

The Legal Aid Regulations, 1995

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[Chapter L-9.1 Reg 2](#) (effective February 15, 1995) as amended by [Saskatchewan Regulations 10/96](#), [55/1999](#) and [22/2008](#).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER L-9.1 REG 2

The Legal Aid Act

Title

- 1 These regulations may be cited as *The Legal Aid Regulations, 1995*.

Interpretation

- 2 In these regulations:

- (a) **“Act”** means *The Legal Aid Act*;
- (b) **“assets”** means:
 - (i) personal property;
 - (ii) agreements for sale or mortgage payments receivable;
 - (iii) moneys receivable pursuant to a contract of life insurance;
 - (iv) real property;
 - (v) the assets of any corporation in which the applicant, client or member of the applicant’s or client’s family unit owns more than 50% of the voting shares;
- (c) **“child”** means a person who is:
 - (i) a minor; or
 - (ii) 18 years of age or over and is unable, by reason of illness or disability, to withdraw from his or her parents’ charge or to obtain the necessities of life;
- (d) **“contribution”** means that portion of the costs of legal services that an applicant or client may be required to pay pursuant to section 26 of the Act;
- (e) **“dependant”** means:
 - (i) the spouse of an applicant or client; and
 - (ii) a child of the applicant or client or of the spouse of the applicant or client;

but does not include a child who is living separate and apart from the applicant or client and is not dependent on the applicant or client or the spouse of the applicant or client for financial support;

- (f) **“family unit”** means:
 - (i) the applicant or client; and
 - (ii) either:
 - (A) the dependants of the applicant or client; or

- (B) if the applicant or client is a child, the parents of the applicant or client if:
 - (I) the child is dependent on his or her parents for financial support; and
 - (II) the child's interests do not appear to be in conflict with the interests of the parents;
- (g) **“financial resources”** means:
 - (i) the value of the assets of the family unit less reasonable debts and liabilities; and
 - (ii) the income of all members of the family unit;
- (h) **“Indian band”** means a band as defined in the *Indian Act* (Canada) and includes the council of a band;
- (i) **“parent”** means:
 - (i) the father or mother of a child, whether the child was born within or outside marriage;
 - (ii) the father or mother of a child by adoption; or
 - (iii) a person who has demonstrated a settled intention to treat a child as a child of his or her family, other than a person who is providing foster care services as defined in *The Child and Family Services Act*;
- (j) **“social assistance”** means financial assistance for which an applicant or client is eligible pursuant to:
 - (i) The Saskatchewan Assistance Regulations;
 - (ii) a program that provides income or any other benefit to an individual by reason of that individual being in need of that income or benefit offered by:
 - (A) the Department of Indian Affairs and Northern Development of the Government of Canada; or
 - (B) an Indian band;
- (k) **“spouse”** means:
 - (i) the spouse of an individual; or
 - (ii) where the individual does not have a spouse or is living separate and apart from his or her spouse, another individual who:
 - (A) has co-habited with the individual for a period of not less than one year and shares financial resources with the individual; or
 - (B) represents himself or herself as the spouse of the individual or as the father or mother of the child of the individual;
- (l) **“The Saskatchewan Assistance Regulations”** means The Saskatchewan Assistance Regulations, being Saskatchewan Regulations 78/66.

Eligibility for legal services

3(1) An applicant who receives social assistance is eligible to receive legal services.

(2) An applicant is eligible to receive legal services where, in the opinion of the commission:

(a) the type of service requested, the population of the municipality in which the applicant resides, the size of the applicant's family unit and the financial resources of the family unit would make the applicant eligible to receive social assistance; or

(b) the cost of obtaining legal services without the assistance of the commission would reduce the financial resources of the applicant or the applicant's family unit to a level where:

(i) the applicant would be eligible to receive social assistance; or

(ii) the applicant's family unit would suffer undue financial hardship.

