

## Legal aid - Ireland

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#### 1 What costs are involved in legal proceedings and who normally has to bear them?

#### 2 What exactly is legal aid?

The Legal Aid Board provides legal advice and legal aid in civil cases to persons who satisfy the requirements of the Civil Legal Aid Act, 1995 and Regulations made thereunder.

Legal aid means representation by a solicitor or barrister in civil proceedings in the District, Circuit, High and Supreme Courts. Proceedings before tribunals are excluded except for the purposes of asylum cases. Advice and assistance can, however, be provided to persons who are contemplating taking proceedings before any tribunal.

Legal advice is any written or oral advice given by a solicitor of the Board or by a solicitor or barrister engaged by the Board on the application of Irish law to any particular circumstances which have arisen in relation to the person seeking legal services.

#### 3 Do I have a right to legal aid?

The costs involved in a trial vary depending on the Court, the proceedings involved and the complexity of the case.

If you satisfy the means test and you depend on social welfare payments or your disposable income is less than €8,300 then your contribution will be calculated as follows:

- If you apply for legal advice - one tenth of the difference between your disposable income and €8,300, subject to a minimum contribution of €6 and a maximum of €100.
- If you apply for legal aid - €35 plus one quarter of the difference between your disposable income and €8,300.

If you apply for legal aid and your disposable capital is more than €3,200 you may have to pay a capital contribution. A capital contribution is not payable for legal advice.

#### **4 Is legal aid granted for all types of proceedings?**

Provided that the proceedings are within the Irish jurisdiction, applicants from abroad, who satisfy the financial eligibility and merits test laid down in the Act and Regulations, will qualify for legal aid in Ireland.

Although most Applicants for legal aid are resident in Ireland, it is possible for a person who resides outside of Ireland, whether an Irish citizen or not, to apply for legal aid and/or advice in Ireland, provided that person seeks legal aid or advice about a legal matter governed by Irish Law and usually if legal aid is given to a person residing outside of Ireland where real or personal property is in dispute such property is located in Ireland. In the same way as Irish Applicants need to undergo a means test to determine eligibility for legal aid, persons residing outside of Ireland also are required to undergo the same financial eligibility assessment.

Legal assistance is provided without application of means test eligibility criteria in Court proceedings instituted under the Child Abduction and Enforcement of Custody Orders Act 1991 and under the Maintenance Orders Act 1994 (where recovery of maintenance in reciprocating jurisdiction is concerned).

In general, legal advice is not provided where it would be possible for the applicant, without hardship, to obtain legal advice outside the Act. This would apply generally where services are available from another source e.g. advice agencies or another state body.

Advice on matters of criminal law is outside the scope of the Act except for advice to complainants in "rape" cases.

The Board must be satisfied before legal aid is authorised that it is reasonable to take or defend proceedings, having regard, for example, to the legal merits of the case and the likely outcome. The criteria include: prospects of success; reasonable grounds for taking or defending proceedings; availability of any method, other than court proceedings, for dealing satisfactorily with the problem (e.g. mediation or negotiation of a settlement); ability of the legally aided person to obtain legal representation outside the Act (e.g. possibility of costs being met by insurance company, etc.).

#### **5 Are there special procedures in cases of need?**

Consideration is given as to whether applicants should be dealt with otherwise other than in accordance with the general rule under which appointments to see solicitors are given to applicants; that is, in strict order of the date on which applicants' names are placed on the waiting list for legal services. Priority will be given to new applicants seeking legal services in the following categories of cases:

- child abduction proceedings
- where there is a real danger of children being taken out of the jurisdiction without the consent of the applicant
- child care proceedings
- domestic violence
- where, under the Statute of Limitations, there is a danger that the time limits for issuing proceedings may expire unless immediate action is taken
- where there is a danger of time limits in other legislation expiring
- where there is a danger that assets may be dissipated so that they would be unavailable to meet the claims of the applicant.

#### **6 Where can I obtain a legal aid application form?**

A person seeking legal services can apply at any one of the Law Centres by calling in, telephoning, or writing to the Law Centre which is nearest in location to where the Applicant resides.

If any enquiry is made by telephone, the Applicant is requested to call to that Law Centre to apply in person so that a written form of application may be completed, and a means assessment carried out to determine whether the Applicant is financially eligible for legal aid. A postal application may be made and is usually appropriate if the Applicant cannot easily call in person to a Law Centre.

Legal assistance is provided without application of means test eligibility criteria in Court proceedings instituted under the Child Abduction and Enforcement of Custody Orders Act 1991 and under the Maintenance Orders Act 1994 (where recovery of maintenance in reciprocating jurisdiction is concerned).

A list of the addresses and telephone numbers of all the Law Centres, full-time and part-time, is available on the Board's [Website](#)

#### **7 Which documents need to be submitted with the legal aid application form?**

An application for Legal Services Form LAA3 should be fully completed including a statement “as to the subject matter” that is the legal problem in respect of which the Applicant seeks legal services, and signed by the Applicant.

The Applicant should also complete and sign the Means Test Forms.

### **8 Where do I submit my application for legal aid?**

A list of the addresses and telephone numbers of all the Law Centres, full-time and part-time, is available on the Board's [Website](#)

### **9 How do I find out whether I am entitled to legal aid?**

Financially eligible Applicants are offered an appointment to see a Solicitor in accordance with the waiting list procedure, or under the established categories of priority subject matters. Usually an appointment is offered to the Applicant with one of the Solicitors employed by the Legal Aid Board and based in one of its offices.

The Applicant pays the legal advice contribution before attending the first appointment and receives a receipt for same.

