or receives any advice or assistance, then if at any time (whether before or after the advice or assistance has begun to be given) it appears to the advocate from whom it is sought or received that the cost of giving it is likely to exceed the prescribed limit, the advocate —
- (a) shall determine to what extent that advice or assistance can be given without exceeding that limit; and
 - (b) shall not give it so as to exceed that limit except with the approval, given in accordance with regulations, of such person or body as may be prescribed.
- (2) For the purposes of this section the cost of giving any advice or assistance shall be taken to consist of such of the following as are applicable in the circumstances —
- (a) any expenses which may be incurred by the advocate or ~~his firm~~ the firm of which the advocate is a member in, or in connection with, the giving of the advice or assistance;
 - (b) any charges or fees (not being charges in respect of such expenses as are mentioned in paragraph (a)) which, apart from section 10, would be properly chargeable by the advocate or ~~his firm~~ the firm of which the advocate is a member in respect of the advice or assistance.

10 Contributions

[P1974/4/4]

- (1) In respect of advice or assistance given to any person (in this section and section 11 called “the client”) the client shall not, except in accordance with this section, be required to pay any charge or fee.
- (2) Where a client is eligible for advice and assistance under section 7, subsection (1) shall not exempt ~~him~~ that client from liability to pay, in respect of the advice or assistance, charges or fees up to, but not in the aggregate exceeding, such amount as may be prescribed.

11 Payment of charges

[P1974/4/5]

- (1) This section applies to any charges or fees which, apart from section 10, would be properly chargeable in respect of advice or assistance given to a client, in so far as those charges or fees are not payable by the client in accordance with that section.
- (2) In this section “the advocate” means —
 - (a) in relation to any advice or assistance given by an advocate employed by a firm of advocates and so given in the course of that employment, that firm of advocates; and
 - (b) in any other case, the advocate by whom any advice or assistance is given.
- (3) Except in so far as regulations otherwise provide, excess professional charges or fees to which this section applies shall constitute a first charge for the benefit of the advocate on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the client by any other person in respect of the matter in connection with which the advice or assistance is given.
- (4) In so far as the charge created by subsection (3) in respect of any charges or fees to which this section applies is insufficient to meet them, the deficiency shall, subject to subsection (5), be payable by the Treasury.
- (5) For the purpose of determining what charges or fees would be properly chargeable as mentioned in subsection (1), and whether there is a deficiency to be payable by the Treasury in accordance with subsection (4), charges or fees in respect of advice or assistance given to a client shall, in such circumstances as may be prescribed, be taxed or assessed in such manner as may be prescribed.

*Miscellaneous and supplemental***12 Assessment of resources**

[1973/8/5]

- (1) References in this Part to a person's financial resources shall include references to income or capital or both income and capital.

(1A) Regulations may specify who is to carry out an assessment of a person's financial resources.

- (2) Regulations may provide for the manner in which a person's financial resources are to be computed and in particular may provide for taking into account fluctuations of such resources and the reasons for, and the person's control over, any fluctuations.

(2A) Regulations under subsection (2) may provide that a person's –
 (a) financial resources shall be computed –
 (i) by reference to any statutory provision, or to the person's being or having been entitled to benefits under any statutory provision; or
 (ii) by reference to a published scale or index (as it has effect from time to time) or to data of any description;

(b) income (all or part of it) shall be treated as capital (and vice versa).
 (2B) Regulations under subsection (2) may provide that –
 (a) a person's financial resources may be computed differently for different purposes;
 (b) a person shall be treated as having capital or income (or both) that the person does not otherwise have;
 (c) a person shall be treated as not having capital or income (or both) that the person does otherwise have.

- (3) The regulations shall include provision for securing that the financial resources of a person seeking or receiving advice or assistance or legal aid shall be treated as not including the subject matter of the dispute.
- (4) Except in so far as the regulations otherwise provide, any financial resources of a person's spouse, civil partner or person living with that person as if husband and wife or civil partner shall be treated for the purposes of this section as that person's resources, and the regulations may also make provision, in relation to infants and other special cases, for taking into account the financial resources of other persons.

~~13 — Advocates~~

~~[1973/8/6(1)-(6); 1976/27/2/4]~~

- ~~(1) A panel of advocates willing to give advice or assistance or to act for persons receiving legal aid under this Part shall be prepared and maintained in accordance with regulations.~~
- ~~(2) Any practising advocate shall be entitled to have his their name on the panel, unless there is good reason for excluding him them arising out of his their conduct when giving or selected to give advice or assistance, his their conduct when acting or selected to act for persons receiving legal aid or his their professional conduct generally.~~
- ~~(3) Any advocate given notice that he is they are to be excluded from the panel on any of the grounds referred to in subsection (2) may require the matter to be referred to the Council of the Isle of Man Law Society for inquiry in accordance with rules made by that Council and approved by the Advocates Acts Committee.~~
- ~~(4) No advocate shall be excluded from the panel until the report of an inquiry referred to in subsection (3) has been received or, if no such requirement is made, the time for the making thereof has expired.~~
- ~~(5) Regulations may prescribe the form of the notice, the manner and the time within which any requirement made under subsection (3) shall be made.~~
- ~~(6) Where a person is entitled to receive advice or assistance or legal aid under this Part he they shall be entitled to select the advocate from the panel himself themselves.~~

~~Provided that —~~

- ~~(a) — this subsection shall not prejudice the rights of the advocate where he has they have good reason to refuse or give up a case or entrust it to another; and~~
- ~~(b) — the advocate selected, if shown on the panel as a member of a firm, shall act in the name of the firm.~~

13 Panel of Advocates

- (1) Advice or assistance or legal aid under this Part may only be given by a panel advocate.
This is subject to prescribed exceptions.

- (2) The Board may make regulations in respect of a panel of advocates willing to represent or give advice or assistance to persons receiving legal aid under this Part.
- (3) Without limiting subsection (2), regulations referred to in that subsection may specify-
- (a) who is to prepare and maintain the panel;
 - (b) the procedure, form and contents of an application to join the panel;
 - (c) the grounds, and procedure, for refusing an application;
 - (d) the grounds, and procedure, for removing an advocate's name from the panel;
 - (e) the grounds, and procedure, for suspending an advocate from the panel;
 - (f) the length and terms of any suspension;
 - (g) the person who may do any of the things mentioned in paragraphs (c) to (e);
 - (h) the grounds on which a panel advocate may refuse to represent or give advice or assistance to a person in a particular case or circumstances or entrust those things to another panel advocate;
 - (i) the obligations and powers a panel advocate has as such an advocate in respect of the matter for which a legal aid certificate has been granted;
 - (j) how a panel advocate may withdraw from the panel and the procedure for doing so;
 - (k) the time limits for the submission by an advocate of a bill of costs and the information to be provided in respect of such a submission.
- (4) Regulations referred to in subsection (2) may require —
- (a) a panel advocate to undertake specified professional training;
 - (b) a panel advocate to undertake specified professional development;
 - (c) the preparation and maintenance of a service level agreement setting out the quality of the service to be provided by a panel advocate to the assisted person taking into account the service which that person is entitled to expect;
 - (d) where a Legal Aid Certifying Officer so requests, a panel advocate who is unable to represent or give advice or assistance to person referred to in subsection (1) to —
 - (i) inform a Legal Aid Certifying Officer and the Board of that fact; and
 - (ii) explain why they cannot.
- (5) Where a person is entitled to receive advice or assistance or legal aid under this Part they shall be entitled to select the advocate from the panel themselves.
- ~~(6) Nothing in subsection (5) prejudices the rights of the advocate where they have good reason to refuse or give up a case or entrust it to another advocate.
This is subject to regulations made under this section.~~
- (7) An advocate, if shown on the panel as a member of a firm, shall act in the name of the firm.

14 Confidentiality of information

- (1) No information furnished for the purposes of this Act to the **Committee Board** or to any person **employed by or** acting on its behalf may be disclosed, —

- (a) in the case of such information furnished by, or by any person acting for, a person seeking or receiving legal aid or advice and assistance, without the consent of the person seeking or receiving legal aid or advice and assistance; or
- (b) in the case of such information furnished otherwise than as mentioned in paragraph (a), without the consent of the person who furnished it,

and any person who, in contravention of this subsection, discloses any information obtained by that person when an officer or servant of, or acting on behalf of, the **Committee Board**, commits an offence.

This subsection is subject to subsection (2).

Maximum penalty (summary) a fine of level 4.

- (2) Subsection (1) does not apply to the disclosure of information, —
- (a) for the purpose of, or in connection with, the proper performance or facilitating the proper performance by the Treasury, the **Committee Board, a Legal Aid Certifying Officer**, any court or tribunal or by any other person or body of duties or functions under this Act;
 - (b) for the purpose of investigating, prosecuting or determining any complaint against an advocate under Part IV of the *Advocates Act 1976*;
 - (c) for the purpose of investigating or prosecuting any offence or for the report of any proceedings in relation to such an offence;
 - (d) for the purposes of any investigation by the Tynwald Commissioner for Administration under the *Tynwald Commissioner for Administration Act 2011*;
 - (e) for the purpose of complying with an information notice under section 45 of the *Freedom of Information Act 2015*.
- (3) For the purposes of this section, information furnished to any person in **his or her** **their** capacity as an advocate by or on behalf of a person seeking or receiving legal

aid or advice and assistance is not to be regarded as information furnished to a person employed by or acting on behalf of the Committee Board.

