

The Legal Aid Act

being

Chapter L-9.1 of the *Statutes of Saskatchewan, 1983*
(effective September 1, 1983) as amended by the *Statutes of
Saskatchewan, 1989-90, c.42; 1990-91, c.L-10.1; 1992, c.62;
2000, c.54; and 2004, c.65.*

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

An Act respecting the Provision of Legal Services to Certain Persons in Saskatchewan

SHORT TITLE

Short title

1 This Act may be cited as *The Legal Aid Act*.

INTERPRETATION

Interpretation

2 In this Act:

- (a) **“appeal committee”** means the appeal committee appointed pursuant to section 12;
- (b) **“applicant”** means a person who applies for legal services under this Act;
- (c) **“area”** means a legal aid area established under section 6;
- (c.1) **“area director”** means the person appointed by the chief executive officer to be responsible for the delivery of legal services in an area;
- (d) **“chairperson”** means the chairperson of the commission designated pursuant to subsection 3(6);
- (d.1) **“chief executive officer”** means the chief executive officer of the commission appointed pursuant to subsection 10(1);
- (e) **“client”** means a person who is in receipt of legal services under this Act;
- (f) **“commission”** means The Saskatchewan Legal Aid Commission continued in section 3;
- (g) **“fee-generating services”** means those services which a solicitor would ordinarily render in civil matters on the understanding that he or she would receive no remuneration from the client except out of the proceeds generated through pursuing the matter or any other services that the commission may determine;
- (h) **“legal services”** means any services designated in the regulations and includes related services but does not include fee-generating services;
- (i) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

c. L-9.1

LEGAL AID

(j) “**panel**” means the panel of solicitors maintained by the commission to provide legal services in accordance with this Act;

(k) “**solicitor**” means a person who is authorized to engage in the practice of law in Saskatchewan.

1983, c.L-9.1, s.2; 1989-90, c.42, s.3; 2000, c.54, s.3.

Commission continued

3(1) The Saskatchewan Community Legal Services Commission is hereby continued as a body corporate under the name of The Saskatchewan Legal Aid Commission.

(2) Repealed. 2000, c.54, s.4.

(3) The commission shall consist of:

(a) six members appointed by the Lieutenant Governor in Council, of whom at least four are not members of the Law Society of Saskatchewan;

(b) two members of the Law Society of Saskatchewan, nominated for the purpose by the benchers of the society;

(c) **Repealed.** 2000, c.54, s.4.

(d) **Repealed.** 1989-90, c.42, s.4.

(e) one member who is an employee of the Department of Justice appointed by the Minister of Justice;

(f) one member who is an employee of the Department of Community Resources and Employment appointed by the Minister of Community Resources and Employment.

(4) Where the full number of appointments has not been made pursuant to clause (3)(a) or (b) within 60 days of any vacancy, the Lieutenant Governor in Council may appoint persons to constitute the full number.

(5) Each member of the commission, other than a member appointed pursuant to clause (3)(e) or (f), holds office for a term of three years and until a successor is appointed and is eligible for reappointment, but shall not hold office for more than two consecutive terms.

(6) The Lieutenant Governor in Council may designate a member of the commission to be chairperson and another person to be vice-chairperson.

(7) Where the chairperson is absent or unable to act or the office of the chairperson is vacant, the vice-chairperson may exercise all the powers and shall perform all the duties of the chairperson.

(8) Where as a result of the resignation or the death or other inability to act of a member of the commission a vacancy occurs in the membership of the commission, a person appointed pursuant to this section holds office for the remainder of the term of the member being replaced.

(9) The commission shall pay the members of the commission any remuneration or reimbursement for expenses that the Lieutenant Governor in Council may determine.

1983, c.L-9.1, s.3; 1989-90, c.42, s.4; 2000, c.54, s.4; 2004, c.65, s.15.

Meetings

4(1) The commission shall meet at the call of the chairperson at least four times in each year and whenever a meeting is requested in writing by five members of the commission.

(2) Subject to subsection (1), the commission shall establish and administer procedures for calling meetings of the commission and for conducting the business of the commission at those meetings.

(3) A majority of the members of the commission constitutes a quorum of the commission.

1983, c.L-9.1, s.4; 2000, c.54, s.5.

