

# LEGAL AID AND PUBLIC DEFENCE BILL 2025

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## A BILL

*i n t i t u l e d*

An Act to enhance legal aid services in Malaysia by providing for matters for the grant of legal aid and public defence services to certain persons, to provide for the appointment of the Director General of Legal Aid and other officers in relation to the provision of legal aid services to aided persons, and the appointment of the Chief Public Defender and public defender officers in relation to the provision of public defence services to the aided accused and to provide for related matters.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

### PART I

#### PRELIMINARY

##### **Short title and commencement**

**1.** (1) This Act may be cited as the Legal Aid and Public Defence Act 2025.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of different parts or provisions of this Act.

**Interpretation**

2. In this Act, unless the context otherwise requires—

“trust account” means a trust account referred to in section 14;

“legal aid” means legal aid services as specified in section 15;

“judge” means—

(a) a judge of a court established by Part IX of the Federal Constitution and includes a Sessions Court Judge or a Magistrate; or

(b) a judge of a Syariah Subordinate Court, Syariah High Court, Syariah Court of Appeal or Syariah Supreme Court;

“child” has the meaning assigned to it in the Child Act 2001 [Act 611];

“Chief Public Defender” means the Chief Public Defender appointed under subsection 4(1);

“Director General” means the Director General of Legal Aid appointed under subsection 3(1);

“public defence services” means public defence services pursuant to Part IV;

“advocacy costs” means the costs which the Director General is entitled to receive from the aided person or aided accused for any legal action to be taken and any expenses incurred in carrying out any advocacy matter arising in any proceedings conducted in any court;

“court” means—

(a) a court established under Part IX of the Federal Constitution; and

(b) the Syariah Subordinate Court, the Syariah High Court, the Syariah Court of Appeal or the Syariah Supreme Court;



“Minister” means the Minister charged with the responsibility for legal affairs and legal aid;

“aided person” means—

(a) a person who has been given a legal aid certificate under Chapter 3 or 4 of Part III; or

(b) a person who has been given legal aid services under Chapter 2 or 5 of Part III;

“panel of solicitors” means a panel of solicitors under section 7 or 8;

“public defender officer” means a public defender officer appointed under subsection 4(1);

“appointed officer” means an officer appointed under subsection 3(1);

“solicitor” means—

(a) for the purposes of civil and criminal courts, an advocate and solicitor of the High Court admitted and enrolled under the Legal Profession Act 1976 [*Act 166*] or under any relevant written law; and

(b) for the purposes of syariah courts, a Peguam Syarie who has been admitted as a Peguam Syarie in the Syariah High Court in the Federal Territories or any relevant States, and registered under the Syarie Legal Profession (Federal Territories) Act 2019 [*Act 814*] or any relevant State enactment in relation to the syarie legal profession;

“assigned solicitor” means a solicitor from the panel of solicitors who is assigned to act on behalf of the Director General or the Chief Public Defender;

“mediator” means any person appointed under section 46;

“guardian” in relation to a child, shall include any person whom the Director General considers appropriate to be appointed as a litigation representative, next friend or guardian *ad litem* of the child for the purposes of legal actions and proceedings conducted by the Director General for the benefit of the child;

“electronic service” means electronic service provided by the Director General under section 62;

“remote communication technology” means a live video link, a live television link or any other electronic means of communication;

“aided accused” means a person who has been given a public defence certificate under Part IV;

“Deputy Director General” means the Deputy Director General of Legal Aid appointed under subsection 3(1).

## PART II

### ADMINISTRATION

#### Chapter 1

##### *Appointment*

#### **Appointment of Director General, Deputy Director General and other officers**

**3.** (1) The Minister may appoint any person as a Director General, and such number of Deputy Directors General and such other officers as may be considered necessary or expedient for the purposes of this Act and who shall carry such designation as the Minister may determine.

(2) A person appointed as a Director General under subsection (1) shall have an academic qualification in the field of law recognized by the Government and shall have the practical skills, knowledge and experience in advocacy and litigation.

(3) The Director General shall devote the whole of his professional time as the Director General and while holding office shall not occupy any other office or employment whether remunerated or not.

(4) The Director General shall have the general supervision and directions of all matters relating to legal aid and public defence services throughout Malaysia.

(5) Notwithstanding any provision of written law to the contrary, the Director General, Deputy Directors General and every officer appointed under subsection (1) shall be entitled, for the purposes of this Act, to appear and plead in all courts in Malaysia.

(6) For the purposes of this Act, every officer appointed under subsection (1) shall—

(a) be subjected to the general supervision and directions of the Director General; and

(b) have and exercise all the powers conferred on the Director General under this Act other than the powers specifically conferred on the Director General in relation to—

(i) the assignment of a panel of solicitors for civil and syariah proceedings; and

(ii) the filing and handling of appeals under sections 33, 34 and 35.