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15 Rights of indemnity

[1973/8/14]

- (1) This section shall have effect for the purpose of adapting in relation to this Part any right (however and whenever created or arising) which a person may have to be indemnified against expenses incurred by ~~him~~ them.
- (2) In determining for the purposes of any such right the reasonableness of any expenses, the possibility of avoiding them or part of them by taking advantage of this Part shall be disregarded.
- (3) Where a person having any such right to be indemnified against expenses incurred in connection with any proceedings receives advice or assistance or legal aid under this Part in connection with those proceedings, then (without prejudice to the effect of the indemnity in relation to ~~his~~ that person's contribution, if any, to the Treasury) the right shall inure also for the benefit of the Treasury as if the expenses incurred by the Treasury on behalf of the said person in connection with the proceeding had been incurred by ~~him~~ that person.
- (4) Where —
 - (a) a person's right to be indemnified against expenses incurred in connection with any proceedings arises by virtue of an agreement and is subject to any express condition conferring on those liable thereunder any right with respect to the bringing or conduct of the proceedings; and
 - (b) those liable have been given a reasonable opportunity of exercising the right so conferred and have not availed themselves of that opportunity,the right to be indemnified shall be treated for the purposes of subsection (3) as not being subject to that condition.
- (5) Nothing in subsections (3) and (4) shall be taken as depriving any person or body of persons of the protection of any enactment or, save as provided in subsection (4), as conferring any larger right to recover money for the benefit of the Treasury in respect of any expenses than the person receiving legal aid would have had if the expenses had been incurred by ~~him~~ that person.
- (6) Where under subsection (3) a person's right to be indemnified against expenses incurred in connection with any proceedings inures for the benefit of the Treasury, then for the purposes of section 4 the net liability of the Treasury on ~~his~~ that person's account shall be treated as reduced by the amount of any sums recovered for the benefit of the Treasury by virtue of the said right.

16 Regulations

[1973/8/9]

- (1) The ~~Legal Aid Committee (in this Act referred to as "the Committee")~~ Board may make regulations as appear to it necessary or desirable for giving effect to this Part, including matters relating to its administration, or for preventing abuses thereof.
- (2) Without prejudice to subsection (1) or to any other provision of this Part authorising the making of regulations, regulations may —
- (a) make provision as to the matters which are or are not to be treated as distinct matters for the purpose of advice or assistance, as to the proceedings which are or are not to be treated as distinct proceedings for the purpose of legal aid under this Part, and as to the apportionment of sums recoverable or recovered by virtue of any order for costs made generally with respect to proceedings treated as distinct;
 - (b) regulate the procedure of any court in relation to advice or assistance or legal aid under this Part, and in particular make provision —
 - (i) as to the taxation of costs in connection with proceedings not actually begun; and
 - (ii) as to the cases in which and extent to which a person receiving advice or assistance or legal aid may be required to give security for costs, and the manner in which it may be given;
 - (c) make provision for applications for advice or assistance or legal aid under this Part including —
 - (i) by whom such an application may be made;
 - (ii) ~~the appointment of a certifying officer, and other officers to assist the certifying officer, to determine such applications and to exercise such other functions as this Act or any regulations made under this Act may confer;~~
 - (iii) the terms on which a certificate providing legal aid may be granted; and
 - (iv) the information to be furnished by the person seeking or receiving advice or assistance or legal aid and by the advocate of such person;

- (d) make provision for the payment of contributions, including the manner of payment, and the person from whom such payment may be required;
- (e) make provision as to the cases in which a person (P) may be refused advice or assistance or legal aid under this Part by reason of his P's conduct when seeking or receiving advice or assistance or legal aid (whether in the same or in a different matter);
- (f) make provision for the making of payments on account of sums (including disbursements incurred or to be incurred) payable under Schedule 2;
- (g) make provision for the recovery of sums due to the Treasury including —
 - (i) the enforcement for the benefit of the Treasury of any order or agreement for costs made in favour of a person who has received advice or assistance or legal aid under this Part; and
 - (ii) the making of an advocate's right to payment by the Treasury wholly or partly dependent on the advocate's performance of any duties imposed on the advocate by regulations made for the purposes of this paragraph;
- (h) make provision for the recovery from an advocate of any costs paid by the Treasury, where the Treasury has incurred such liability as the result of a serious dereliction of duty on the part of such advocate;

- (i) provide for the discharge or revocation of a legal aid certificate in such circumstances as may be prescribed.

(3) Regulations may also modify any provisions of this Part so far as it appears to the Committee Board necessary to meet the special circumstances where —

- (a) a person (P) seeking or receiving advice or assistance or legal aid under this Part —
 - (i) is concerned in a representative, fiduciary or official capacity; or
 - (ii) is concerned jointly with or has the same interest as other persons, whether receiving advice or assistance or legal aid or not; or

- (iii) has available to him P rights and facilities making it unnecessary for him P to take advantage of this Act or has a reasonable expectation of receiving financial or other help from a body of which he P is a member;
 - (b) a person seeks advice or assistance or legal aid in a matter of special urgency;
 - (c) a person begins to receive advice or assistance or legal aid under this Part after having consulted an advocate in the ordinary way with respect to the same matter, or ceases to receive advice or assistance or legal aid before the matter in question is finally settled;
 - (d) there is any relevant change of circumstances while a person is receiving advice or assistance or legal aid under this Part; or
 - (e) such modification is required for the purpose of fulfilling an obligation imposed by an international agreement which extends to the Island, or of securing the recognition or enforcement in the Island of a judgment, order or decision given or made outside the British Islands for whose recognition or enforcement in the Island provision is made by such an agreement.
- (4) Without prejudice to any of the foregoing provisions of this section, regulations may modify any of the provisions of this Part in so far as it appears to the Committee Board necessary or desirable to enable those provisions to be effectively applied in respect of any proceedings before the Judicial Committee of the Privy Council, and such modifications may include matters relating to the selection of, and payment of fees to, counsel.

17 Interpretation of Part I

In this Part —

“advice” and **“assistance”** mean respectively advice and assistance under this Part;

“family income supplement” [Repealed]

“income support” [Repealed]

“legal aid certificate” means a certificate required in accordance with regulations to be obtained as a condition of entitlement to legal aid;

“mediation” means any process in which 2 or more parties attempt to reach a voluntary agreement with respect to a dispute with the assistance of a person who has no power unilaterally to resolve the dispute, and includes conciliation and any similar form of dispute resolution other than litigation and arbitration;

“proceedings”, except in section 1, includes mediation;

“supplementary benefit” [Repealed].

PART II – CRIMINAL LEGAL AID

18 Legal aid in criminal proceedings

(1) For the purpose of any proceedings specified in column 1 of Schedule 3, ~~an authority specified in relation thereto in column 2 of that Schedule (“the relevant authority”)~~ a Legal Aid Certifying Officer may grant a legal aid certificate to a person so specified in column ~~3~~ 2 of that Schedule (“the assisted person”), if it appears to ~~authority them~~ —

- (a) that it is desirable in the interests of justice that ~~he the assisted~~ ~~person~~ should have ~~free~~ legal aid in the preparation and conduct of ~~his their~~ case in the proceedings; and

- (b) ~~that his means are insufficient to enable him to meet the costs which he may incur in the proceedings~~ that either —
- (i) the assisted person’s financial resources do not exceed the prescribed figure; or
 - (ii) the assisted person is (directly or indirectly) in receipt of prescribed social security benefits. [R5]

(1A) Where a person’s assets are not available to them in consequence of a relevant order those assets shall be ignored for the purposes of subsection (1)(b)(i).

For the purposes of this subsection a relevant order is an order under Manx legislation prohibiting a person’s access to, or use of, assets and includes a restraint order (for example, under the *Proceeds of Crime Act 2008* or the *Anti-Terrorism and Crime Act 2003*), an injunction, freezing or similar legal order. [R5]

(2) Where the assisted person is committed for trial on a charge of murder, subsection (1) shall have effect with the omission of paragraph (a).

- (3) Where a ~~relevant authority~~ Legal Aid Certifying Officer grants a legal aid certificate to the assisted person, an advocate shall be assigned to ~~him that person~~ for the purpose of advising ~~him them~~ on, and representing ~~him them~~ in, the proceedings.
- (4) A legal aid certificate ~~referred to in this section~~ shall be authority for the advocate assigned to the assisted person to give advice on the question whether there appear to be reasonable grounds of appeal from any conviction, sentence or order in the proceedings in question and, if such grounds appear to exist, assistance in the preparation of notice of appeal or of an application for a case to be stated, as the case may require.
- (5) In Schedule 3 “sentence” includes any order made by a court when dealing with an offender, including —
- (a) an order for costs or a compensation order made on conviction;

- (b) a hospital order, a guardianship order and an order restricting discharge under ~~Part V~~ Part 3 of the Mental Health Act ~~1974~~ 1998; and
- (c) a recommendation for deportation under section 6 of the Immigration Act 1971 (an Act of Parliament), as it has effect in the Island.