Committees

5 The commission may establish committees composed of one or more members of the commission and may delegate any powers of the commission to those committees.

1983, c.L-9.1, s.5.

POWERS AND DUTIES OF COMMISSION

Duties of commission

6(1) The commission shall:

(a) to the extent that funds are appropriated by the Legislature for the purpose, provide legal services to persons and organizations in respect of civil and criminal matters where those persons and organizations are financially unable to secure those services from their own resources;

(b) establish and describe the boundaries of legal aid areas and may alter or modify the boundaries of any area;

(c) prepare and submit annually to the minister, in any form that the minister may require, an estimate of its financial requirements for the next following fiscal year;

- (d) establish, after consultation with the Law Society of Saskatchewan, a tariff of fees pursuant to which solicitors, other than solicitors employed by the commission, shall receive remuneration for their services rendered under this Act;
 - (e) make the required payment for services rendered by solicitors in accordance with the tariff of fees established under clause (d);
 - (f) evaluate or cause to be evaluated the legal services rendered pursuant to this Act;
 - (g) provide to the minister any information that the minister may require on any matter respecting the provision of services pursuant to this Act;
 - (h) establish and maintain a panel of solicitors for the purposes of the provision of legal services.
- (2) The tariff of fees under clause 10(e) of *The Community Legal Services (Saskatchewan) Act* is continued as the tariff of fees under clause (1)(d) until such time as it is repealed or altered under clause (1)(d).

1983, c.L-9.1, s.6; 2000, c.54, s.6.

Powers of commission

7 Subject to this Act and the regulations, the commission may:

- (a) establish procedures to determine the eligibility of applicants for legal services;
 - (a.1) establish procedures for applying for legal services;
 - (a.2) determine the circumstances in which legal services may be provided to persons who do not ordinarily reside in Saskatchewan and establish rules and procedures with respect to the provision of those services;
 - (a.3) establish procedures for granting legal services to applicants who reside in remote areas of the province;
- (b) employ solicitors or other persons for the purpose of providing legal services under this Act and appoint a solicitor to act as general counsel to the commission;
- (c) maintain a legal aid office in each area;
- (d) establish guidelines, procedures and requirements, pursuant to which solicitors or other persons retained under this Act shall provide legal services;
- (e) employ persons to administer this Act;
- (f) use full-time university law students in providing legal services, but a student so used shall be supervised by a solicitor and shall not appear as counsel in any superior court;
- (g) by means of advertising or otherwise, inform the public with respect to the nature and extent of legal services available under this Act;

(h) initiate, conduct and participate in any public legal education and other programs that the commission considers advisable to achieve the purposes of this Act;

(i) **Repealed.** 1989-90, c.42, s.5.

(j) encourage and assist, by means of grants or otherwise, the programs of any full-time undergraduates of a college or faculty of law of a university in Canada recognized by the University of Saskatchewan where those programs have objects consistent with the purposes of this Act;

(k) delegate any powers of the commission to the chief executive officer;

(l) do any other things that are necessary, incidental or conducive to carrying out this Act according to its intent.

1983, c.L-9.1, s.7; 1989-90, c.42, s.5; 1992, c.62, s.27; 2000, c.54, s.7.

Grants

8(1) Subject to subsection (2), the commission may, for any purpose relating to any matter for which it is responsible under this Act, make grants, on any terms or conditions that it may prescribe, to any person, agency, organization, association, institution or other body within or outside Saskatchewan.

(2) The commission shall obtain the approval of the Lieutenant Governor in Council before making any grant under subsection (1) that is in excess of \$10,000.

1983, c.L-9.1, s.8.

9 Repealed. 2000, c.54, s.8.

Chief executive officer

10(1) Subject to the approval of the Lieutenant Governor in Council, the commission shall appoint a chief executive officer.

(2) The commission shall determine the remuneration of the chief executive officer, which is to be paid by the commission.

(3) The chief executive officer shall exercise the powers and perform the duties assigned to him or her by the commission and is responsible, subject to the direction of the commission, for the general supervision and operation of the commission.

2000, c.54, s.10.

11 Repealed. 2000, c.54, s.11.

APPEAL COMMITTEE

Appeal Committee

12(1) An appeal committee is established, consisting of not more than three members appointed by the Lieutenant Governor in Council, of whom at least 50% are members of the Law Society of Saskatchewan.