(7) The Director General, Deputy Directors General or any officer appointed under subsection (1) who is not a member of the public service, shall receive remuneration as determined by the Minister after consultation with the Minister of Finance.

(8) Where the Director General is, for any reason, unable to perform his duties for any period or where the office of the Director General becomes vacant, the most senior Deputy Director General may exercise all powers and perform all duties of the Director General.

**Appointment of Chief Public Defender and public defender officer**

**4.** (1) The Minister may appoint any person as the Chief Public Defender and such number of public defender officers for the purposes of public defence services under Part IV.

(2) All persons appointed under subsection (1) shall have an academic qualification in the field of law recognized by the Government.

(3) Notwithstanding subsection (2), a person appointed as the Chief Public Defender under subsection (1) shall have the practical skills, knowledge and experience in advocacy and litigation.

(4) The Chief Public Defender shall devote the whole of his professional time as the Chief Public Defender and while holding office shall not occupy any other office or employment whether remunerated or not.

(5) The Chief Public Defender and public defender officers shall be subjected to the general supervision and directions of the Director General.

(6) The Chief Public Defender and any public defender officer shall be entitled, for the purposes of this Act, to appear and plead in all criminal proceedings in Malaysia for the aided accused.

(7) For the purposes of this Act, public defender officers shall have and exercise all the powers conferred on the Chief Public Defender under this Act other than the powers specifically conferred on the Chief Public Defender in relation to—

(a) the assignment of a panel of solicitors in criminal proceedings; and

(b) the filing and handling of appeals under section 60.

(8) Notwithstanding paragraph (7)(a), the Chief Public Defender may delegate his power to assign panels of solicitors in criminal proceedings to the appointed officers under subsection 3(1).

(9) Every officer appointed under subsection (1) who is not a member of the public service, shall receive remuneration as determined by the Minister after consultation with the Minister of Finance.

### **Directive of Director General**

**5.** (1) The Director General may issue such directive as the Director General considers necessary for the purpose of ensuring compliance with this Act.

(2) The Director General may revoke, vary, revise or amend the whole or any part of any directive issued under this section.

### **Overall supervision by Minister**

**6.** (1) The Director General shall be responsible to the Minister.

(2) The Minister may issue any directions to the Director General not inconsistent with the provisions of this Act and the Director General shall give effect to all such directions.

## **Chapter 2**

### *Panel of solicitors*

### **Panels of solicitors for legal aid**

**7.** (1) The Director General shall prepare and maintain panels of solicitors for legal aid who shall—

- (a) investigate any application for legal aid and make reports relating to the investigation;
- (b) give an opinion on the application for legal aid;
- (c) act on behalf of aided persons; and
- (d) give legal advice under the provisions of this Act.

(2) The Director General may prepare separate panels of solicitors for different purposes and for different courts.

(3) Any solicitor may, subject to any condition determined by the Director General, apply to the Director General to have his name registered in any panel of solicitors for legal aid.

(4) Any solicitor who has been assigned to represent the aided person may appear and plead in all courts on behalf of the Director General in accordance with the rules and regulations of civil or syariah courts, as the case may be.

### **Panels of solicitors for public defence services**

**8.** (1) The Chief Public Defender shall prepare and maintain panels of solicitors for public defence services who shall—

- (a) investigate any application for public defence services and make reports relating to the investigation;
- (b) give an opinion on the application for public defence services and on any question of law arising in the proceedings involving the applicant; and
- (c) act on behalf of the aided accused.

(2) The Chief Public Defender may prepare separate panels of solicitors for different purposes and for different courts.

(3) Any solicitor may, subject to any condition determined by the Chief Public Defender, apply to the Chief Public Defender to have his name registered in any panel of solicitors for public defence services.

(4) Any solicitor who has been assigned to represent an aided accused may appear and plead in all courts on behalf of the Chief Public Defender in accordance with the procedures for criminal proceedings.

**Payment for assigned solicitor**

**9.** An assigned solicitor is entitled to payment for any legal aid or public defence services provided by him under this Act, for any amount as prescribed by the Minister.