(6) The Board may, by order, amend Schedule 3.

(7) Before making an order under subsection (6) the Board must consult the Deemsters.

18ZA Assessments, Advocates and confidentiality

- | |
|---|
| <p>(1) The following provisions apply to this Part to the same extent as they apply to Part I –</p> <ul style="list-style-type: none">(a) section 12;(b) section 13; and(c) section 14. <p>(2) Regulations made under section 12 as it applies to this Part may, for the purposes of giving effect to this Part or for preventing abuses, provide where a person is aged under 16 for the financial resources of any person who is a contributor in relation to that person under Schedule 3A to be taken into account for those purposes.</p> <p>(3) References in those sections to –</p> <ul style="list-style-type: none">(a) “this Part” are to be construed as references to Part II;(b) “advice”, “assistance” or “legal aid” are to be construed as their equivalents in this Part. <p>(4) The application of sections 12 and 13 to this Part may be modified –</p> <ul style="list-style-type: none">(a) in an order made by the Board; or(b) in regulations made under those sections as applied to this Part. <p>(5) The application of section 14 to this Part may be modified in an order made by the Board.</p> |
| . |

18A Contributions

Schedule 3A has effect in relation to the payment of contributions by assisted persons towards the costs of legal aid given under this Part.

24.10.25.ConDraft

19 Payment of costs

- (1) Subject to the provisions of this section, where a legal aid certificate has been granted to any person under section 18 the costs of the legal aid given to ~~him~~ that person shall be paid by the Treasury.
- (2) Subject to regulations, the costs of legal aid payable under this section include disbursements reasonably incurred by the advocate assigned to the assisted person for or in connection with the proceedings.
- (3) The rates or scales of costs (other than disbursements) payable under this section, and the conditions under which such costs may be allowed, shall be such as may be prescribed by order of the Treasury, made after consultation with the Deemsters and the Isle of Man Law Society.
- (3A) Without limiting subsection (3), an order under that subsection may —
- (a) prescribe such rates or scales of costs by reference to the type of proceedings in respect of which legal aid has been granted;
 - (b) prescribe a fixed amount payable to an advocate acting in proceedings specified in the order and that amount may be —
 - (i) prescribed as one determined by a specified hourly rate multiplied by a set number of hours (or a division of an hour);
 - (ii) prescribed by reference to a particular function, the amount of time spent on carrying out a particular function (whether or not subject to a maximum amount of time allowable) or by reference to some other specified factor or data.
- (3B) An order under subsection (3) may provide that the rate or scale of costs prescribed in respect of legal aid may be reduced by the amount an advocate has received in respect of the provision of advice or assistance under this Act.
- (3C) The specified factor referred to in subsection (3A)(b)(ii) may, for example, be a published index which has effect from time to time.
- (3D) An order under subsection (3) may provide for travel expenses incurred by an advocate in acting for a person granted legal aid to be paid at the same rate as that applicable to public sector employees discharging their official functions.

~~(4) An order under subsection (3) shall not have effect unless it is approved by Tynwald.~~

~~(5) Where an order for costs in the assisted person's favour is made in the proceedings in question, all sums due under that order shall be paid to the Treasury.~~

19A Order for costs

Where an order for costs in the assisted person's favour is made in the proceedings in question, all sums due under that order shall be paid to the Treasury.

24.10.25.ConDraft

20 Regulations

[P1974/4/39]

The **Committee Board** may make regulations for giving effect to this Part or for preventing abuses; and without prejudice to the generality of this section regulations may —

- (a) make provision as to the manner of making applications for legal aid under this Part and the time in which such applications may be made and disposed of;
- (b) ~~provide for the exercise of the powers of any court under this Part by a person entitled to sit as a member of the court or any officer of the court or other person;~~
- (c) ~~confer on any person aggrieved by a decision of any such officer or other person a right to have the matter determined by the court or a person entitled to sit as a member of the court;~~
- (d) require any officer of a prescribed court to report to ~~the court or any person entitled to sit as a member of the court~~ a **Legal Aid Certifying Officer** any case in which it appears to ~~him that~~ **officer** that, although no application has been made for the purpose, a legal aid certificate ought to be granted under section 18;
- (e) ~~provide for the person by whom and the manner in which a person's means are to be assessed;~~
- (ea) ~~where 2 or more persons are living together in the same household, provide for the means of any one of them to be taken into account in determining the means of any other of them for the purposes of this Part;~~
- (eb) ~~where a person is aged under 16, provide (without prejudice to paragraph (ea)) for the **means financial resources** of any person who is a contributor in relation to **him that person** under Schedule 3A to be taken into account for those purposes;~~
- (f) make provision with respect to the manner in which advocates are assigned to assisted persons;

- (g) make provision for the making of payments on account of sums payable under section 19 (including disbursements incurred or to be incurred as mentioned in section 19(2));
- (h) provide for the assessment or taxation of costs payable in accordance with section 19 and for the review of any assessment made or taxation carried out under the regulations;
- (i) provide for the discharge or revocation of a legal aid certificate in such circumstances as may be prescribed;
- (j) prescribe forms for use for the purposes of this Part.

24.10.25.ConDraft

21 Duty advocate ~~scheme~~ schemes

[P1982/44/1]

- (1) The ~~Committee~~ Board may with the concurrence of the Treasury make a scheme providing for the provision by advocates (“duty advocates”) of such advice and representation in connection with criminal proceedings before courts of summary jurisdiction as may be specified in the scheme, being advice and representation for persons, or any class of persons —

- (a) in respect of whom no legal aid certificate is for the time being in force in relation to those proceedings, and
- (b) to whom advice and assistance in respect of those proceedings is not being given under Part I.

- (1A) The ~~Committee~~ Board may with the concurrence of the Treasury ~~also~~ make a scheme providing for the provision by ~~duty~~ advocates of advice and assistance under section 7 for persons —

- (a) such as are mentioned in section 32 of the *Police Powers and Procedures Act 1998*;
- (b) arrested and held in custody who —
 - (i) exercise the right to consult an advocate conferred on them by section 61(1) of that Act; or
 - (ii) are permitted to consult a representative of an advocate; ~~or~~

(ba) who are subject to a formal interview by a person charged with investigating offences or charging offenders (whether at a police station or any other place) pursuant to a caution; or

- (c) subject to a grant of bail with conditions under section 50A of that Act.
- (1B) A scheme under subsection (1A) may provide that arrangements made under it may be so framed as to preclude advocates from providing such advice and representation if they do not also provide advice and assistance in pursuance of arrangements made by virtue of a scheme under that subsection which relates to the provision of advice and assistance for persons such as are mentioned in section 32 of the *Police Powers and Procedures Act 1998* and for persons arrested and held in custody.

- (1C) The Board may, with the concurrence of the Treasury, make pilot schemes for the provision by advocates of representation, advice and assistance in connection with criminal proceedings as may be specified in the scheme.
- (1D) A pilot scheme may —

- (a) be limited in its application to —
 - (i) one or more classes of person; or
 - (ii) persons selected by reference to criteria specified in the scheme;
- (b) in particular, provide for the provision by advocates of advice and assistance under section 7 for persons serving a sentence of imprisonment.

(1E) A pilot scheme may —

- (a) not have effect for a period exceeding 24 months;
- (b) be continued by the Board after the time when it would otherwise expire for a period not exceeding 12 months;
- (c) be replaced by another pilot scheme making the same, or similar, provision.

- (2) A scheme (including a pilot scheme) under this section shall provide for the remuneration by the Treasury of advocates providing advice and representation or advice and assistance in accordance with the scheme, at such rates and in such manner as may be prescribed by or determined in accordance with the scheme.
- (3) A scheme (including a pilot scheme) may make provision for a panel of duty advocates to do any of the things mentioned in this section.

PART III – MISCELLANEOUS AND SUPPLEMENTAL

22 Misrepresentation etc

[1973/8/13]

- (1) If any person (P) seeking or receiving advice or assistance or legal aid under this Act —
- (a) wilfully fails to comply with any regulations as to the information to be furnished by ~~him~~ P; or
 - (b) in furnishing any information required by the regulations knowingly makes any false statement or false representation,
- ~~he~~ P shall be liable on summary conviction to imprisonment for a term not exceeding 3 months, or to a fine not exceeding level 4 on the standard scale, or to both.
- (2) Proceedings for an offence under subsection (1) may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant such proceedings came to ~~his~~ the prosecutor's knowledge; but no such proceedings shall be brought more than 2 years after the commission of the offence.
- (3) For the purposes of subsection (2) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence came to ~~his~~ the prosecutor's knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (4) An action to recover any loss sustained by the Treasury by reason of the failure of a person (P) seeking or receiving advice or assistance or legal aid under this Act to comply with any regulations as to the information to be furnished by ~~him~~ P, or by reason of a false statement or false representation made by ~~such person~~ P in furnishing information for the purposes of this Act shall be recoverable as a debt due to the Treasury.

