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The following Act was passed by Parliament on 4th February 2013 and assented to by the President on 27th February 2013:—

REPUBLIC OF SINGAPORE

No. 6 of 2013.

I assent.

(LS)

TONY TAN KENG YAM,
President.
27th February 2013.

An Act to amend the Legal Aid and Advice Act (Chapter 160 of the 1996 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Legal Aid and Advice (Amendment) Act 2013 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Legal Aid and Advice Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the definition of “aided person” and substituting the following definitions:

““aided person” means a person who is issued a Grant of Aid and, where such a person is a minor, includes his guardian;

“court” means any court, tribunal or adjudicator before which or before whom any proceedings referred to in Part I of the First Schedule are heard;”;

(b) by deleting the definition of “guardian” and substituting the following definitions:

““Grant of Aid” means the document issued by the Director under section 8(2) stating that legal aid is granted to a person;

“guardian”, in relation to a minor, includes any person whom the Director considers might properly be appointed to be the litigation representative of the minor;”;

(c) by deleting the definition of “legal aid certificate”.

Amendment of section 4

3. Section 4 of the principal Act is amended —

(a) by deleting subsection (2) and substituting the following subsections:

“(2) Any solicitor shall be entitled to have his name on the panels or any of them unless there is good reason for

excluding or removing him on any of the grounds under subsection (2A).

(2A) The Director may, at any time, exclude or remove any solicitor from any panel —

- (a) if the solicitor has ceased to be a practising solicitor for any reason;
 - (b) if the solicitor has requested that the Director remove him from the panel;
 - (c) if the solicitor has shown from his conduct when assigned to act for persons receiving legal aid or from his professional conduct generally that he is not a suitable person to remain on the panel; or
 - (d) if, in the opinion of the Director —
 - (i) the solicitor is not a suitable person to be or remain on the panel for any other reason; or
 - (ii) it is necessary or expedient to exclude or remove the solicitor's name from the panel for any other reason.”;
- (b) by inserting, immediately after the word “excluding” in subsection (3), the words “or removing”; and
- (c) by deleting subsection (4) and substituting the following subsection:

“(4) A solicitor shall have the duty to disclose to the Director any information or give any opinion which may enable the Director to perform his functions under this Act, including such information or opinion which may reasonably be taken into account by the Director or the board referred to in section 8 in determining whether to refuse or cancel legal aid to a person or an aided person, and the solicitor shall not be precluded from so doing by reason of any privilege arising out of the relationship between solicitor and client.”.

Amendment of section 5

4. Section 5 of the principal Act is amended by deleting the words “or tribunal” in subsections (2) and (3).

Amendment of section 6

5. Section 6 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsections:

“(1) Any person who (whether in his own right or in a representative capacity) desires to be granted legal aid shall make an application in that behalf to the Director.

(1A) Every application made under subsection (1) shall be accompanied by such fee (which shall be inclusive of goods and services tax) as may be prescribed.”;

(b) by deleting the words “an infant” in subsections (2) and (3) and substituting in each case the words “a minor”;

(c) by deleting the words “the infant” wherever they appear in subsections (2) and (3)(a) and (b) and substituting in each case the words “the minor”; and

(d) by inserting, immediately after subsection (4), the following subsection:

“(5) Where —

(a) an aided person was a minor at the time legal aid was granted to him in respect of any proceedings;

(b) such proceedings have not been concluded by the time he attains the age of 21 years; and

(c) the aided person wishes to continue receiving legal aid in respect of those proceedings after attaining the age of 21 years,

the aided person shall, upon attaining the age of 21 years, make a fresh application under subsection (1) for legal

aid in his own right to the Director in respect of those proceedings.”.

Amendment of section 8

6. Section 8 of the principal Act is amended —

- (a) by deleting the words “grant to an applicant a certificate” in subsection (2) and substituting the words “issue a Grant of Aid to an applicant”;
- (b) by deleting the words “grant a legal aid certificate” in subsection (4) and substituting the words “issue a Grant of Aid”; and
- (c) by deleting the marginal note and inserting the following section heading:

“Grant of Aid”.