**Removal of name of solicitor from panel of solicitors**

**10.** The Director General or the Chief Public Defender may remove the name of a solicitor from any panel of solicitors for legal aid or panel of solicitors for public defence services, as the case may be, if—

- (a) the solicitor's practising certificate is no longer valid for any reason;
- (b) the solicitor has requested the Director General or the Chief Public Defender to remove his name from the panel;
- (c) the solicitor has conducted himself unprofessionally while acting for the aided person or aided accused, which renders the solicitor unfit to be retained on the panel;
- (d) in the opinion of the Director General or the Chief Public Defender—
  - (i) the solicitor is unfit to be, or to remain, on any panel for any reason that may affect the interests of justice; or
  - (ii) it is necessary or expedient to do so on the issue of the solicitor's integrity; and
- (e) the solicitor has taken or agreed to take, or solicited from the aided person or aided accused any payment of fees, profit or gifts for the benefit of the solicitor at the time he was—
  - (i) investigating or making any report in relation to the application for legal aid or public defence services;

- (ii) giving any opinion under any provision of this Act; or
- (iii) conducting any proceedings pursuant to any assignment under this Act.

### **Disciplinary committee for solicitor**

**11.** (1) The Director General shall, before exercising any of the powers under paragraph 10(*c*), (*d*) or (*e*), make a recommendation to the Minister to establish a disciplinary committee to conduct disciplinary proceedings against any solicitor according to regulations prescribed by the Minister.

(2) The Chief Public Defender shall, before exercising any of the powers under paragraph 10(*c*), (*d*) or (*e*), advise the Director General to make a recommendation to the Minister to establish a disciplinary committee to conduct disciplinary proceedings against any solicitor according to regulations prescribed by the Minister.

(3) Any solicitor subject to disciplinary proceedings under this section shall be given the opportunity to show cause.

(4) The Director General or Chief Public Defender, as the case may be, shall implement any decision made by the disciplinary committee.

(5) Any solicitor who is aggrieved by a decision of the Minister or any disciplinary committee established under subsection (1) or (2) may apply to the High Court for a judicial review of such decision.

### **Legal aid or public defence services cannot be terminated without permission**

**12.** (1) The aided person or aided accused shall not, without permission of the Director General or the Chief Public Defender, as the case may be, terminate the legal aid or the public defence services provided by any solicitor assigned to him.



(2) An assigned solicitor shall not, without permission of the Director General or the Chief Public Defender, terminate his legal aid or public defence services unless—

- (a) the solicitor nominates another solicitor from the panel of solicitors to replace him; or
- (b) the proceedings may be handled by any appointed officer or public defender officer.

### Chapter 3

#### *Fee for legal aid services and public defence services*

#### **Fee for legal aid services and public defence services**

**13.** (1) Subject to the provisions of this Act, any person eligible for legal aid or public defence services under this Act, shall pay to the Director General a fee as prescribed by the Minister.

(2) The payment of fees under this Act shall be made before the issuance of any certificate or provision of services under this Act.

(3) The fees paid under this Act shall be deposited into a trust account.

### Chapter 4

#### *Trust account*

#### **Trust account**

**14.** (1) The Director General shall create and maintain a trust account in accordance with the Financial Procedure Act 1957 [*Act 61*] for the purposes of collection of, or payment of, any fee, contribution, cost, charges and any other payment in relation to legal aid and public defence services under this Act.

(2) All moneys in the trust account shall be expended for the purposes of administration of legal aid and public defence services.

## PART III

## LEGAL AID SERVICES

## Chapter 1

*Legal aid services***Legal aid services**

**15.** (1) Legal aid services provided under this Act shall consist of the following:

- (a) legal advice as provided in Chapter 2;
- (b) legal aid in civil and syariah proceedings as provided in Chapter 3;
- (c) legal companion services as provided in Chapter 4; and
- (d) mediation services as provided in Chapter 5.

(2) The legal aid services referred to in subsection (1) may be provided to citizens of Malaysia only except for in special circumstances which may be allowed by the Minister in the interests of justice.

## Chapter 2

*Legal Advice***Scope of legal advice services**

**16.** (1) The Director General or an assigned solicitor may provide legal advice services in relation to any legal matter specified in the First Schedule.

(2) Notwithstanding subsection (1), the Director General or an assigned solicitor may provide legal advice services in relation to the manner of application and determination of eligibility to obtain any legal aid services under this Part or public defence services under Part IV.

### **Application for legal advice services**

**17.** (1) An application by a person who wishes to obtain legal advice services shall be made to the Director General in such manner as may be determined by the Director General.

(2) The application under subsection (1) shall be accompanied by such information, particulars or documents as may be determined by the Director General.

(3) After considering the application, the Director General may approve the provision of legal advice to the applicant.

(4) The Director General may, after approval is granted, advise the aided person or assign a solicitor from the panel of solicitors to advise the aided person.

(5) If the applicant is a child, the application shall be made on behalf of the child by his parents or guardian and any reference to the applicant in this Chapter shall include the parents or guardian of the child.