23 — Legal Aid Committee

- (1) ~~There shall continue to be established a Legal Aid Committee consisting of neither less than 5 nor more than 7 members appointed by the Appointments Commission.~~

~~(6) Not more than 3 lawyers may be appointed as members.~~

~~(7) The members shall be appointed for a term not exceeding 3 years and no member may serve for more than 2 consecutive terms.~~

~~(8) The Appointments Commission must appoint one of the members to act as chairman and one to act as vice chairman.~~

~~(9) At any sitting of the Committee —~~

~~(a) the chairman or vice chairman shall preside;~~

~~(b) at least 2 other members shall be present; and~~

~~(c) a majority of the members present shall not be lawyers.~~

~~(10) — The functions of the Committee are —~~

~~(d) to determine the general policy with respect to legal aid;~~

~~(e) to oversee the administration of legal aid and to adjudicate on any complaints (other than matters within the jurisdiction of the tribunal established under section 23A) about any officer appointed under regulations made under section 16(2)(c)(ii) as to the exercise of any of the officer's functions;~~

~~(f) to make regulations and schemes under this Act.~~

~~(11) — In this section "lawyer" means a person qualified to practise law in any part of the British Islands.~~

23 The Legal Aid Board

(1) The Legal Aid Board is established in place of the Legal Aid Committee.

(2) Without otherwise limiting this Act, Schedule 3B (which has effect) provides for the status of the Board and additional functions, duties and powers of it.

[R1]

23A Legal Aid Appeals Tribunal

- (1) The Legal Aid Appeals Tribunal is established.
- (2) The tribunal is a Part 2 tribunal within the meaning of the Tribunals Act 2006.
- (3) The tribunal consists of a ~~chairman~~ chair and 2 members drawn from a panel referred to in section 2(1)(b) of that Act.
- (4) Section 4 of that Act is to determine the constitution of the tribunal save no person may hold office for more than 2 consecutive terms.
- (5) The tribunal has such jurisdiction as may be prescribed.

24.10.25.ConDraft

23B Legal Aid Certifying Officer

- (1) There shall be an officer called the Legal Aid Certifying Officer.
- (2) The Legal Aid Certifying Officer shall be appointed by the Board and shall be the certifying officer for both Part I and Part II of this Act.
- (3) The Board may appoint more than one Legal Aid Certifying Officer.
- (4) A Legal Aid Certifying Officer shall, in addition to any other functions conferred by or under this Act, have the following functions —
 - (a) determining whether an applicant has shown reasonable grounds for taking, defending or being a party to proceedings and that it is reasonable for the applicant to receive legal aid in the circumstances;
 - (b) the assessment, review and authorisation of legal aid disbursements;
 - (c) the grant of Legal Aid certificates;
 - (d) providing assistance and advice to the Board;
 - (e) providing information to the Board about the performance of panel advocates;
 - (f) approving the addition of an advocate to a panel of advocates referred to in sections 13, 18ZA or 21;
 - (g) such other functions as may be prescribed.
- (5) The Board may appoint a Deputy Legal Aid Certifying Officer.
- (6) The Board may appoint more than one Deputy Legal Aid Certifying Officer.
- (7) A Legal Aid Certifying Officer may delegate any of their functions to a Deputy Legal Aid Certifying Officer.
- (8) The Legal Aid Certifying Officer and a Deputy Legal Aid Certifying Officer—
 - (a) must be an advocate, a barrister or solicitor of at least 7 years standing but must not be practising in that capacity;
 - (b) is to be paid such salary, fees, allowances and expenses as the Board, with the consent of the Treasury, determines;
 - (c) holds office upon such other terms and conditions as the Board determines; and
 - (d) subject to this Act and any regulations, orders or schemes under it, must act in accordance with any written directions the Board may give.

23C Conferral of functions etc.

- (1) This section applies where –
 - (a) a function or duty is conferred or imposed by this Act on a specified person or body;
 - (b) a power is conferred by this Act on such a person or body.

- (2) Where this section applies, the Department may by a relevant instrument confer or impose (in whole or in part) the function, duty or power in question on a person or body to be prescribed in that instrument.
- (3) Without limiting subsection (2), a relevant instrument may –
 - (a) provide for more than one person or body to discharge the same function, duty or power jointly or severally;
 - (b) confer a discretion on a prescribed person or body;
 - (c) provide for the prescribed person or body upon whom a function, duty, power or discretion has been imposed or conferred to delegate it to another prescribed person or body.
- (4) “Relevant instrument” means regulations, an order or (as the case may be) a scheme made by the Board.

23D Sub-delegation of functions etc: other cases

- (1) This section applies where –
 - (a) a relevant instrument may be made under a provision of this Act (other than under section 23C); and
 - (b) that instrument may confer functions or powers or impose duties on a person or body to be prescribed (P1).
- (2) A relevant instrument may, in addition to doing any of the things referred to in subsection (1)(b), do all or any of the following –
 - (a) provide for more than one person or body to be prescribed and to discharge the same function, duty or power jointly or severally;
 - (b) confer a discretion on a prescribed person or body;
 - (c) provide for P1 to sub-delegate (in whole or in part) any function, duty, power or discretion conferred or imposed on them to another prescribed person or body (P2);
 - (d) provide for P2 to delegate any function, duty, power or discretion conferred or imposed on them under this section to delegate it to another prescribed person or body.
- (3) “Relevant instrument” means regulations, an order or (as the case may be) a scheme made by the Board.

24 Regulations etc: general

- (1) Regulations, orders and schemes under this Act may contain such supplemental, incidental, consequential, savings, transitory or transitional arrangements as the Committee Board or, as the case may be, the Treasury considers appropriate for the purposes of, or in consequence of, or for giving full effect to any provision of this Act.
- (2) Regulations under this Act shall not have effect unless they are approved by Tynwald.
- (3) Orders made by the Treasury or the Board under this Act shall not have effect unless they are approved by Tynwald.
- (4) Schemes under this Act are subject to section 34 ("laying only") of the Legislation Act 2015.

25 [Repealed]**26 Financial provision**

[1973/8/11]

- (1) All expenses incurred by the Treasury under this Act shall be defrayed out of money provided by Tynwald.
- (2) All sums paid to the Treasury under this Act shall be paid into the general revenue of the Island.
- (3) Sums due to the Treasury by virtue of this Act shall for the purpose of the Preferential Payments *Act 1908* be deemed to be a debt due to the Crown.

27 General interpretation

In this Act —

“Appointments Commission” means the body established under section 1 of the *Tribunals Act 2006*;

“assisted person” means (unless otherwise stated) a person who has received or, as the case may be, is receiving legal aid;

~~**“the Committee”** means the Legal Aid Committee;~~

“Board” means the Legal Aid Board (see section 23);

“lawyer” means a person qualified to practise law in any part of the British Islands;

“Legal Aid Certifying Officer” means the person appointed under section 23B;

“order for costs” includes any judgement, order, decree, award or direction for the payment of the costs of one party to any proceedings by another party, whether given or made in those proceedings or not;

“panel advocate” means an advocate on the panel of advocates referred to in sections 13, 18ZA or 21;

“person” does not include a body of persons corporate or unincorporate so as to authorise legal aid to be given to such a body;

“prescribed” means prescribed by regulations unless otherwise stated;

“regulations” means regulations made by the ~~Committee~~ Board;

“signature” includes a facsimile of a signature however reproduced;

“unassisted party” means a party to proceedings who is not an assisted person.

28 Application to the Crown

This Act binds the Crown.

29 Transitional provisions

- (1) Until the Council of Ministers makes rules under section 8 of the *Tribunals Act 2006* regulating the practice and procedure of a Part 2 tribunal, regulations may make such provision.
- (1) When such rules as are mentioned in subsection (1) come into operation, regulations made in consequence of that subsection are to be treated as revoked.
- (2A) If an appeal has been or could be made (but has not been concluded) under regulations in operation prior to the commencement of section 23A, on and after such commencement the appeal —
 - (a) must be treated as having been made or capable of being made (as the case may be) in accordance with rules or regulations made under subsection (1), whichever are in operation; and
 - (b) if commenced, shall recommence before the tribunal.
- (2) Any sum which was immediately before the commencement of Part I due to or from the general revenue of the Island by virtue of any provision of the Legal Aid (Isle of Man) Act 1973 shall be treated for the purposes of this Act as due to or from the Treasury.
- (3) Nothing in Part II, or in subsection (1) or (2), applies to any proceedings in which, before the commencement of that Part —
 - (a) an advocate has been assigned to an appellant under section 18 of the Criminal Code Amendment Act 1921;
 - (b) a defence certificate or legal aid certificate has been granted to any person under section 3 or 4 of the Poor Prisoners' Defence Act 1933; or
 - (c) an appeal aid certificate has been granted to any person under section 3 of the *Summary Jurisdiction Act 1956*.