Amendment of section 9

7. Section 9 of the principal Act is amended —

- (a) by deleting subsections (1), (2) and (3) and substituting the following subsections:

“(1) The Director may require an applicant to make one or more contributions in one lump sum or by instalments in respect of any matter for which an application for legal aid has been made by that applicant.

(2) Unless the regulations otherwise provide, any sum remaining unpaid on account of a person’s contribution in respect of any matter for which legal aid has been granted shall be a first charge on any property which is recovered or preserved for that person in the proceedings connected to the matter in favour of any fund established under this Act.”;

- (b) by deleting the words “subsection (3)” in subsection (4) and substituting the words “subsection (2)”; and
- (c) by deleting subsection (6) and substituting the following subsection:

“(6) The Director may, in his discretion, reduce, waive or refund any contribution which an applicant is required to pay under subsection (1).”.

Amendment of section 10

8. Section 10 of the principal Act is amended —

- (a) by deleting subsections (1) and (2) and substituting the following subsections:

“(1) The Director may, at any time and whether or not an application has been made for the purpose, cancel a Grant of Aid, and subject to subsection (2), the person to whom the Grant of Aid was issued shall, as from the date of cancellation, cease to be an aided person.

(2) Where the Grant of Aid cancelled under subsection (1) has been filed with any court, the Director shall file with the court a notification of the cancellation, and the person to whom the Grant of Aid was issued shall, as from the date of filing of such notification, cease to be an aided person.”;

- (b) by deleting the words “a judge of the court in which the litigation is pending, all proceedings in the litigation” in subsection (3) and substituting the words “the court before which any proceedings are pending, all steps in the proceedings”;
- (c) by deleting the words “a judge of the court in which the litigation is pending” in subsection (4) and substituting the words “the court before which any proceedings are pending”;
- (d) by deleting the words “a legal aid certificate has been granted” in subsection (5) and substituting the words “a Grant of Aid has been issued”;
- (e) by deleting the words “such certificate” in subsection (5) and substituting the words “such Grant of Aid”; and

- (f) by deleting the marginal note and inserting the following section heading:

“Cancellation of Grant of Aid”.

Amendment of section 11

9. Section 11(2) of the principal Act is amended by deleting the words “by the aided person, if he so desires, or otherwise”.

Amendment of section 12

10. Section 12 of the principal Act is amended —

- (a) by deleting subsections (1), (2) and (3) and substituting the following subsections:

“(1) Where a Grant of Aid is issued, the Director may act for the aided person or may select a solicitor from the appropriate panel of solicitors maintained pursuant to section 4 and assign that solicitor to act for the aided person.

(2) A fresh Grant of Aid shall be filed with the court in which any proceedings are taken or are pending in any case where —

(a) a solicitor is assigned to act after a Grant of Aid has been filed with the court; or

(b) a new assignment is made in place of a solicitor previously assigned.

(3) Before taking any other step in the proceedings, the Director or the solicitor so assigned shall file the Grant of Aid with the court in which the proceedings are to be taken or are pending and no fee shall be charged in respect of the filing of the Grant of Aid.”;

- (b) by deleting the words “legal aid certificate” in subsection (4) and substituting the words “Grant of Aid”;

- (c) by deleting the word “certificate” in subsection (4)(a), (b) and (c) and substituting in each case the words “Grant of Aid”;

- (d) by inserting, immediately after the words “the Sheriff” in subsection (4)(a), the words “or bailiff”;
- (e) by deleting the word “and” at the end of subsection (4)(b);
- (f) by deleting the full-stop at the end of paragraph (c) of subsection (4) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(d) shall not be liable to pay any deposit which would have been payable to the Official Assignee under the rules made under section 166 of the Bankruptcy Act (Cap. 20), where legal aid has been granted to the aided person to commence bankruptcy proceedings against a debtor.”;