### **Manner of giving legal advice**

**18.** (1) The Director General or an assigned solicitor may, after an approval is granted under section 17, give legal advice to an aided person orally, through electronic service or remote communication technology, or through any other manner as prescribed by the Minister.

(2) In giving advice under subsection (1), the Director General may also conduct any investigation on the aided person's means and condition.

### **Contribution for legal advice services**

**19.** (1) The Director General may require an aided person to pay a contribution for any amount as prescribed by the Minister and the contribution shall be deposited into the trust account.

(2) The Director General may require an aided person to pay any additional contribution as prescribed by the Minister if the Director General, after conducting the investigation under subsection 18(2) or after obtaining any other information from any other sources, finds that the aided person has income that exceeds the eligibility limit based on the criteria and the means test as prescribed by the Minister.

### Chapter 3

#### *Legal aid in civil and syariah proceedings*

#### **Scope of legal aid in civil and syariah proceedings**

**20.** (1) The Director General, an appointed officer or assigned solicitor may provide legal aid in civil and syariah proceedings in relation to any of the proceedings specified in the Second Schedule.

(2) Notwithstanding subsection (1) and sections 25 and 26, where the Minister is satisfied that in any particular case of hardship it is in the interests of justice to do so, the Minister may authorize the Director General to provide legal aid in any civil and syariah proceedings other than the proceedings specified in the Second Schedule.

#### **Application for legal aid in civil and syariah proceedings**

**21.** (1) An application by a person who requires legal aid in any civil or syariah proceedings, whether in his own right or in his capacity as a representative, shall be made to the Director General in such manner as may be determined by the Director General.

(2) An application under subsection (1) shall be accompanied by such information, particulars or documents as may be determined by the Director General.

(3) If the applicant is a child, the application shall be made on behalf of the child by his parents or guardian and any reference to the applicant in this Chapter shall include the parents or guardian of the child.

### **Power of Director General to investigate**

**22.** (1) In considering the application under section 21, the Director General may—

- (a) conduct any investigation as the Director General deems fit regarding—
  - (i) the applicant's means and condition;
  - (ii) the merits of the case; and
  - (iii) the need to refer the application to the Director General of Social Welfare including the State Director of Social Welfare of each of the States for a report on the applicant's means and condition;
- (b) require the applicant to provide any information, particulars or documents as required by the Director General for the purpose of considering the application;
- (c) require the applicant to appear in person before the Director General or an appointed officer;
- (d) refer the application or any matter arising in the application to any panel of solicitors to—
  - (i) investigate the facts and make a report regarding the facts; or
  - (ii) give any opinion on the facts or on any question of law arising in the application;

- (e) take or direct to take any necessary steps to protect the interest of the applicant pending the decision of his application; and
- (f) pay expenses incidental to any of the above-mentioned matters from moneys allocated for that purpose.

(2) The Director General may reject any application under subsection (1) if the applicant fails to provide any information, particulars or documents as required by the Director General.

### **Issuance of legal aid certificate in civil and syariah proceedings**

**23.** (1) After investigating the application pursuant to section 22 and after payment of the prescribed fee made by the applicant, the Director General may issue a legal aid certificate to the applicant if the Director General is satisfied that—

- (a) the applicant has reasonable grounds for bringing, defending, continuing or becoming a party to the proceedings; and
- (b) the applicant meets the criteria and the means test as prescribed by the Minister.

(2) The aided person shall comply with any directions given by the Director General and is entitled to any rights and privileges, in accordance with this Act and the regulations made under it.

### **Legal aid certificate for all causes of action in syariah proceedings**

**24.** (1) The Director General may, in the case of syariah proceedings, issue only one legal aid certificate to the applicant even though the applicant's dispute may lead to several consequential causes of action, provided that all the causes of action in such dispute involve the same parties.

(2) The certificate shall remain in effect for any pending cause of action.

(3) Notwithstanding subsection (2), and subject to section 33, an aided person shall apply for a new legal aid certificate if he wishes to appeal any decision made by the lower court in relation to any syariah proceedings that have been disposed of and such application shall be deemed to be a fresh application.

**Additional powers to issue legal aid certificate in civil and syariah proceedings**

**25.** (1) Notwithstanding section 23, the Director General may issue a legal aid certificate in relation to any civil or syariah proceedings to any applicant if the Director General is satisfied that —

- (a) the applicant has reasonable grounds for bringing, defending, continuing or becoming a party to the proceedings; and
- (b) the applicant meets the criteria and the means test as prescribed by the Minister.

(2) The Director General may, before issuing the legal aid certificate to the applicant referred to in subsection (1), require the applicant to pay to the Director General a contribution towards the amount payable on the applicant's account for the purpose of filing in court and the contribution shall be deposited into the trust account.