30 Short title and commencement

- (1) This Act may be cited as the Legal Aid Act 1986.
- (2) This Act shall come into operation on such day or days as the Governor in Council may by order appoint.

SCHEDULE 1

PROCEEDINGS FOR WHICH CIVIL LEGAL AID MAY BE GIVEN

Section 2

PART I – DESCRIPTION OF PROCEEDINGS

1. Proceedings in any of the following courts —
 - (a) the Judicial Committee of the Privy Council in the exercise of its jurisdiction in relation to appeals from courts in the Island;
 - (b) the High Court.
2. Domestic proceedings (within the meaning of Part V of the *Summary Jurisdiction Act 1989*) in a court of summary jurisdiction.
3. Proceedings in a court of summary jurisdiction under Part 4 or 5 of the *Children and Young Persons Act 2001*.
- 3A. Proceedings in a court of summary jurisdiction under Division 2 of Part 2 of the *Domestic Abuse Act 2020*.
4. Proceedings in an inquest held under the *Coroners of Inquests Act 1987*, which shall be proceedings in a court for the purposes of this Act.
5. Proceedings before the Mental Health Review Tribunal [\(continued under the Mental Health Act 1998\)](#), which shall be proceedings in a court for the purposes of this Act.
- 5A. Proceedings before the Advocates Disciplinary Tribunal [\(established under the Advocates Act 1976\)](#), which shall be proceedings in a court for the purposes of this Act.
- 5B. Proceedings before the Isle of Man Data Protection Tribunal [\(continued under the GDPR and LED Implementing Regulations 2018 \(SD 2018/0145\)\)](#), which shall be proceedings in a court for the purposes of this Act.
- 5C. Proceedings before the Financial Services Tribunal on an appeal under section 32 of the *Financial Services Act 2008*, which shall be proceedings in a court for the purposes of this Act.
- 5D. [Repealed]
- 5E. [Repealed]

PART II – EXCEPTED PROCEEDINGS

6. Proceedings wholly or partly in respect of defamation.
 7. Relator actions.
 8. Proceedings for the recovery of a penalty where the proceedings may be taken by any person and the whole or part of the penalty is payable to the persons taking the proceedings.
 9. Election petitions under Part 8 of the *Elections (Keys and Local Authorities) Act 2020*.
- 9A. [Inquiries held under section 10 of the Treasure Act 2017.](#)
 - 9B. [Proceedings before any court or tribunal concerning property boundary disputes.](#)
 - 9C. [Proceedings before any Tribunal \(other than those referred to in paragraph 5, 5B or 5C of Part I\) referred to in Schedule 2 to the Tribunals Act 2006.](#)
10. Proceedings incidental to any proceedings mentioned in this Part.

SCHEDULE 2

REMUNERATION OF PERSONS GIVING CIVIL LEGAL AID

Section 5(2)

1.
 - (1) The rates or scales of costs (other than disbursements) payable in respect of legal aid under Part I, and the conditions under which such costs may be allowed shall be such as may be prescribed by order of the Treasury, made after consultation with the Deemsters and the Isle of Man Law Society.
 - (2) Without prejudice to that power, an order under ~~paragraph 1~~ sub-paragraph (1) may —
 - (a) prescribe such rates or scales by reference to the rates and scales having effect from time to time under section 19(3);
 - (b) ~~provide that the sums payable to an advocate acting in proceedings specified in the order shall, in such circumstances as may be prescribed, be such fixed amount specified in the order as may be applicable thereunder.~~

- (b) prescribe such rates or scales by reference to the type of proceedings for which legal aid has been granted;
 - (c) prescribe a fixed amount payable to an advocate acting in proceedings specified in the order and that amount may be —

- (i) prescribed as one determined by a specified hourly rate multiplied by a set number of hours (or a division of an hour);
 - (ii) prescribed by reference to a particular function, the amount of time spent on carrying out a particular function (whether or not subject to a maximum amount of time allowable) or by reference to some other specified factor or data.

- (3) An order under sub-paragraph (1) may provide that the rate or scale of costs prescribed in respect of legal aid may be reduced by the amount an advocate has received in respect of the provision of advice or assistance under Part I.
 - (4) The specified factor referred to in sub-paragraph(2)(c)(ii) may, for example, be a published index which has effect from time to time.
 - (5) An order under sub-paragraph (1) may provide for travel expenses incurred by an advocate in acting for a person granted legal aid to be paid at the same rate as that applicable to a public sector employee (within the meaning of the *Public Services Commission Act 2015*) discharging their official functions.
2. ~~An order under paragraph 1 shall not have effect unless it is approved by Tynwald.~~

3. Costs shall be taxed for the purposes of this Schedule according to the ordinary rules applicable on a taxation as between attorney and client where the costs are to be paid out of a common fund in which the client and others are interested.

Provided that no question shall be raised as to the propriety of any act for which prior approval was obtained as required by regulations.

4. Regulations may provide that for the purposes of this Schedule instead of costs being taxed in the ordinary way —

- (a) ~~they shall be taxed by the prescribed person (whether an officer of a court or not)~~ they shall be taxed by a Legal Aid Certifying Officer; or
- (b) the amount of the costs shall be fixed (whether by an officer of a court or not) by an assessment made without a taxation but with a view to allowing as nearly as may be the same amount as on a taxation.

SCHEDULE 3

CRIMINAL LEGAL AID

Section 18(1)

<i>Column 1</i> <i>Proceedings in which legal aid under Part II may be granted</i>	<i>Authority by whom legal aid may be granted</i> <i>[R2]</i>	<i>Column 2</i> <i>The assisted person</i> <i>Person to whom legal aid may be granted</i>
1. Summary trial or committal proceedings before a court of summary jurisdiction.	The court of summary jurisdiction.	A person charged with any offence before the court.
1A. Proceedings in a court of summary jurisdiction under section 28 of the Criminal Justice Act 2001.	The court of summary jurisdiction.	The person against whom the order may be or has been made.
1B. Appeal to the Staff of Government Division against a decision of a court of summary jurisdiction under section 28 of the Criminal Justice Act 2001.	The Staff of Government Division.	The appellant.
2. Application to a judge of the High Court for bail under section 2 or 3(3) of the Bail Act 1952.	The judge to whom the application is made.	The applicant.
3. Trial on information before a Court of General Gaol Delivery.	The court of summary jurisdiction by whom the person committed is so committed. The judge before whom the person is to be tried.	A person committed for trial.
4. Proceedings before a Court of General Gaol Delivery on committal by a court of summary jurisdiction under section 17 of the Summary Jurisdiction Act 1989.	The court of summary jurisdiction by whom the offender is so committed. The judge by whom the offender is dealt with.	The offender so committed.

<i>Column 1</i> <i>Proceedings in which legal aid under Part II may be granted</i>	<i>Authority by whom legal aid may be granted</i> <i>[R2]</i>	<i>Column 2</i> <i>The assisted person</i> <i>Person to whom legal aid may be granted</i>
5. Proceedings before a Court of General Gaol Delivery on committal by a court of summary jurisdiction under section 55(1) of the Mental Health Act 1974 paragraph 4(1) of Schedule 2A to the Summary Jurisdiction Act 1989, where the Court does not make a hospital order.	Any court of summary jurisdiction. The judge by whom the offender is dealt with.	The offender so committed.
6. Appeal to the Staff of Government Division against conviction or sentence or both by a court of summary jurisdiction, including an appeal by way of case stated and an application for an order to state a case.	Any court of summary jurisdiction. The Staff of Government Division.	The appellant. Any other party to the appeal.
7. Appeal to the Staff of Government Division against a hospital order or guardianship order made by a court of summary jurisdiction otherwise than on conviction, under section 48(2) of the Mental Health Act 1974 paragraph 2(3) of Schedule 2A to the Summary Jurisdiction Act 1989.	Any court of summary jurisdiction.	The appellant.
8. Appeal to the Staff of Government Division against a hospital order or guardianship order made by a juvenile court under section 49 of the Mental Health Act 1974 under paragraph 2 of Schedule 2A to the Summary Jurisdiction Act 1989.	Any court of summary jurisdiction.	The appellant.