- (g) by inserting, immediately after subsection (5), the following subsection:

“(6) For the avoidance of doubt, the Director may take proceedings —

- (a) to enforce or give effect to any order or agreement for the recovery or preservation of property for the benefit of the aided person where, in respect of such property, there is a charge created under section 9(2) in favour of any fund established under this Act;
- (b) to enforce or give effect to any order or agreement for the payment of costs to an aided person in any proceedings to which an aided person is a party; or
- (c) to recover any sum due to any fund established under this Act from any person,

and in such event —

- (i) no Grant of Aid shall be required in respect of the proceedings taken by the Director; and

(ii) subsection (4) shall apply to the proceedings taken by the Director as if the proceedings were taken by an aided person.”; and

(h) by deleting the marginal note and inserting the following section heading:

“Endorsement and filing of Grant of Aid”.

Amendment of section 13

11. Section 13 of the principal Act is amended —

(a) by deleting subsections (1) and (2) and substituting the following subsections:

“(1) The Director may require any applicant for legal aid or any person to whom a Grant of Aid is issued to deposit with him such amounts at such times as the Director may think fit to be used in or towards meeting out-of-pocket expenses (not including office expenses) incurred in connection with the application or with any proceedings to which the application or the Grant of Aid relates.

(2) Any amount deposited under subsection (1) shall be used only to pay —

(a) firstly, the out-of-pocket expenses referred to in that subsection; and

(b) thereafter, any outstanding contribution the applicant is required to pay under section 9(1).

(2A) After the payments referred to in subsection (2)(a) and (b) have been made, the balance of the amount deposited under subsection (1), if any, shall be refunded to the applicant or the aided person, as the case may be.”; and

(b) by inserting, immediately after subsection (4), the following subsection:

“(5) Where the Director has made any advance out of the funds in his control to meet out-of-pocket expenses

under subsection (3), the Director may require the applicant or the aided person, as the case may be, in respect of whom those expenses are incurred to repay to the Director any amount expended or advanced in such manner as the Director thinks fit.”.

Amendment of section 14

12. Section 14 of the principal Act is amended —

- (a) by deleting the words “or a judge” in subsections (1) and (3);
- (b) by deleting the words “legal aid certificate” in subsections (1) and (2) and substituting in each case the words “Grant of Aid”; and
- (c) by deleting the words “or the judge” in subsections (1) and (3).

Amendment of section 16

13. Section 16(4) of the principal Act is amended by deleting the words “legal aid certificate has been granted” and substituting the words “Grant of Aid has been issued”.

Amendment of section 17

14. Section 17 of the principal Act is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

“(1) Where proceedings have been commenced and any party makes an application for legal aid, the Director shall, as soon as practicable after the application is made, notify the other party or each of the other parties, and file with the court in which the proceedings are pending, a notification in a prescribed form and no fee shall be payable in respect of the filing of the notification.”;
- (b) by deleting the words “Where any memorandum is so filed, then, unless otherwise ordered by a judge of the court in which the litigation is pending, all proceedings in the litigation shall, by virtue of this section, be stayed for a

period of 14 days, and during that period (unless otherwise ordered by any such judge)” in subsection (2) and substituting the words “Where any notification is so filed, then, unless otherwise ordered by the court before which the proceedings are pending, all steps in the proceedings shall, by virtue of this section, be stayed for a period of 14 days, and during that period (unless otherwise ordered by the court)”;

- (c) by deleting the word “memorandum” in paragraph (a) of the proviso to subsection (2) and substituting the word “notification”; and
- (d) by deleting the words “a judge of the court in which the litigation is pending” in subsections (2) (paragraphs (a)(iii) and (b) of the proviso) and (3) and substituting in each case the words “the court before which proceedings are pending”.