(3) Notwithstanding subsection (2) and section 24, the Director General may—

- (a) issue a separate legal aid certificate to the applicant for each different cause of action even though the dispute involves the same parties; and
- (b) require the applicant to pay a contribution to the Director General, for any amount as prescribed by the Minister, for each certificate referred to in paragraph (a), and the contribution shall be deposited into the trust account.

**Issuance of legal aid certificate after obtaining authorization of Minister in civil and syariah proceedings**

**26.** (1) Notwithstanding sections 23 and 25, the Director General shall, after obtaining the authorization of the Minister under subsection 20(2), issue a legal aid certificate to an applicant.

(2) The Director General may, before issuing the legal aid certificate under subsection (1), require the applicant to pay a contribution towards the amount due and payable on the applicant's account for the purpose of filing in court and the contribution shall be deposited into the trust account.

(3) Notwithstanding section 24, the Director General may—

- (a) issue a separate legal aid certificate to the applicant for each different cause of action even though the dispute involves the same parties; and
- (b) require the applicant to pay a contribution to the Director General, for any amount as prescribed by the Minister, for each certificate referred to in paragraph (a), and the contribution shall be deposited into the trust account.

**Contribution from aided person after obtaining legal aid certificate for civil and syariah proceedings**

**27.** (1) The Director General may require an aided person in civil and syariah proceedings to pay a contribution for an amount as prescribed by the Minister and the contribution shall be deposited into the trust account.

(2) If there is any excess of the contribution on the account of the aided person, the aided person may, within a period of six months from the date the legal aid certificate is terminated, apply to the Director General for the excess contribution to be refunded.

(3) The excess contribution to be refunded under subsection (2) shall not exceed twenty-five percent of the contribution being the advocacy costs paid pursuant to subsection (1).



(4) The aided person shall be deemed to have waived his rights if the aided person does not apply for the refund of the excess contribution within the period specified in subsection (2).

(5) Subject to the regulations made under this Act, any unpaid contribution on the account of the aided person in relation to any civil or syariah proceedings, shall be a first charge on any property that may be recovered or preserved for the aided person in the proceedings.

(6) For the purposes of subsection (5), any property recovered or preserved for any aided person shall include—

- (a) his rights under any settlement agreement in the proceedings; and
- (b) any money recovered pursuant to an order for costs made for his interest in the proceedings.

(7) The charge created by subsection (5) on any damages or costs shall not prevent the court from allowing the damages and costs to be deducted from other damages or costs if the solicitor's lien for costs does not prevent it.

### **Record and filing of legal aid certificate in civil and syariah proceedings**

**28.** (1) The Director General may, after issuing a legal aid certificate to the aided person under section 23, 25 or 26—

- (a) act on behalf of the aided person; or
- (b) assign a solicitor who is chosen by either the aided person or the Director General to act on behalf of the aided person.

(2) The Director General shall record the name of the assigned solicitor in the legal aid certificate.

(3) The Director General or assigned solicitor shall file the legal aid certificate without being imposed with a court fee to commence any proceedings in court.

(4) The Director General or assigned solicitor shall represent the aided person in court proceedings after the legal aid certificate is filed in court.

(5) If there is any change in the solicitor assigned to the aided person, the Director General or the new solicitor shall file in the court hearing the proceedings a notice of change of solicitors.

(6) When the legal aid certificate has been filed pursuant to subsection (3), the aided person—

- (a) shall be given a copy of the record of the judge's notes of the aided person's civil or syariah proceedings free of charge;
- (b) shall not be liable to pay any court fees which includes fees for serving process or enforcement of any court order or judgment for the aided person's civil or syariah proceedings; and
- (c) shall not be liable to pay any costs to any other party in the civil or syariah proceedings of the aided person.

### **Revocation of certificate in civil and syariah proceedings**

**29.** (1) Subject to subsections (2) and (3), the Director General may revoke—

- (a) any legal aid certificate issued under section 23 or 25, whether or not an application has been made to that effect; and
- (b) after obtaining authorization from the Minister, any legal aid certificate issued under section 26.

(2) The Director General or any appointed officer shall take any reasonable or necessary action to issue a notice of revocation of the legal aid certificate to the aided person.

(3) The notice of revocation of the legal aid certificate issued to the aided person shall be effective from the date the aided person receives such notice.

(4) Where the revoked legal aid certificate has been filed in any court, the Director General or appointed officer shall file in the court a notice of revocation of the legal aid certificate and the revocation shall be effective from the date of filing of such notice in court.

(5) The court shall, upon receiving the notice of revocation under subsection (4), order all pending civil or syariah proceedings in relation to the aided person be stayed—

- (a) for a period of one month; or
- (b) for any other period after taking into account the interests of justice of parties who may be affected by the stay order.