(2) A member of the appeal committee holds office at pleasure for a term of not more than three years and until the member is reappointed or a successor is appointed.

(3) The Lieutenant Governor in Council may designate one member of the appeal committee as chairperson of the committee.

(4) One member of the appeal committee constitutes a quorum.

(5) The appeal committee may determine its own practice and procedures.

(6) The Lieutenant Governor in Council may determine any remuneration and any reimbursement for expenses that is payable to members of the appeal committee.

1989-90, c.42, s.6.

13 Repealed. 1989-90, c.42, s.6.

14 Repealed. 1989-90, c.42, s.6.

SERVICES OF SOLICITORS

Composition of panel

15(1) Any solicitor who wishes to provide legal services under this Act, including a solicitor who is a member or an employee of the commission, may be designated by the commission as a member of the panel subject to any terms and conditions that may be prescribed by the commission.

(2) The solicitors constituting the panel of solicitors maintained under *The Community Legal Services (Saskatchewan) Act* continue as members of the panel mentioned in subsection (1) until they are removed under this Act or withdraw from the panel.

1983, c.L-9.1, s.15.

Removal of solicitor

16(1) The commission may remove a solicitor from the panel for just cause by giving the solicitor notice of his or her removal and setting out the reasons for the removal.

(2) A solicitor may, within 30 days after he or she receives notice of his or her removal from the panel, apply to Her Majesty's Court of Queen's Bench for Saskatchewan to set aside the decision of the commission, and the court may order the reinstatement of the solicitor on the panel or dismiss the application.

(3) A notice pursuant to this section is to be served personally or mailed by registered mail to the last known address of the solicitor being served.

(4) A notice served by registered mail is deemed to have been received on the seventh day following the day of its mailing, unless the solicitor to whom it was mailed establishes that, through no fault of his or her own, he or she did not receive the notice or that he or she received it at a later date.

1983, c.L-9.1, s.16; 2000, c.54, s.12.

Choice of provision of services

17 A member of the panel may decline to provide his or her services in respect of any client.

1983, c.L-9.1, s.17; 2000, c.54, s.13.

Withdrawal of services by solicitor

18(1) A solicitor who is appointed to act for a client may withdraw his or her services with respect to that client by notifying the chief executive officer, or any person that the chief executive officer may designate, of his or her intention to do so.

(2) No solicitor who has been appointed to provide legal services pursuant to this Act shall secure another solicitor to provide those services unless a solicitor designated by the chief executive officer approves of the action by the solicitor.

(3) Nothing in subsection (1) renders inoperative any law or rule with respect to a solicitor withdrawing his or her services from a client or prospective client.

1983, c.L-9.1, s.18; 2000, c.54, s.14.

Services of students-at-law

19(1) Notwithstanding section 18 but subject to subsection (2) and to *The Legal Profession Act, 1990*, a student-at-law may provide any legal services to a client that the student may be asked to provide by the solicitor appointed under this Act to provide those services to the client.

(2) Where a student-at-law is performing legal services pursuant to subsection (1), the solicitor appointed to provide those services shall supervise the services rendered by the student.

1983, c.L-9.1, s.19; 1990-91, c.L-10.1, s.98;
2000, c.54, s.15.

Persons to provide certain legal services

20 The commission may employ any person who is not a solicitor to provide legal services under this Act, but a person so employed shall render those services under the supervision of a solicitor, and shall not appear as counsel in any superior court.

1983, c.L-9.1, s.20; 1992, c.62, s.27; 2000, c.54,
s.16.

REMUNERATION AND COSTS

Moneys received by solicitor payable to commission

21 Any moneys, other than remuneration from the commission, received by a solicitor from or on behalf of a client in connection with legal services provided to a client by the solicitor under this Act shall be paid by the solicitor to the commission.

1983, c.L-9.1, s.21.

Award of costs in favour of client

22 Costs that are awarded in favour of a client in any matter in respect of which the services of a solicitor were provided under this Act shall be paid to and become the property of the commission.

1983, c.L-9.1, s.22.

Reimbursement of client

23 On the receipt of any costs pursuant to section 22, the commission may pay a portion of those costs to the client as reimbursement for any actual expense incurred by the client.