Repeal and re-enactment of section 18

15. Section 18 of the principal Act is repealed and the following section substituted therefor:

“Appeal by aided persons

18.—(1) Where —

- (a) a Grant of Aid has been filed in any court, and the proceedings to which the Grant of Aid relates have been heard in that court; and
- (b) the aided person desires to prosecute any appeal therefrom,

the aided person must make a fresh application for legal aid to the Director in respect of that matter, and the conditions for the issue of the Grant of Aid set out in section 8 shall apply.

(2) Subsection (1) shall not apply to an appeal in respect of any interlocutory matter in any proceedings.”.

Amendment of section 20

16. Section 20 of the principal Act is amended —

- (a) by deleting paragraph (b) of subsection (4) and substituting the following paragraph:

“(b) to pay to the Director a prescribed fee (which shall be inclusive of goods and services tax).”;
and

- (b) by inserting, immediately after subsection (4), the following subsection:

“(5) Where a person who desires to be given legal advice is a minor, the application shall be made on behalf of the minor by his guardian.”.

Repeal and re-enactment of section 21

17. Section 21 of the principal Act is repealed and the following section substituted therefor:

“False or misleading statements, etc.

21. If at any time a person seeking or receiving legal aid or legal advice —

- (a) knowingly makes any false or misleading statement or representation in his application for legal aid or legal advice;
- (b) fails to make full and frank disclosure of his means; or
- (c) fails to inform the Director of any changes to his means or circumstances which may render him ineligible for legal aid,

the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.”.

Amendment of section 22

18. Section 22 of the principal Act is amended —

- (a) by deleting the words “legal aid certificate” in subsections (1)(b) and (2) and substituting in each case the words “Grant of Aid”; and
- (b) by deleting the words “or tribunal” in subsection (3).

Amendment of section 23

19. Section 23(2) of the principal Act is amended by inserting, immediately after paragraph (c), the following paragraph:

- “(ca) make provision as to the circumstances a Grant of Aid issued to a person may be cancelled;”.

Amendment of First Schedule

20. Part I of the First Schedule to the principal Act is amended by deleting paragraph 7 and substituting the following paragraphs:

“6. Proceedings before the Syariah Court and the Syariah Court Appeal Board under the Administration of Muslim Law Act (Cap. 3).

7. Proceedings before the Commissioner for Labour under the Work Injury Compensation Act (Cap. 354).”.

Amendment of Second Schedule

21. The Second Schedule to the principal Act is amended —

- (a) by deleting paragraphs 2 and 3;
- (b) by deleting “\$7,800” in paragraph (e) of the definition of “disposable capital” in paragraph 4 and substituting “\$13,000”;
- (c) by deleting the word “and” at the end of paragraph (f) of the definition of “disposable capital” in paragraph 4;
- (d) by deleting the semi-colon at the end of paragraph (g) of the definition of “disposable capital” in paragraph 4 and substituting the words “, including such moneys in the Central Provident Fund withdrawn for investments in accordance with the Central Provident Fund Act (Cap. 36)

and the Central Provident Fund (Investment Schemes) Regulations (Cap. 36, Rg 9); and”;

- (e) by inserting, immediately after paragraph (g) of the definition of “disposable capital” in paragraph 4, the following paragraph:

“(h) the total surrender value of one or more life policies held by the applicant up to the amount of \$46,000;”;

- (f) by deleting the definition of “disposable income” in paragraph 4 and substituting the following definitions:

““disposable income” means the income of the applicant together with the income (if any) of the applicant’s spouse during the period of 12 months immediately preceding the date of the application, after deducting therefrom —

- (a) an amount equal to \$6,000 for the applicant;
- (b) an amount equal to \$6,000 from the income of the applicant’s spouse, if such income is not disregarded under paragraph 5;
- (c) an amount equal to the total sum contributed by the applicant and his spouse during that period towards the maintenance of each person partially or totally dependent on the applicant or the spouse, subject to a cap of \$6,000;
- (d) an amount not exceeding \$20,000 for rent;
- (e) an amount equal to the applicant’s contributions to the Central Provident Fund during that period; and
- (f) an amount equal to the applicant’s spouse’s contributions to the Central Provident Fund during that period, if the spouse’s income is not disregarded under paragraph 5;