(6) A person shall cease to be an aided person effective from—

- (a) the date such person receives the notice of revocation under subsection (3); or
- (b) the date of filing of the notice of revocation in court under subsection (4).

### **Advances for unexpected expenses in civil and syariah proceedings**

**30.** (1) The Director General may request any applicant or aided person to advance a sum of money at any time the Director General thinks fit to be deposited into the trust account for the purposes of payment of unexpected expenses arising specifically in relation to the provision of legal aid under this Chapter.

(2) The Director General when requesting the advance referred to in subsection (1) shall ensure the request does not cause—

- (a) undue hardship to the applicant or aided person; and
- (b) all consequential matters related to the legal aid to be suspended pending the payment of such advance to the extent that it may harm the interests of the applicant or aided person.

(3) The advance referred to in subsection (1) shall only be used for the purposes of unexpected expenses.

(4) The Director General may pursue any action at the expense of public money or money from the trust account in the interests of justice even though the applicant or aided person fails to advance a sum of money under subsection (1).

(5) If there is any excess of the advance on the account of the aided person, the aided person may, within a period of six months from the date the certificate is revoked, apply to the Director General for the excess of the advance to be refunded.

(6) The excess of the advance to be refunded under subsection (5) shall not exceed twenty-five percent of the advance being the advocacy costs paid pursuant to subsection (1).

(7) The aided person shall be deemed to have waived his rights if the aided person does not apply for the refund of the excess of the advance within the period specified under subsection (5).

### **Cost**

**31.** (1) The court may order costs to be paid to any aided person even though—

(a) no amount is due and payable by the aided person; or

(b) the cost is higher than the amount due and payable by the aided person.

(2) For the purposes of subsection (1), any order regarding costs shall be made by the court in the name of the Director General of Legal Aid.

(3) Subject to subsections (4), (5), (6), (7) and (8), every aided person shall pay to the Director General an advocacy cost.

(4) If the court orders that the aided person is to receive any money which is less than ten thousand ringgit, the aided person is not liable to make any payment to the Director General as advocacy costs.

(5) If the court orders that the aided person is to receive any money which is more than ten thousand ringgit, the aided person shall pay to the Director General one quarter of the amount ordered but not exceeding ten thousand ringgit as advocacy costs which is to be deposited into a trust account.

(6) If the court orders that the aided person is to receive any property valued at more than ten thousand ringgit as assessed in the proceedings, the aided person shall pay to the Director General an amount not exceeding ten percent of the said property value as advocacy costs which is to be deposited into the trust account.

(7) If the court affirms an award granted by a quasi-judicial body, the aided person shall pay to the Director General an amount not exceeding ten percent of the amount of the award as advocacy costs which is to be deposited into the trust account.

(8) The Director General may, with the approval of the Minister, waive or allow a reduction of any payment that may be imposed under subsection (5), (6) or (7) if the imposition of the payment may cause undue hardship on the aided person.

(9) For the purposes of subsection (1), “costs” shall include—

- (a) the solicitor’s fees;
- (b) the fees referred to in paragraphs 28(6)(a) and (b); and
- (c) any money expended by the Director General in accordance with section 30, to pay unexpected expenses.

(10) For the purposes of subsections (4) and (5), “money” does not include costs referred to in subsection (1).

### **Stay of proceedings upon making application for legal aid**

**32.** (1) Where during any civil or syariah proceedings, a party to the proceedings makes an application for legal aid under this Act, the Director General shall—

- (a) serve a notification to the other party in accordance with the rules of the court regarding the application; and
- (b) file the notification in accordance with the rules of the court without paying any filing fee.

(2) The court shall, upon receiving the notification from the Director General under subsection (1), order the proceedings to be stayed for a period of one month from—

(a) the date of filing of the notification; or

(b) any mention or hearing date as directed by the court,

to enable the Director General to decide whether the applicant is eligible to be provided with legal aid under this Act.

(3) For the purposes of subsection (2), the court may—

(a) allow the period of stay to be reduced or extended; or

(b) revoke the order for a stay if the court finds that the application for legal aid made under this Act is an act of abuse of the court process by the applicant.

(4) Notwithstanding subsections (2) and (3), in the interests of justice, the court may allow—

(a) an interlocutory order to be granted, enforced or executed for an injunction;

(b) an interlocutory order for the appointment of a receiver or manager, or receiver and manager;

(c) an order to maintain the validity of a caveat to prevent any dealing of alienated land; or

(d) any other order that the court has to make fairly and equitably for the benefit of the other party in the proceedings.