1983, c.L-9.1, s.23; 2000, c.54, s.17.

Award of costs against client

24 Costs awarded against a client in any matter in respect of which legal services were provided under this Act may be paid in whole or in part by the commission on behalf of the client.

1983, c.L-9.1, s.24.

SERVICE TO APPLICANTS

Application for legal services

25(1) Any person or organization may make an application to the commission for legal services under this Act and any such application shall be submitted in the manner and form prescribed by the commission.

(2) An application pursuant to subsection (1) shall be accompanied by any information prescribed in the regulations.

(3) Eligibility for legal services shall be determined in accordance with the regulations and the procedures established pursuant to clause 7(a).

(4) An applicant or client who:

(a) is denied legal services; or

(b) is required to pay a portion of the costs of legal services provided or to be provided pursuant to this Act;

may register a complaint with the chief executive officer within 20 days after the day of the decision of the area director to deny legal services or to require payment.

(5) Subject to subsection (6), a decision of the chief executive officer pursuant to subsection (4) is final.

(6) A decision of the chief executive officer with respect to:

- (a) an applicant's or client's financial eligibility to receive civil legal services; or
- (b) a requirement that an applicant or client pay a portion of the costs of civil legal services provided or to be provided;

may be appealed to the appeal committee by serving the committee with a written notice of appeal setting out the grounds of appeal within 20 days after the day of the decision of the chief executive officer that is the subject of the appeal.

(7) The appeal committee may:

- (a) affirm or vary the decision of the chief executive officer; or
- (b) substitute its own decision for that of the chief executive officer.

(8) A decision of the appeal committee is final.

(9) The chairperson of the appeal committee may designate one member to hear an appeal, and the decision of that member is deemed to be the decision of the committee.

1983, c.L-9.1, s.25; 1989-90, c.42, s.7; 2000, c.54, s.18.

Contribution

26(1) Where an applicant, a client, a former client or any other person who is a member of a category of persons designated in the regulations is able to contribute financially to the cost of legal services provided or to be provided to the applicant, client, former client or other person, the commission may:

- (a) require and, subject to the regulations, specify an amount to be paid to the commission by the applicant, client, former client or other person; and
- (b) specify the time and manner of payment.

(2) Until the amount mentioned in subsection (1) is paid in full, any part of that amount that:

- (a) is unpaid; and
- (b) relates to services actually provided;

is a debt due to the commission and is recoverable in any court of competent jurisdiction.

(3) In this section, "**former client**" means a person who received legal services pursuant to this Act and whose file with the commission has been closed for less than one year before the commission specifies an amount to be paid pursuant to clause (1)(a).

1989-90, c.42, s.8; 2000, c.54, s.19.

Misrepresentation re eligibility

27 Where a person who has been found eligible to receive the services of a solicitor or other person under this Act has misrepresented any matter or thing material in connection with his or her application or eligibility for those services, the commission may recover from the person in any court of competent jurisdiction as a debt due and owing the amount of any remuneration it has paid any solicitor for services rendered to the person under this Act or the cost of any other person rendering services to the person under this Act.

1983, c.L-9.1, s.27; 2000, c.54, s.20.

28 Repealed. 1989-90, c.42, s.9.

Appointment of solicitor

29 The chief executive officer or any person designated by the chief executive officer may appoint a solicitor who is a member of the panel to provide legal services to a person who is eligible to receive the services of a solicitor pursuant to this Act.

2000, c.54, s.22.

Solicitor not employee, deemed retained

30 Where a solicitor, who is appointed pursuant to section 29, is not an employee of the commission, the solicitor is deemed to be retained by the commission and shall receive remuneration in accordance with the tariff of fees established pursuant to clause 6(1)(d).

1983, c.L-9.1, s.30; 2000, c.54, s.23.

No conflict

31 A solicitor does not commit a breach of a by-law of the Law Society of Saskatchewan relating to conflict of interest by reason only of advising or representing a person in a dispute where a party opposite in interest in the dispute is being advised or represented by a solicitor providing his or her services under the Act in another area.

1983, c.L-9.1, s.31; 2000, c.54, s.24.

