

Other Providers Of Legal Aid

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8.1 Introduction

Legal aid services are not only provided by VLA. Other providers include:

- the Commonwealth Attorney-General;
- Community legal centres;
- Victorian Aboriginal Legal Service;
- the Law Institute of Victoria (including the Law Aid Scheme)
- Public Interest Law Clearing House.

8.2 Other Providers of Legal Assistance

8.2.1 The Commonwealth Attorney-General

Commonwealth Schemes for Legal or Financial Assistance

The Commonwealth administers 17 statutory financial assistance schemes and 6 non-statutory schemes. These schemes exist to provide legal or financial assistance in cases where legal aid is not generally available from legal aid commissions and where the circumstances give rise to a special Commonwealth interest.

Applicants under both the statutory and non-statutory schemes are subject to guidelines which usually include hardship and reasonableness tests. The schemes are administered by officers in the Legal Aid Branch who have the delegation of the Attorney-General to authorise financial assistance to eligible applicants.

Statutory Provisions

The statutory schemes and potential recipients of financial assistance are:

Aboriginal & Torres Strait Islander Heritage Protection Act 1984 - s.30(2): applicants for a declaration from the Minister for Aboriginal and Torres Strait Islander Affairs to preserve aboriginal artefacts or places of special aboriginal significance.

Aboriginal Land Rights (Northern Territory) Act 1976 - ss.54C and 74A: parties (not being the applicant) to a traditional owner's land claim or to a closure of the seas case, before an Aboriginal Land Commissioner.

Administrative Appeals Tribunal Act 1975 - s.69: parties to reviews before the Administrative Appeals Tribunal and on appeal to the Federal Court, as well as in reviews under War Veterans' Disability Pension Scheme.

Defence Force Discipline Appeals Regulations - sub-regulations 11(4) and 11(5): appellants in a Defence Force Discipline Appeal.

Federal Proceedings (Costs) Act 1981: costs certificates payable to parties by the Commonwealth where a federal appeal succeeds on a question of law or on quantum of damages and where a trial in a federal court is discontinued through no fault of the parties.

Freedom of Information Act 1982 - s.66: costs certificates payable to applicants by the Commonwealth where the applicant's FOI appeal in the AAT is successful.

Human Rights and Equal Opportunity Commission Act 1986 - s.46PU: parties in a proceeding before the Federal Court in relation to disability, racial and sex discrimination.

Judiciary Act 1903 - s.69(3): defendants in trials of federal indictable offences and s.78B(4): parties subjected to additional costs caused by the removal of a constitutional point in a matter to the High Court.

Jurisdiction of Courts (Cross-Vesting) Act 1987 - s.6(7): parties subjected to additional costs caused by the removal of a matter from a Supreme Court to the Federal Court of Australia.

National Crime Authority Act 1984 - s.27: witnesses before a sitting of the National Crime Authority.

Native Title Act 1993 - s.183: parties, or a person who intends to become a party, to an inquiry, mediation or proceeding related to native title, including an indigenous land use agreement or an agreement about rights of access for traditional purposes.

Navigation (Marine Casualty) Regulations - regulation 29: witnesses before Boards of Marine Inquiry.

Privacy Act 1988 - s.63: private respondents in privacy cases, where a tax file number complaint is dismissed.

Proceeds of Crime Act 1987 - s.102: parties affected by proceedings for forfeiture orders or restraining orders against the property of persons convicted of, or charged with, Commonwealth indictable offences.

Trade Practices Act 1974 - s.170: parties to cases in the Federal Court under the consumer protection or resale price maintenance provisions of the Act.

War Crimes Act 1945 - s.19: persons charged with war crimes committed in Europe during World War II.

Workplace Relations Act 1996 - s.342: parties in internal disputes in unions, heard by the Federal Court of Australia after 25 November 1996.

Non-Statutory Schemes

The non-statutory schemes and potential recipients of financial assistance are:

Common Law (Native Title) Scheme: parties involved in common law native title matters.