<i>Column 1</i> <i>Proceedings in which legal aid under Part II may be granted</i>	<i>Authority by whom legal aid may be granted</i> <i>[R2]</i>	<i>Column 2</i> <i>The assisted person</i> <i>Person to whom legal aid may be granted</i>
9. Appeal to the Staff of Government Division against conviction or sentence or both by a Court of General Gaol Delivery.	The Staff of Government Division.	The appellant.
10. Appeal to the Civil Division under section 49(5), 80(2) or 110(1) of the Children and Young Persons Act 1966.	Any court of summary jurisdiction, or on refusal by such a court the Civil Division.	The appellant.
11. Application to the Civil Division for an order that the sentence of a court of summary jurisdiction be quashed on the ground that the court has imposed a sentence which it had no power to pass in such a case.	The Civil Division.	The applicant.
12. Retrial before a Court of General Gaol Delivery pursuant to an order under section 33 of the Criminal Jurisdiction Act 1993.	The Staff of Government Division. The judge before whom the appellant is to be retried.	The appellant.
13. Proceedings for an offence against discipline under custody rules under the Custody Act 1995, where the charge is referred to an independent adjudicator and the adjudicator determines to allow the person charged to be legally represented.	An independent adjudicator.	The person charged.
14. Proceedings before a court of summary jurisdiction in respect of sexual harm prevention orders or sexual risk orders under the <i>Sexual Offences and Obscene Publications Act 2021.</i>	A court of summary jurisdiction.	The person in respect of whom the order may be made.

<i>Column 1</i> <i>Proceedings in which legal aid under Part II may be granted</i>	<i>Authority by whom legal aid may be granted</i> <i>[R2]</i>	<i>Column 2</i> <i>The assisted person</i> <i>Person to whom legal aid may be granted</i>
15. Appeal to the Staff of Government Division under section 189 or 199 of the <i>Sexual Offences and Obscene Publications Act 2021</i> .	The Staff of Government Division.	The appellant.
16. Proceedings under the Anti-Terrorism and Crime Act 2003 and the Proceeds of Crime Act 2008 before a court of summary jurisdiction or a Court of General Gaol Delivery.		The person in respect of whom an order may be made, or charged, under those Acts.

SCHEDULE 3A

CONTRIBUTIONS TOWARDS CRIMINAL LEGAL AID

Section 18A

Contribution orders

1. (1) Where ~~a relevant authority~~ a Legal Aid Certifying Officer grants a legal aid certificate to a person (P) whose ~~means financial resources~~ exceed the prescribed limits, ~~the authority~~ a Legal Aid Certifying Officer shall make an order (a "contribution order") requiring ~~him~~ P to make a payment to the Treasury of an amount (a "contribution") determined and calculated in such manner as is prescribed in respect of the costs of the legal aid given to ~~him~~ P, either in one sum or in instalments as may be prescribed.
- (2) Where the assisted person has not attained the age of 16, ~~a relevant authority~~ Legal Aid Certifying Officer may, instead of or in addition to making a contribution order against ~~him that person~~, make a contribution order against any person who is a contributor in relation to ~~him the assisted person~~ and whose ~~means financial resources~~ exceed the prescribed limits.
- (3) Where ~~a relevant authority~~ a Legal Aid Certifying Officer grants a legal aid certificate to a person (P) who has attained the age of 16 but does not require ~~him~~ P to furnish a statement of ~~his P's means financial resources~~ in accordance with regulations because ~~he~~ P appears, by reason of ~~his P's~~ physical or mental condition, to be for the time being incapable of doing so —
 - (a) no contribution order need be made when the certificate is granted; but
 - (b) if it subsequently appears to ~~a relevant authority~~ a Legal Aid Certifying Officer that ~~he~~ P has become capable of furnishing such a statement, ~~that relevant authority~~ a Legal Aid Certifying Officer may require ~~him~~ P to do so.
- (4) Where a person (P) fails to furnish a statement of ~~his P's means financial resources~~ in accordance with a requirement under regulations, ~~he~~ P shall be treated, for the purposes of any contribution order in connection with the legal aid certificate in relation to which the requirement was imposed, as if —
 - (a) ~~his P's means financial resources~~ exceeded the prescribed limits, and
 - (b) the amount of the contribution to be made by ~~him~~ P were such as ~~a relevant authority~~ Legal Aid Certifying Officer may determine.

- (5) Subject to ~~paragraph~~ ~~sub-paragraph~~ (6), where the costs of the legal aid in respect of which a contribution is made are less than the amount of the contribution, the Treasury shall repay the difference between the contribution and the costs —
- (a) where the contribution was made by one person only, to ~~him~~ ~~that~~ ~~person~~;
 - (b) where the contribution was made by 2 or more persons, to them in proportion to the amounts contributed by them.
- (6) Where an order for costs is made in favour of an assisted person and sums due under the order for costs are paid to the Treasury —
- (a) if the costs of the legal aid do not exceed the sums so paid, sub-paragraph (5) does not apply and the contribution shall be repaid;
 - (b) if the costs of the legal aid exceed the sums so paid, sub-paragraph (5) applies as if the costs were equal to the excess.
- (7) Regulations may provide that no contribution order shall be made in connection with a legal aid certificate in respect of proceedings by way of appeal against a conviction or order of any court, where a contribution order was made in connection with a legal aid certificate in respect of the proceedings in which the conviction or order was made.
- (8) Regulations made for the purpose of this paragraph shall secure that a person's ~~means-financial resources~~ are treated as not exceeding the prescribed limits at any time when ~~he~~ ~~that person~~ is in receipt of such social security benefits as may be prescribed.

Variation etc. of contribution order

2. (1) A contribution order made against a person ~~(P)~~ may be varied —
- (a) in the light of any further information as to ~~his P's~~ ~~means-financial resources~~ at the time when the order is made;
 - (b) in the light of any change in ~~his P's~~ ~~means-financial resources~~ within the prescribed period.
- (2) Where no contribution order has been made against an assisted person at the time when a legal aid certificate is granted to ~~him~~ ~~them~~ —
- (a) because ~~his~~ ~~their~~ ~~means-financial resources~~ did not exceed (or were believed not to exceed) the prescribed limits, or
 - (b) because of paragraph 1(3)(a),

a contribution order may be made against ~~him~~ ~~that person~~ at any subsequent time if it appears that ~~his~~ ~~their~~ ~~means-financial resources~~ at any time within the prescribed period exceed or exceeded the prescribed limits.

- (3) Where a contribution order has been made against a person and it subsequently appears that ~~his~~ their ~~means financial resources~~ at the time the order was made were such that no order should have been made, the order shall be revoked; but if it is revoked sub-paragraph (2) applies as if it had never been made.
- (4) The powers conferred by sub-paragraphs (1), (2) and (3) are exercisable by a Legal Aid Certifying Officer ~~any authority which is a relevant authority in relation to the proceedings in question~~.
- (5) At the conclusion of proceedings in any court for the purposes of which a legal aid certificate has been granted, the court may, if it thinks fit —
- (a) remit any sum due from the assisted person under a contribution order which falls to be paid after the conclusion of the proceedings or, if the assisted person has been acquitted, remit or order the repayment of any sum due from or paid by ~~him~~ the assisted person under such an order;
 - (b) remit or order the repayment of any sum due from or paid by a contributor under a contribution order.
- (6) Where a legal aid certificate is revoked, sub-paragraph (5) has effect as if the proceedings in question had then been concluded.
- (7) Where an assisted person successfully appeals against ~~his~~ their conviction, the court allowing ~~his~~ their appeal may remit or order the repayment of any sum due from or paid by ~~him~~ them or a contributor under a contribution order.

Enforcement of contribution order

3. (1) Subject to sub-paragraph (2), any contribution shall be recoverable as if it had been adjudged to be paid by an order of a court of summary jurisdiction, and shall be applicable as a fine imposed by such a court.
- (2) Where a contribution order has been made in respect of a member of ~~Her~~ His Majesty's armed forces and the Secretary of State notifies ~~the Chief Registrar~~ a Legal Aid Certifying Officer that any sum payable under the order will be recovered by deductions from the person's pay, ~~the Chief Registrar~~ a Legal Aid Certifying Officer shall not enforce payment of the order unless and until the Secretary of State subsequently notifies ~~him~~ a Legal Aid Certifying Officer that the person is no longer a member of those forces and that sum has not been fully recovered.
- (3) Any contribution shall not be recoverable, and payment of any such sum shall not be enforced until —
- (a) the conclusion of the proceedings in respect of which the relevant legal aid certificate was granted, or
 - (b) if earlier, the revocation of that certificate.
- (4) Where a contribution is required to be paid by the assisted person on the making of the contribution order, ~~the relevant authority~~ a Legal Aid Certifying

Officer may direct that the relevant legal aid certificate shall not take effect until the contribution is paid.

(5) Where a contribution is required to be paid by the assisted person at a time after the making of the contribution order and before the conclusion of the proceedings in respect of which the relevant legal aid certificate was granted and is not paid before that time, the court in which the proceedings are being heard may revoke the certificate if it is satisfied, after giving the assisted person an opportunity of making representations —

- (a) that **he assisted person** was able to pay the contribution at that time, and
- (b) that **he assisted person** is able to pay the whole or part of it but has failed or refused to do so.

(6) The revocation of a legal aid certificate under sub-paragraph (5) does not affect the right of the advocate assigned to the assisted person to remuneration for work done before the date of the revocation.

(7) References in this paragraph to a contribution include references to any part of a contribution and any instalment of a contribution.