GENERAL

Acts deemed not to contravene *The Legal Profession Act, 1990*

32 Nothing done by the commission or by any person pursuant to sections 5 to 7, 10, 12 or 20 shall be deemed to be a contravention of *The Legal Profession Act, 1990*.

1983, c.L-9.1, s.32; 1989-90, c.42, s.10; 1990-91, c.L-10.1, s.98; 2000, c.54, s.25.

Non-liability of commission, members and employees

33 Neither the commission nor any member or employee of, or person appointed by, the commission shall be liable for anything done or omitted to be done by any of them in good faith in the course of providing legal services under this Act.

1983, c.L-9.1, s.33; 2000, c.54, s.26.

Privilege

34 Any information disclosed by a client to the commission or to any member or employee of the commission, that would be privileged if disclosed to a solicitor pursuant to a solicitor and client relationship shall be privileged to the same extent as if it had been disclosed to a solicitor in a solicitor and client relationship.

1983, c.L-9.1, s.34.

Superannuation

35(1) *The Public Service Superannuation Act* and *The Superannuation (Supplementary Provisions) Act* apply to any employee who is a member of a pension plan that is governed by one of those Acts on the day this section comes into force.

(2) The commission may establish and support any of the following plans for the benefit of its employees and their dependants:

- (a) a superannuation plan;
- (b) a group insurance plan;
- (c) any other pension, superannuation or employee benefit program.

2000, c.54, s.27.

Fiscal year

36 The fiscal year of the commission is the period commencing on April 1 in one year and ending on March 31 in the next year.

1983, c.L-9.1, s.36.

Audit

37 The Provincial Auditor, or any other auditor that may be designated by the Lieutenant Governor in Council, shall annually audit the records and accounts of the commission.

1983, c.L-9.1, s.37.

Annual report

38(1) The commission shall, in each fiscal year, in accordance with *The Tabling of Documents Act*, prepare and submit to the minister:

- (a) a report of the commission upon its business for the immediately preceding fiscal year; and
- (b) a financial statement showing the business of the commission for the immediately preceding fiscal year, in any form that may be required by Treasury Board.

(2) The minister shall, in accordance with *The Tabling of Documents Act*, lay before the Legislative Assembly each report and statement received by the minister pursuant to subsection (1).

1983, c.L-9.1, s.38; 2000, c.54, s.28.

39 Repealed. 2000, c.54, s.29.

Regulations

40(1) For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) designating legal services and prescribing the class or classes of legal services that may be provided to an applicant or class of applicants under this Act;
- (c) prescribing the rules for determining the eligibility of an applicant or class of applicants;
- (d) prescribing the rules for determining the portion of the costs of legal services that a person may be required to pay, governing the time and manner of payment and providing for the circumstances in which legal services may be suspended or withdrawn in the event of a failure to pay as required;
- (e) for the purposes of subsection 26(1), designating categories of persons who may be required to contribute to the cost of legal services;
- (f) **Repealed.** 1989-90, c.42, s.11.
- (g) **Repealed.** 1989-90, c.42, s.11.
- (h) respecting any matter or thing required or authorized by this Act to be prescribed in the regulations.

(2) For the purpose of carrying out this Act according to its intent, the commission may, subject to the approval of the Lieutenant Governor in Council, make regulations:

- (a) prescribing the rules for determining the eligibility of an applicant or a class of applicants;
- (b) prescribing the rules for determining the portion of the costs of legal services that a person may be required to pay, governing the time and manner of payment and providing for the circumstances in which legal services may be suspended or withdrawn in the event of a failure to pay as required;
- (c) for the purposes of subsection 26(1), designating categories of persons who may be required to contribute to the cost of legal services.

(3) Regulations made pursuant to subsection (2) are subordinate to any regulations made pursuant to clause (1)(c), (d) or (e).

1983, c.L-9.1, s.40; 1989-90, c.42, s.11; 2000, c.54, s.30.

Transitional, employees

41 On the coming into force of this Act, the employees as at May 30, 1983 of a board under *The Community Legal Services (Saskatchewan) Act* are deemed to be employees of the commission.

1983, c.L-9.1, s.41.

42 Repealed. 1989-90, c.42, s.12.

R.S.S. 1978, c.C-20 repealed

43 *The Community Legal Services (Saskatchewan) Act* is repealed.

1983, c.L-9.1, s.43.