Special Circumstances (Native Title) Scheme: persons involved in a native title matter which does not come within the scope of s.183.

Commonwealth Public Interest and Test Cases Scheme: (incorporates previous Environmental Cases Scheme) - parties to proceedings in court where a substantial point of unresolved Commonwealth law is involved or a decision is likely to affect a large number of disadvantaged persons.

Overseas Custody (Child Removal) Scheme: travel and overseas court costs for parties in court where a child has been abducted from Australia, or wrongfully detained outside Australia, by one parent without the consent of the other parent.

Royal Commissions and Inquiries Scheme: parties to inquiries, where the Attorney-General has ministerial responsibility for the subject matter of the inquiry, who are central figures or where there is a special Commonwealth interest in them being represented.

Special Circumstances Scheme: (incorporates previous Overseas (Special Circumstances) Scheme - the Commonwealth's scheme for act of grace payments to parties in court or in related proceedings where they consist of legal costs and related expenses. In exceptional cases, assistance may be available in respect of overseas legal costs and related expenses.

Applications for Commonwealth legal assistance can be obtained from the Melbourne office of VLA and should be lodged with:

Assistant Secretary
Legal Assistance Branch
Attorney General's Department
National Circuit
BARTON ACT 2600
Telephone: (02) 6250 6770
Fax: (02) 6250 5934

8.2.3 Community Legal Centres

There are currently 42 community legal centres in Victoria, most of which are located within Melbourne. These centres provide a range of legal services either in a specialised area of the law or to their local community. Services include legal advice, ongoing legal assistance, legal education and law reform.

Community Legal Centres all operate differently. Some provide advice only, some provide ongoing legal services in specific areas, and some provide ongoing services across a broad range of areas. There are some areas of law that centres do not deal with such as conveyancing, taxation, commercial disputes and so on.

For information about the closest centre, the Federation of Community Legal Centres can be contacted on (03) 9602 4949.

8.2.3 Victorian Aboriginal Legal Service

The Victorian Aboriginal Legal Service provides a full range of legal services to Aboriginal people and their spouses or defacto spouses throughout Victoria. The service is staffed by salaried workers. Some clients are referred to solicitors in private practice if there is conflict between clients of the service or the service is unable to assist for some other reason.

The Victorian Aboriginal Legal Service can be contacted by telephoning (03) 9419 3888.

8.2.4 The Law Institute Of Victoria

The Law Institute offers a free telephone legal advice and referral service. The advice is pre-recorded and covers a range of topics. The service operates Monday to Friday 9.00 a.m. to 5.00 p.m. Telephone (03) 9602 5000.

8.2.5 Law Aid

Law aid is a scheme established by the Victorian Government and the private legal profession to assist people who are unable to afford the cost of civil litigation. The fund is administered by the Law Institute but people interested should contact their own solicitor to complete an application form.

The types of civil litigation funded include personal injuries claims, claims against institutions involving oppressive behaviour, some property claims, wills and estates matters and professional negligence claims.

Legal practitioners will not seek payment of legal services unless the applicant is successful in the proceedings. Law Aid will provide money to the applicant's solicitor to cover necessary disbursements such as medical reports.

All applicants pay a non-refundable application fee of \$100. Successful litigants pay a fee representing 5.5% of the gross award at settlement and the cost of disbursements, if they are recovered from the unsuccessful party.

8.2.6 Public Interest Law Clearing House

The Public Interest Law Clearing House (PILCH) is a non-profit public interest legal centre which specialises in co-ordinating the pro bono work of the legal profession in cases of public interest.

PILCH seeks to increase access to the legal system for eligible clients, who are non-profit associations with public interest objectives or individuals who are not eligible for legal aid or are unable to pay for the costs of the required legal services. The legal matter must be one of public interest. PILCH matches eligible clients with members who then act in the legal matter on pro bono basis or for reduced fee.

For further information contact PILCH on (03) 9269 6177.