Interpretation

4. In this Schedule —

“**contribution**” means a payment ordered to be made by a contribution order;

“**contribution order**” means an order under paragraph 1 or 2(2);

“**contributor**”, in relation to an assisted person under the age of 16, means **his that person's** father or mother; ~~and for the purposes of section 5 of the Family Law Act 1991 this definition shall be treated as an enactment passed after that Act.~~

SCHEDULE 3B

THE LEGAL AID BOARD [R1]

Section 23

1. Incorporation and Status etc

- (1) The Board shall be a body corporate.
- (2) The Board shall have the functions, duties, powers and discretions conferred or imposed by or under this Act or any other enactment connected to legal aid.

2. General functions of the Board

The Board shall, in particular, have the general functions of—

- (a) securing that legal aid, advice and assistance are available in accordance with this Act;
- (b) administering the funding of legal aid;
- (c) monitoring the availability, accessibility and effectiveness of legal aid in the Island;
- (d) monitoring the availability, accessibility and effectiveness of legal services (including publicly-funded ones) in the Island; and
- (e) adjudicating on any complaints about the exercise of any function of an officer appointed under this Act, but not matters within the jurisdiction of the Legal Aid Appeals Tribunal.

3. Powers of the Board

- (1) Subject to the provisions of this Act, the Board may do anything—
 - (a) which it considers necessary or expedient for securing the provision of legal aid and of advice and assistance in accordance with this Act; or
 - (b) which is calculated to facilitate or is incidental to or conducive to the discharge of its functions.
- (2) Without limiting sub-paragraph (1), the Board shall have power—

- (a) to enter into any contract or agreement other than one concerning the acquisition or disposal of land: this is subject to sub-paragraph (3);
 - (b) to promote or assist in the promotion of publicity relating to the functions of the Board;
 - (c) to undertake any inquiry or investigation which the Board considers necessary or expedient in relation to the discharge of its functions;
 - (d) to give the Council of Ministers such advice as it may consider appropriate in relation to the availability and accessibility of legal services (including publicly-funded ones) in the Island; and
 - (e) to give the Council of Ministers such advice as it may consider appropriate in relation to the provision of legal aid and advice and assistance in accordance with this Act.
- (3) The power under sub-paragraph (2)(a) must not be exercised without the approval in writing of the Treasury.

4 Duties of the Board: Provision of information

- (1) The Board must, from time to time, publish information as to the discharge of its functions in relation to legal aid and advice and assistance including the forms and procedures and other matters connected with those functions.
- (2) The Board must, from time to time, furnish the Treasury with any information it may require relating to the Board's property and to the discharge and proposed discharge of the Board's functions.
- (3) The Board must, from time to time, give the Treasury any information it may require relating to the availability and accessibility of legal services (including publicly-funded ones) in the Island.
- (4) The Board must give the Treasury, as soon as possible after 31st March in each year, a report on the exercise of the Board's functions during the preceding 12 months.
- (5) The report referred to in sub-paragraph (4) must be laid before Tynwald.

5 Panel Advocates Record

- (1) For the purposes of this Act and for —
 - (a) improving access to justice;
 - (b) promoting and protecting the public interest in such access; and

- (c) encouraging an effective legal profession,
the Board may draw up and maintain a "Panel Advocates Record".
- (2) The Panel Advocates Record—
 - (a) must include –
 - (i) the name of each advocate on the panel of advocates referred to in sections 13, 18ZA and 21;
 - (ii) details of an advocate's performance in relation to any service level agreement drawn up pursuant to sections 13, 18ZA and 21;
 - (iii) feedback and other information (if any) on an advocate's performance as a panel advocate;
 - (iv) any other matter the Board considers relevant to the purposes of the Record; and
 - (b) may include details of the number of times such an advocate has been unable to act for an assisted person and the reasons given for that inability.
- (3) Feedback and information referred to in sub-paragraph (2)(a)(iii) includes that provided by an assisted person, a court or tribunal and any person involved in the proceedings in respect of which the advocate acted for the assisted person whether that feedback is given —
 - (a) directly to the Board or a member of its staff;
 - (b) in the first instance to a Legal Aid Certifying Officer and passed on to the Board by that officer; and
 - (c) in the first instance given to any Government Department or an officer of such a Department and passed on to the Board by it.
- (4) Where the Board reasonably considers that the information in, or added to, the Panel Advocates Record in respect of an advocate is sufficient to raise concerns about that advocate's professional conduct, the Board must consider making a complaint to the Advocates Disciplinary Tribunal pursuant to the Advocates Act 1976.

6 Membership

- (1) The Board is to consist of not less than 5 and not more than 7 members appointed by the Appointments Commission.
- (2) The Appointments Commission shall appoint the chair of the Board.

- (3) No more than 3 members of the Board may be lawyers.
- (4) The following persons cannot be appointed as a member of the Board —
 - (a) a member of the Legislative Council;
 - (b) a member of the House of Keys;
 - (c) an employee of the Public Services Commission;
 - (d) an employee of a Department, an office of Government or a Statutory Board;
 - (e) a village, town or district Commissioner (within the meaning given by section 3 of the *Local Government Consolidation Act 1916*).

7. Vice-chair

The Appointments Commission must appoint a member of the Board to be vice-chair of the Board.

8. Tenure of Members

- (1) A member of the Board holds office in accordance with the terms of their appointment.
- (2) The term of office is 5 years.
- (3) A person may only hold office for 2 consecutive terms.

9. Remuneration

- (1) The Board may—
 - (a) pay its members such remuneration; and
 - (b) make provision for the payment of pensions, allowances or gratuities to or in respect of its members,

as it may, with the approval of the Treasury, determine.

- (2) Where a person ceases to be a member of the Board otherwise than on the expiry of their term of office, and it appears to the Treasury that there are special circumstances which make it right for that person to receive compensation, the Board may make that person a payment of an amount determined by it.

- (3) The amount must be approved by the Treasury.
- (4) In exercising its powers under this paragraph, the Board must have regard to payments, if any, made to its members (or a person ceasing to be a member) under the Public Sector Payments Act 2025.

10. Allowances

- (1) The Board may pay to each of its members and the members of any of its committees such reasonable allowances in respect of expenses or loss of remuneration as the Board may determine.
- (2) The amount of the allowance must be approved by the Treasury.
- (3) In exercising its powers under this paragraph, the Board must have regard to payments, if any, made to its members (including members of a committee of the Board) under the Public Sector Payments Act 2025.

11. Resignation

- (1) A member of the Board may resign office by giving notice in writing to the Appointments Commission.
- (2) A person who holds the post of Chair or vice-chair of the Board and who ceases to be a member of the Board, shall also cease to be the holder of that post.
- (3) Subject to paragraph 8, a person who ceases to be a member of the Board shall be eligible for reappointment.

12. Termination

- (1) The Treasury may, in writing, terminate the appointment of a member ("M") of the Board if satisfied that M —
 - (a) has been adjudged bankrupt or has entered into an arrangement with their creditors;
 - (b) is unable to carry out their duties as a Board member by reason of physical or mental illness;
 - (c) has failed to comply with any policy on attendance and conduct issued by the Board from time to time;

- (d) is otherwise unable or unfit to discharge the functions of a member of the Board; or
 - (e) is unsuitable to continue as a member of the Board.
- (2) Regulations may set out the process to be followed by the Treasury in terminating the appointment of a member of the Board.

13. Staff

- (1) The Board must appoint, on the terms and conditions as it may determine, a person to be the principal officer of the Board.
The appointment, terms and conditions must be approved by the Treasury.
- (2) The principal officer shall be responsible to the Board for the exercise of its functions.
- (3) The Board may appoint, on such terms and conditions as it may determine, such other employees as it thinks fit.
- (4) Sub-paragraph (5) applies to such of the Board's employees as it determines.
- (5) The Board must, in respect of the employees referred to in sub-paragraph (4), make such arrangements as it determines for providing pensions, allowances or gratuities to, or in respect, of them.
The arrangements must be approved by the Treasury.
- (6) Arrangements referred to in sub-paragraph (5) may include the establishment and administration, by the Board or otherwise, of one or more pension schemes.
- (7) The reference in sub-paragraph (5) to pensions, allowances or gratuities in respect of employees of the Board includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any such employee who suffers loss of office or employment.
- (8) In exercising its powers under this paragraph, the Board must have regard to payments, if any, made to its employees (and the principal officer where appropriate) under the Public Sector Payments Act 2025.