24 Feb 95 cL-9.1 Reg 2 s3; 9 Jly 99 SR 55/1999 s4.

Eligibility of child to receive legal services

3.1 An applicant who is a child at the time he or she is charged with an offence pursuant to the *Youth Criminal Justice Act* (Canada) is eligible to receive legal services.

11 Apr 2008 SR 22/2008 s3.

Contributions

4(1) For the purposes of subsection 26(1) of the Act, the following persons are required to contribute financially to the cost of legal services:

(a) an applicant to whom clause 3(2)(b) applies;

(b) a client whose financial resources change so that he or she no longer receives, or is eligible to receive, social assistance;

(c) in the case of an applicant who is a child and to whom section 3.1 applies, the parents of the child.

(2) The amount that a person is required to contribute:

(2) The amount that a person is required to contribute:

(a) is the amount determined by the commission; and

(b) is not to reduce that person's financial resources to a level where the person would be eligible to receive social assistance.

(2.1) For the purposes of clause (1)(c), the liability of each parent of the child for any contribution required pursuant to this section is joint and several in nature.

(3) The chairperson of the commission, or his or her designate, shall waive a contribution or any portion of a contribution if, in the opinion of the chairperson or designate, requiring the contribution would cause an undue financial hardship to the applicant or client or the applicant's or client's family unit.

24 Feb 95 cL-9.1 Reg 2 s4; 11 Apr 2008 SR 22/2008 s4.

Exceptions

5(1) Notwithstanding section 3, an applicant is not eligible to receive legal services if:

(a) the applicant has liquid assets, other than the home in which the applicant resides and assets reasonably necessary to earn a livelihood, of a value greater than:

(i) in the case of an applicant who is single, \$1,500;

(ii) in the case of an applicant who has one dependant, \$3,000; and

(iii) in the case of an applicant who has more than one dependant, \$3,500; or

(b) the applicant or a member of the applicant's family unit owns or has a beneficial interest in assets, other than the home in which the person resides and assets reasonably necessary to earn a livelihood, and, in the opinion of the commission:

(i) there is equity in the assets that can be disposed of, mortgaged or otherwise encumbered; and

(ii) the disposition, mortgage or encumbrance of the assets would not cause undue financial hardship for the applicant's family unit.

(2) For the purposes of clause (1)(a), the value of assets other than cash is the value that, in the opinion of the commission, may be realized by converting those assets into cash within 90 days from the day on which the applicant applies for legal services.

24 Feb 95 cL-9.1 Reg 2 s5; 9 Jly 99 SR 55/1999 s5.

Change in financial resources

6 The commission may suspend or withdraw legal services to the client or refuse to provide a client with new or additional legal services if:

(a) there is a change in his or her financial resources to the extent that the client no longer receives, or is eligible to receive, social assistance; and

(b) in the opinion of the commission, it would not cause an undue financial hardship for the client or the client's family unit or be contrary to the professional responsibility of the counsel of record that is provided by the commission.

24 Feb 95 cL-9.1 Reg 2 s6.

Organizations eligible to receive legal services

7(1) Subject to subsection (2), if, in the opinion of the commission, the membership of a corporation that is incorporated, continued or registered pursuant to *The Non-profit Corporations Act* or *The Co-operatives Act, 1989*, or of another group or organization, consists primarily of persons eligible to receive legal services pursuant to these regulations, that corporation or other group or organization is eligible to receive legal services.

(2) Where, in the opinion of the commission, a corporation or other group or organization has a significant source of income or significant assets, that corporation or other group or organization is not eligible to receive legal services.

24 Feb 95 cL-9.1 Reg 2 s7.

Legal services to be provided

8(1) The commission shall provide legal services to an eligible applicant if:

- (a) the services required are within the range of services mentioned in sections 9, 10 and 11; and
- (b) in the opinion of the commission, the matter for which the services are required has professional merit.

