

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1921.

A BILL

To provide for the establishment of a legal aid department; to repeal the Poor Prisoners Defence Act, 1907, and the Poor Persons Legal Remedies Act, 1918; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Legal Aid Act, 1921."

2. (1) The Poor Prisoners Defence Act, 1907, and the Poor Persons Legal Remedies Act, 1918, are repealed. Repeal and saving.

(2) All rules, regulations, orders, directions, and notices made or given under the authority of the said Acts, and in force at the commencement of this Act, shall, in so far as they are not inconsistent with this Act, be deemed to have been made or given under this Act.

3. (1) A department of legal aid (hereinafter called "the department") is hereby established. Establishment of department of legal aid and appointment of director.

(2) The department shall be managed by a director, who shall be appointed by the Governor upon the recommendation of the Public Service Board. Appointment of officers.

4. (1) The Governor may, upon the recommendation of the Public Service Board, appoint some person to act as the deputy of the director during his absence from duty from whatever cause.

(2) Such deputy, while so acting, shall have the powers and perform the duties of the director.

(3) The Governor may also, upon the recommendation of the said board, from time to time appoint such officers and servants as may be necessary for efficiently conducting the business of the department.

5. The director and such officers and servants shall receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office. Officers to be subject to Public Service Acts.

6. All sums payable under this Act and all costs and expenses of and incidental to the administration of the department shall be paid out of the Consolidated Revenue Fund, which is hereby charged, without further appropriation, with such payment. Costs of administration of Act.

7. (1) The director may authorise the retainer of a barrister or barristers and may retain a solicitor or solicitors whose services shall be available to advise and assist the director, and in the preparation and conduct of legal proceedings under the provisions of this Act. Retainer of barristers and solicitors.

(2) Such retainer may be either for a specified case or cases or for a fixed period, and shall be upon such terms as to payment of fees or remuneration as shall be approved by the Minister. **8.**

8. The director shall have power to give legal aid to any person who, in the opinion of the director, is without adequate means to obtain the requisite legal aid where, in the opinion of the director, it is desirable in the interests of justice that such legal aid should be given :

Power of director to give legal aid.

Provided that no proceedings shall be instituted by the director on behalf of any such person in the Supreme Court or in a district court, and no step in any action or proceeding in the Supreme Court or in a district court shall be taken by the director on behalf of any such person, except upon and subject to the conditions prescribed by rules of court made under the provisions of this Act.

9. Any person to whom legal aid is given by the department may be charged and shall be liable to pay to the department such fees as are prescribed by regulation hereunder :

Fees may be charged by department.

Provided that in any case in which it appears to him to be proper to do so the director may remit such fees.

10. The director shall keep lists of barristers and solicitors who are willing to inquire into and assist in the conduct of proceedings on behalf of persons by whom legal aid is sought from, or to whom legal aid is given by, the department.

Lists of barristers and solicitors to be kept.

11. (1) Any person committed for trial for an indictable offence against the laws of New South Wales may, at any time before the jury is sworn, apply to the committing magistrate, or to a judge of the Supreme Court, or to a chairman of a quarter sessions for legal aid for his defence.

Accused person may apply for legal aid.

(2) If the judge or chairman of quarter sessions or the committing magistrate is of opinion, on the facts brought before him, that such person is without adequate means to provide legal aid for his defence, and that it is desirable in the interests of justice that such legal aid should be provided, he shall so certify to the Attorney-General, who may, if he thinks fit, cause arrangements to be made for the defence of the accused person and payment of the expenses of all material witnesses. Upon committal the person committed shall be supplied with a copy of this section.

(3)

(3) Nothing in this section shall be deemed to limit or restrict the power of the director under section eight to give legal aid to any person charged with or convicted of a criminal offence.

12. The powers conferred by this Act shall be applicable to proceedings in any court or before any magistrate or justice. Application of Act.

13. The Governor may make such regulations as may be necessary or convenient for administering and carrying into effect the provisions of this Act. Regulations.

14. (1) Rules of court may be made by the judges of the Supreme Court or any three of them, and by the judges of the District Court or any four of them, for the purpose of regulating the practice and procedure and all matters relating to fees and costs in connection with proceedings in such courts respectively. Rules of court.

(2) Rules made by the judges of the Supreme Court under this section may, if it is so expressed in such rules, be made applicable to proceedings instituted, or to be instituted, in courts other than the Supreme Court or District Court.