(5) Sections 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31 shall apply *mutatis mutandis* to an application for legal aid under subsection (1).

### **Appeal of aided person against decision of court**

**33.** (1) If an aided person is aggrieved by any decision of the court and wishes to appeal against the decision of the court, the aided person shall apply for a new legal aid certificate for the purposes of such appeal.

(2) The application for legal aid under subsection (1) shall be deemed to be a new legal aid application.

(3) Sections 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31 shall apply *mutatis mutandis* to an application for legal aid under this section.

(4) The appeal referred to under subsection (1) shall be made with the approval of the Director General subject to any conditions as may be determined by the Director General.

(5) Notwithstanding subsection (4), for the purpose of complying with rules regarding the time period prescribed for the filing of an appeal, a notice of appeal may be filed in advance without the approval of the Director General.

(6) A notice of appeal filed by the aided person may be proceeded with on his own even though his application for a legal aid is not approved by the Director General.

### **Appeal against decision of court by person other than aided person**

**34.** If the other party to the proceedings appeals against any decision of the court, the certificate issued by the Director General for the benefit of the aided person under this Act shall remain in effect until all matters arising from the appeal are disposed of.

### **New application for legal aid at appeal stage**

**35.** Sections 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31 shall apply *mutatis mutandis* to any person who requires legal aid for the purpose of—

- (a) making an appeal to a higher court for being aggrieved by any decision of a lower court; or
- (b) enabling the Director General to represent him for an appeal brought by another party aggrieved by any decision of the court that benefits the applicant.

## Chapter 4

*Legal companion services***Scope of legal companion services**

**36.** (1) The Director General, an assigned solicitor or an appointed officer may provide legal companion services to children who are victims of any crime in any proceedings specified in the Third Schedule regardless of nationality and citizenship of the child.

(2) Notwithstanding subsection (1), the Director General may, in the interests of justice, provide legal companion services to a person who has attained the age of eighteen years if such person was a victim of any crime in any proceedings specified in the Third Schedule and was still a child at the time such proceedings were commenced in court.

**Purpose of legal companion services**

**37.** Legal companion services may be provided for the following purposes:

- (a) to advise the guardian, or protector of an aided person permitted under any written laws, on legal matters arising from proceedings specified in the Third Schedule;
- (b) to obtain relevant information relating to charges against any accused person in any criminal proceedings in which the aided person is the victim;
- (c) to accompany an aided person in any proceedings in court, and with leave of the court to speak on behalf of an aided person, if necessary; and
- (d) to advise the guardian, or protector of an aided person as permitted under any written law, on any matter relating to any civil proceedings that can be brought or instituted by the aided person, arising from proceedings specified in the Third Schedule.



### **Application for legal companion services**

**38.** (1) An application by a person who wishes to obtain legal companion services shall be made to the Director General in such manner as may be determined by the Director General.

(2) The application by a child shall be made through the parents or guardian of the child.

(3) An application under subsections (1) and (2) shall be accompanied by such information, particulars or documents as may be determined by the Director General.

### **Issuance of legal aid certificate for legal companion services**

**39.** After considering the application made under section 38 and after payment of the prescribed fee made by the applicant, the Director General may issue a legal aid certificate for legal companion services to the applicant.

### **Contribution from aided person after obtaining legal aid certificate for legal companion services**

**40.** (1) The Director General may require an aided person to pay a contribution as prescribed by the Minister if the Director General finds that the aided person has an income that exceeds the eligibility limit based on the criteria and the means tests as prescribed by the Minister.

(2) The contribution paid under subsection (1) shall be deposited in the trust account and shall be expended only for the purpose of administering the legal companion services.

### **Record and filing of legal aid certificate for legal companion services**

**41.** (1) The Director General may, after issuing a legal aid certificate to the aided person under section 39—

- (a) act on behalf of the aided person; or
- (b) assign a solicitor who is chosen by either the aided person or the Director General to act on behalf of the aided person.

(2) The Director General shall record the name of the assigned solicitor in the legal aid certificate.

(3) The Director General or assigned solicitor shall file the legal aid certificate without being imposed with a court fee to commence any proceedings in court.

(4) The Director General or assigned solicitor shall represent the aided person in court proceedings after the legal aid certificate is filed in court.

(5) If there is any change in the solicitor assigned to the aided person, the Director General or the new solicitor shall file in the court hearing the proceedings a notice of change of solicitors.

(6) When the legal aid certificate has been filed pursuant to subsection (3), the aided person—

(a) shall be given a copy of the record of the judge's notes of the criminal proceedings related to the aided person free of charge;

(b) shall not be liable to pay any court fees; and

(c) shall not be liable to pay any costs to any other party in the criminal proceedings related to the aided person.