(2) For the purposes of clause 2(h) of the Act, the following are designated as legal services if they are provided in connection with the matters mentioned in sections 9, 10 and 11:

- (a) interviewing a client;
- (b) representing a client in court;
- (c) preparing documents and pleadings;
- (d) employing non-legal expertise;
- (e) interviewing witnesses;
- (f) mediating between a client and an opposing party;
- (g) providing general legal advice and information.

24 Feb 95 cL-9.1 Reg 2 s8.

Range of services in criminal law matters

9(1) Notwithstanding subsection (2), legal services for matters relating to the *Youth Criminal Justice Act* are to be provided.

(2) Legal services for criminal law matters are to be provided only in connection with the following:

- (a) an offence contrary to an Act of the Parliament of Canada punishable by indictment;
- (b) a summary conviction offence:
 - (i) that is contrary to an Act of the Legislature or an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Legislature or an Act of the Parliament of Canada; and
 - (ii) that is, in the opinion of the commission, on conviction and sentence, likely to result in a sentence of imprisonment or open or closed custody or a sentence that results in the loss of the means of earning a livelihood;
- (c) a proceeding pursuant to the *Extradition Act* (Canada);
- (d) a proceeding pursuant to the *Fugitive Offenders Act* (Canada);
- (e) an application pursuant to section 745 of the *Criminal Code*;
- (f) a proceeding pursuant to Part XX.1 of the *Criminal Code*.

11 Apr 2008 SR 22/2008 s5.

Range of services in civil law matters

10 Legal services for civil law matters are to be provided only in connection with the following:

- (a) any case relating to family matters, including:
 - (i) court proceedings commenced or defended with respect to:
 - (A) a contested or uncontested divorce;
 - (B) disputed or undisputed custody, including enforcement or variation of custody;
 - (C) disputed or undisputed access, including enforcement or variation of access;
 - (D) disputed or undisputed maintenance, including enforcement or variation of maintenance and expunging an order of maintenance;
 - (E) an order pursuant to *The Adoption Act*;
 - (ii) court proceedings taken pursuant to *The Children's Law Act*, *The Family Maintenance Act* or *The Child and Family Services Act*;
 - (iii) restraint proceedings for matters of protection affecting family members, not including prosecutions brought pursuant to section 810 of the *Criminal Code*;
 - (iv) court proceedings pursuant to subsection 43(1) of *The Children's Law Act* or section 4 of *The Family Maintenance Act*, where, in the opinion of the commission, it is reasonable to expect that an order of support may be obtained;
- (b) **Repealed.** 9 Jly 99 SR 55/1999 s7.

24 Feb 95 cL-9.1 Reg 2 s10; 19 Apr 96 SR 10/96 s3; 9 Jly 99 SR 55/1999 s7.

Range of services in appeals

11 Legal services for appeals are to be provided only in connection with the following:

- (a) an appeal by the Crown in any of the matters mentioned in section 9;
- (b) an appeal by an eligible person in any of the matters mentioned in section 9 or 10 where, in the opinion of the commission, the appeal has professional merit;
- (c) an appeal in any of the matters mentioned in section 10 where:
 - (i) an eligible person is the respondent in the appeal; and
 - (ii) in the opinion of the commission, the appeal has professional merit.

9 Jly 99 SR 55/1999 s8.

12 Repealed. 9 Jly 99 SR 55/1999 s9.

Summary legal advice

13 Notwithstanding any other provision of these regulations, the commission:

- (a) may provide summary legal advice and information on any legal matter to any person, whether or not that person is eligible for legal services; and
- (b) shall provide immediate legal advice and information, by way of duty counsel, to any accused person who is detained, whether or not that person is eligible for legal services.

24 Feb 95 cL-9.1 Reg 2 s13.

14 Repealed. 9 Jly 99 SR 55/1999 s10.

R.R.S. c.L-9.1 Reg 1 repealed

15 *The Legal Aid Regulations* are repealed.

24 Feb 95 cL-9.1 Reg 2 s15.