14 Meetings

- (1) The Board shall hold meetings for the transaction of business at such times as may be necessary for the proper exercise of its functions.
- (2) Meetings of the Board shall be held at any time —
 - (a) at the request of the Chair; or
 - (b) at the written request of 2 members of the Board addressed to the principal officer of the Board or, if appointed, the secretary or clerk of the Board.
- (3) The following shall apply in respect of meetings of the Board —
 - (a) the Board may make provision for internal administrative rules (by whatever name known) with respect to the summoning, notice, place, management and adjournment of its meetings, and generally with respect to the transaction and management of its business;
 - (b) no business shall be transacted at any meeting unless a quorum of members is present;
 - (c) the quorum necessary for the transaction of business by the Board shall be a majority of the members of the Board;
 - (d) the Chair or, in the absence of the Chair, the vice-chair shall preside at every meeting of the Board;
 - (e) the names of the members present shall be recorded;
 - (f) every question at a meeting shall be decided by a majority of the votes of the members present and voting on that question, and in the case of an equality of votes the person presiding at the meeting shall have a second or casting vote;
 - (g) a member shall be entitled to have their vote on any matter recorded in the minutes;
 - (h) the proceedings of the Board shall not be invalidated by any vacancy among its members or by any defect in the mode of election of the Board or any member of it.
- (4) Subject to sub-paragraph (3), the Board may determine its own procedure.

15 Delegation of functions

- (1) The Board may arrange for the discharge of any of its functions by —
 - (a) a committee of the Board;
 - (b) any member of the Board;
 - (c) any officer of the Board; or
 - (d) any member of the Board and any officer of the Board acting jointly.

This is subject to sub-paragraph (2).

- (2) The Board's functions with respect to the making of any public document must be exercised only by the Board.
- (3) Any arrangements made by the Board for the exercise of any functions by a committee, member or officer of the Board do not prevent the Board from exercising those functions itself.

16 Committees

- (1) The Board may constitute committees.
- (2) A person who is not a member of the Board may be a member of a committee.
- (3) At least one member of such a committee must be a member of the Board.
- (4) The procedure of a committee is to be determined by the Board.

17 Minutes

- (1) Minutes of the proceedings of a meeting of the Board or a committee of the Board must be signed at the same or next meeting of the Board or committee by the person presiding at it.
- (2) Any minute of the proceedings of a meeting of the Board or any committee of it purporting to be signed in accordance with sub-paragraph (1) shall be received in evidence without further proof.
- (3) Until the contrary is proved, a meeting of the Board to which sub-paragraph (1) applies shall be deemed to have been duly convened and held, and all the members present shall be deemed to have been duly qualified.

- (4) Until the contrary is proved, where a minute of any meeting of a committee of the Board has been made and signed in accordance with sub-paragraph (1) —
- (a) the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute;
 - (b) the meeting shall be deemed to have been duly convened and held; and
 - (c) the members present at the meeting shall be deemed to have been duly qualified.
- (5) This sub-paragraph applies to a document which purports to be a copy of —
- (a) a resolution passed by —
 - (i) the Board; or
 - (ii) a committee of it; or
 - (b) the minutes of the proceedings of a meeting of the Board or any committee of it.
- (6) Where a document referred to in sub-paragraph (5) bears a certificate —
- (a) purporting to be signed by a person holding the office of principal officer of the Board, (if appointed) secretary or clerk, chair or vice-chair of the Board, or a person authorised to sign it by such a person or the Board; and
 - (b) stating that the resolution was passed on a date specified in the certificate or, as the case may be, that the minutes were signed in accordance with sub-paragraph (1),
- that document shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the resolution or minutes in question.

18 Execution of documents

- (3) Where the Board has power to execute any deed, or to make any public document, or to make or give any direction, requirement, notice, authority, decision or determination, the deed may be executed or the document made or the direction or other matter signified under the hand of a member of the Board, or of a person

authorised by the Board to sign it.

- (2) Any document or instrument purporting to bear the signature of a member of the Board or of a person authorised by the Board to sign it shall be presumed, until the contrary is proved, to have been duly made by or by authority of the Board.
- (3) Where a document or instrument purports to bear the signature of a person holding the office of principal officer of the Board or, if appointed, the secretary or clerk of the Board, it shall be presumed, until the contrary is proved, that at the time of signing the signatory —
 - (a) held the office in question; and
 - (b) was authorised by the Board to sign the document or instrument in question.
- (4) A document which —
 - (a) purports to be a copy of a document or instrument made by the Board; and
 - (b) bears a certificate purporting to be signed by a person holding an office mentioned in sub-paragraph (3), or a person authorised for the purpose by such a person or the Board, and stating that the document or instrument was made on a date specified in the certificate,shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the document or instrument in question.

(Note the effect of section 93 and Division 4 of Part 4 of the Legislation Act 2015 and, to the extent it still applies, section 18 of the Evidence Act 1871).

19 Liability of members and officers

- (1) A member or officer of the Board (including a member of a committee of the Board) shall not be personally liable in respect of any act done in the performance or purported performance of their functions if they acted in good faith and in the honest belief —
 - (a) that their functions required or empowered the doing of the act; or
 - (b) that they were acting in the exercise or execution of any authority conferred on them as a member or officer.

- (2) Nothing in sub-paragraph (1) shall be construed as relieving the Board of any liability in respect of the acts of the persons referred to in sub-paragraph (1).
- (3) Sub-paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of section 6(1) of the Human Rights Act 2001.

20 Indemnification of members and officers

- (1) Sub-paragraph (2) applies where any action, suit or proceeding has been brought or threatened against a member or officer of the Board (including a member of a committee of the Board) in respect of any act done by them in the performance or purported performance of their functions and the circumstances are such that such a person is not legally entitled to require the Board to indemnify them.
- (2) The Board may, with the concurrence of the Treasury, indemnify a person referred to in sub-paragraph (1) against the whole or any part of any liability, damages, loss, claim or proceedings, costs or legal expenses which they may have been ordered to pay or may reasonably incur, if the Board or the High Court is satisfied that that person acted in good faith and in the honest belief —
 - (a) that their functions required or empowered the doing of the act; or
 - (b) that they were acting in the exercise or execution of any authority conferred on them as a member or officer of the Board.

21 Interpretation of paragraphs 20 and 21

For the purposes of paragraph 20 and 21 —

“act” includes an omission and “done” and “doing” shall be construed accordingly;

“member” includes a former member and the estate of a former member but only in respect of acts done while the former member was a member;

“officer” includes a former officer and the estate of a former officer but only in respect of acts done while the former officer was an officer.

22 Legal proceedings

- (1) The Board may sue and be sued in its name.
- (2) Service of any legal process or notice may be effected by service on the principal officer, (if appointed) secretary or clerk, chair or vice-chair of the Board.
- (3) The Board may appear in any legal proceedings by the secretary, clerk, chair or vice-chair of the Board or any other officer of the Board appointed for the purpose.
- (4) The Board may apply any money in its hands for the purpose of indemnifying itself against any costs or damages which it may incur in or in consequence of the exercise of its functions.

23 Regard to guidance

- (1) In the exercise of its functions by, or under this Act, the Board must have regard to any guidance as may from time to time be given by the Treasury.
- (2) Guidance under sub-paragraph (1) must not relate to the consideration or disposal (whether in general or in respect of individual applications) of—
 - (a) applications for legal aid or advice or assistance;
 - (b) supplementary or incidental applications or requests to the Board in connection with any case where legal aid or advice or assistance has been made available.

24 Financial provision

- (1) The following is a charge on the General Revenue —
 - (a) the salary, pension and allowances of members of the Board, the staff of the Board, the Legal Aid Certifying Officer and any Deputy Legal Aid Certifying Officer; and
 - (b) any expenses incurred by any of persons referred to in paragraph (a) in the exercise of their functions by, or under, this Act.
- (2) Unless otherwise specified, all fees and sums received by the person referred to in subsection (1)(a) in the exercise of their functions by, or under, this Act are to be paid into and form part of the General Revenue.

25 Amendment of the Schedule

- (1) The Treasury may, by order, amend this Schedule.

- (2) Before making an order under sub-paragraph (1), the Treasury must consult the Board.

24.10.25.ConDraft

[CONSEQ AMENDS]

Amendment of the Criminal Jurisdiction Act 1993

- (1) — The Criminal Jurisdiction Act 1993 is amended as follows:
- (2) — In section 43 (powers of Appeal Division exercisable by Deemster), in subsection (1) omit paragraph (b).

The Proceeds of Crime Act 2008 is amended as follows.

- (1) — The Proceeds of Crime Act 2008 is amended as follows:
- (2) — In section 18 (interim receiving order: restrictions on dealing etc. with property), in subsection (6), omit paragraph (b) (and the word “and” preceding it).

Amendment of the Justice Reform Act 2021

- (1) — The Justice Reform Act 2021 is amended as follows:
- (2) — In section 4 (Criminal Justice Board to continue), in subsection (2)(j) for “16” substitute «23B».

Transitionals etc.

- (1) The Treasury may, by regulations, make provision that is consequential on any provision of this Act.
- (2) Regulations under subsection (1) may make any incidental, supplementary, transitional, transitory or saving provision the Treasury considers appropriate for the purposes of, or in connection with, or for giving full effect to, this Act or any provision made under it.
- (3) The regulations may, in making consequential or other provision as mentioned in subsection (1) or (2), amend any Act (whenever passed or made).]