“life policy” has the same meaning as in paragraph 5 of the First Schedule to the Insurance Act (Cap. 142) but does not include any investment-linked policy as defined in paragraph 6 of the First Schedule to that Act.”;

- (g) by deleting the words “paragraphs 1 and 2” in paragraphs 5 and 6(1) and substituting in each case the words “paragraph 1”;

(h) by deleting sub-paragraph (b) of paragraph 7(2) and substituting the following sub-paragraph:

“(b) regard “disposable income” to mean the income of an applicant together with the income (if any) of the applicant’s spouse, during the period of 6 months immediately preceding the date of the application, after deducting therefrom —

- (i) an amount equal to \$3,000 for the applicant;
- (ii) an amount equal to \$3,000 from the income of the applicant’s spouse, if such income is not disregarded under paragraph 5;
- (iii) an amount equal to the total sum contributed by the applicant and his spouse during that period towards the maintenance of each person partially or totally dependent on the applicant or the spouse, subject to a cap of \$3,000;
- (iv) an amount not exceeding \$10,000 for rent;
- (v) an amount equal to the applicant’s contributions to the Central Provident Fund during that period; and
- (vi) an amount equal to the applicant’s spouse’s contributions to the Central Provident Fund during that period, if the spouse’s income is not disregarded under paragraph 5.”; and

(i) by inserting, immediately after paragraph 7, the following paragraph:

“8.—(1) For the purposes of paragraph 1, and without prejudice to any exclusion or deduction provided under paragraph 4, the Director may, in any case where an applicant has applied for legal aid in respect of family proceedings, exclude the following property in determining the disposable capital which the applicant is possessed of:

(a) a dwelling-house owned and exclusively used by the applicant and his family as their home if the annual value of the dwelling-house is assessed at not more than \$20,000; and

(b) an additional amount equal to \$5,000.

(2) In this paragraph, “family proceedings” means any of the following proceedings:

- (a) proceedings under the Guardianship of Infants Act (Cap. 122);
- (b) proceedings under Part VII of the Women's Charter (Cap. 353) involving the applicant, his spouse, former spouse or a child of the applicant who is a minor;
- (c) any proceedings under Parts VIII and IX of the Women's Charter involving maintenance for a child of the applicant who is a minor;
- (d) proceedings under Part X of the Women's Charter involving any issue relating to the care, control, custody or maintenance of any child of the applicant who is a minor;
- (e) proceedings under sections 52 and 53 of the Administration of Muslim Law Act (Cap. 3) involving the custody, maintenance and education of any child of the applicant who is a minor or the enforcement of an order for the maintenance of such child;
- (f) an appeal against an order made by a court in any of the proceedings referred to in sub-paragraphs (a) to (e).”.

Savings and transitional provisions

22.—(1) Every legal aid certificate granted under the principal Act in force immediately before the appointed day shall —

- (a) have the same force and effect as if it were a Grant of Aid issued under the principal Act as amended by this Act; and
- (b) continue to be valid for the unexpired part of the validity period it would have had under the principal Act in force immediately before the appointed day.

(2) Every application for legal aid made before the appointed day under the principal Act in force immediately before the appointed day and pending on that day shall be deemed to be an application for a Grant of Aid under the principal Act as amended by this Act.

(3) Subject to subsection (4), every notice given and any act or thing done under the principal Act in force immediately before the appointed day shall have the same force and effect as if they were done under the principal Act as amended by this Act.

(4) Where a solicitor has been excluded from a panel of solicitors by the Director under section 4 of the principal Act in force immediately before the appointed day, the provisions of that section shall continue to apply to him in respect of that exclusion as if this Act had not been enacted.

(5) For a period of 2 years after the appointed day, the Minister may make regulations prescribing such additional provisions of a transitional or savings nature as he may consider necessary or expedient.

(6) In this section, “appointed day” means the date of commencement of this Act.