At the first appointment the Solicitor will explain that if the Applicant requires representation by a Solicitor in instituting or defending proceedings that a legal aid contribution will become payable on the granting of a legal aid certificate.

Applications for a legal aid certificates may require additional information. Depending on the nature of the case this additional information may include the following:

1. Medical records/reports
2. Copies of statements and/or reports obtained or prepared by the Gardai
3. Copies of any contracts.

If, on receipt of all necessary information it is considered that an application for legal aid does not meet the provisions of the Civil Legal Aid Act, 1995 and the 1996 Regulations a letter of refusal will issue from the solicitor.

This letter will state the grounds on which the application is refused and the relevant Section(s) of the Civil Legal Aid Act and/or Regulations. The letter also informs the applicant of the right to have the decision reviewed and/or appealed to an Appeal Committee of the Board.

### **10 What should I do, if I am entitled to legal aid?**

When an applicant for legal aid meets the requirements of the Act and Regulations, a Legal Aid Certificate is granted to provide representation by a solicitor and, if necessary, a barrister in certain civil proceedings in the District, Circuit, High and Supreme Courts.

A legal aid certificate only authorises legal services for the proceedings or subject matter stated on it. The issuing of a legal aid certificate to an applicant does not mean that the applicant is legally aided in other matters. If an applicant requires legal aid for more than one subject matter a separate application must be made.

Applications for a legal aid certificate are made by a solicitor in a law centre after consultation with an applicant.

Section 29(1) of the Act provides that a person shall not qualify for legal aid or advice unless he or she pays a contribution. This contribution is determined by a financial assessment based on the information provided by the applicant in their Statements of Means and Capital. Where a person has no capital assets the minimum amount payable for legal aid is €35 and the maximum amount is €1,210.

The full contribution should be paid on returning the legal aid certificate and before legal services are provided. The Board may, in exceptional circumstances, allow the applicant to pay by instalments. However, the full amount due must be paid within twelve months and prior to the finalisation of the proceedings.

### **11 Who chooses my lawyer, if I am entitled to legal aid?**

If the Applicant on application expresses a preference to be represented by a particular Solicitor in the Law Centre, the Managing Solicitor will take the Applicant's wishes into account when deciding what Solicitor to allot to that Applicant. Other circumstances will also be taken into account by the Managing Solicitor in deciding what Solicitor to allot, for example whether a Solicitor

requested by the applicant would be available to represent the client on a particular Court date. If the Solicitor requested by the Applicant already had a commitment to another client at a different location on the date of the Applicant's case then it would be necessary for the Managing Solicitor to allot to the Applicant a Solicitor to represent him/her other than the Solicitor of his choice.

If the Applicant previously was represented by a Solicitor of the Law Centre then it would be usual for the Managing Solicitor to allot the same Solicitor to provide legal services to the same client for the new subject matter. An Applicant does not have an absolute right to consult or be represented by the Solicitor of his choice but an Applicant's wishes will be taken into account usually by a Managing Solicitor when a decision is made as to what Solicitor to allot to an Applicant. If an Applicant had a preference to be represented by a Solicitor of his/her own sex then in so far as possible the Managing Solicitor would endeavour to ensure that an Applicant's preference in this regard be taken into account.

## **12 Does legal aid cover all the costs of the proceedings?**

Payment of the Legal Aid Contribution specified on the Certificate will cover all costs involved in proceedings. However, costs and general damages awarded to you as a result of court proceedings or a settlement reached out of court are payable to the Legal Aid Board. The Board will be entitled to deduct the costs it has incurred from any monies that you receive subject to certain limited exceptions. This also applies to settlements made to a legally aided person as a result of matrimonial proceedings, Separation Agreements or Judicial Separation. If the total cost incurred by the Board in providing legal services is less than the total amount paid by you, or on your behalf, by way of contribution and by virtue of the recovery of costs or damages or when account is taken of a charge on property, the balance will be refunded to you.

## **13 Who bears the other costs, if I am entitled only to limited legal aid?**

## **14 Does legal aid also cover appeals?**

A legal aid certificate provides legal services for the proceedings or subject matter stated on it. When the proceedings or subject matter stated are completed the certificate expires. An applicant who requires additional services that may relate to the original subject matter may apply for an amendment to the legal aid certificate or a new certificate. The individual circumstances of the case will determine whether an amendment or new certificate is required and the solicitor will advise.

## **15 Can legal aid be withdrawn before the proceedings are concluded (or even revoked after the proceedings have terminated)**

If you furnish incorrect information or fail to disclose any material fact (for example, in relation to a change in your financial circumstances), or if you are behaving unreasonably, legal advice or legal aid or both may be withdrawn and you may be liable for the full costs incurred on your behalf.

## **16 Can I contest a refusal to give legal aid?**

An applicant who is aggrieved by any decision of the Board may request a review of the decision. If the applicant wishes to have the decision reviewed, further information in writing must be submitted for consideration together with an opinion from the applicant's solicitor as to whether the decision should stand. Applicants may request a review of a decision through the Law Centre.

An applicant who is aggrieved by any decision of the Board or a review of any decision of the Board may appeal that decision to a committee of the board. If the applicant wishes to appeal the decision, an appeal must be lodged to an Appeal Committee of the Board. Applicants may request an appeal of a decision either through the law centre or directly to the Board.

The submission of further information for the purpose of review or the lodgement of an appeal must be made within a period of one month from the date on which an applicant was informed that they were not entitled to the service applied for.

The Appeal Committee comprises of a chairperson and four other members, two of whom who prior to their appointment to the Board were either practising barristers or practising solicitors. The committee shall consist of persons who were not involved in the original decision.

## **Further information**

Further information including a list of addresses and telephone numbers of all the Law Centres is available on the Board's [Website](#).

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