### **Revocation of legal aid certificate for legal companion services**

**42.** (1) The Director General may revoke any legal aid certificate for legal companion services to an aided person for any reason in the interests of justice.

(2) The Director General or any appointed officer shall take any reasonable or necessary action to issue a notice of revocation of the legal aid certificate to the aided person through his parent or guardian.

(3) The notice of revocation of the legal aid certificate issued to the aided person shall be effective from the date the aided person receives such notice.

(4) Where the revoked legal aid certificate has been filed in any court, the Director General or appointed officer shall file in the court a notice of revocation of legal aid certificate and the revocation shall be effective from the date of filing of such notice in court.

(5) Notwithstanding subsection (1), an aided person through his parents or guardian may appeal to the Minister if they still require legal companion services, and any decision made by the Minister on such appeal shall be final.

(6) A person shall cease to be an aided person effective from—

- (a) the date such person receives the notice of revocation under subsection (3); or
- (b) the date of filing of the notice of revocation in court under subsection (4).

## Chapter 5

### *Mediation*

#### **Scope of mediation services**

**43.** The Director General may, with the authorization of the Minister, provide mediation services to any person or aided person in relation to any of the proceedings specified in the Second Schedule.

#### **Application for mediation services**

**44.** (1) An application by a person or an aided person who wishes to obtain mediation services shall be made to the Director General in such manner as may be determined by the Director General.

(2) An application under subsection (1) shall be accompanied by such information, particulars or documents as may be determined by the Director General.

(3) After considering the application, the Director General may approve the provision of mediation services to the applicant and may provide mediation services to the applicant in accordance with the regulations prescribed by the Minister.

(4) If the applicant is a child, the application shall be made on behalf of the child by his parents or guardian and any reference to the applicant in this Chapter shall include the parents or guardian of the child.

### **Reference to mediation by Director General**

**45.** The Director General may, if he thinks necessary, refer any person, applicant or aided person under Chapters 2 and 3 of Part III to mediation services by giving a notice orally, or through electronic service or remote communication technology requiring such person to make an application for mediation services under section 44.

### **Mediator**

**46.** (1) The Minister may appoint any person as a mediator for the purposes of this Chapter.

(2) Every mediator appointed under subsection (1) shall be subject to the general supervision and directions of the Director General.

(3) The mediator appointed under this section shall not appear and plead in any court to represent any person who is a party to the mediation session conducted by him for the same dispute arising in such mediation session.

(4) The Minister may terminate the services of any mediator appointed under subsection (1) for any reason.

### **Manner of conducting mediation**

**47.** (1) A mediation session shall be conducted in accordance with the regulations prescribed by the Minister and after payment of a prescribed fee.

(2) A mediation session may be presided over by one or more mediators.

(3) A mediation session may commence or continue whether or not the dispute can be a subject matter or is the subject matter before any court, tribunal or body.

### **Mediation to be voluntary**

**48.** (1) All parties to the mediation services provided by the Director General may voluntarily attend and participate in a mediation session.

(2) Any party to the mediation services may withdraw from the mediation session at any time.

(3) Notwithstanding subsections (1) and (2), the attendance and participation in or withdrawal from any mediation sessions conducted under this Act shall not affect any rights or remedies available to the disputing parties.

### **Confidential communication with mediator**

**49.** (1) No person shall be compelled to disclose to the court any confidential communication which has taken place between that person and the mediator, if the mediation process fails.

(2) Notwithstanding subsection (1), if that person offers himself as a witness in a trial involving any dispute that has been subjected to mediation under this Chapter, that person may be ordered by the court to disclose such communications in the mediation session only if the communication appears to the court necessary to explain any evidence which that person has given.

### **Settlement or agreement to be reduced into writing**

**50.** No settlement or agreement shall be binding on all parties to a mediation session and enforceable in any court unless it has been reduced into writing and signed by all parties to the mediation.

**Mediation through remote communication technology**

**51.** (1) Subject to the agreement of the parties and the regulations prescribed by the Minister, the mediator may conduct mediation sessions through remote communication technology.

(2) Any settlement or agreement that has been reduced into writing and signed through electronic service by the parties to the mediation shall be binding on the parties and may be recorded in any court.

**PART IV****PUBLIC DEFENCE SERVICES****Scope of public defence services**

**52.** (1) The Director General, the Chief Public Defender, an assigned solicitor or a public defender officer may provide public defence services in relation to any criminal proceedings specified in the Fourth Schedule.

(2) Notwithstanding subsection (1), where the Minister is satisfied that in any particular case of hardship it is in the interest of justice to do so, the Minister may authorize the Director General or the Chief Public Defender to provide public defence services other than the proceedings specified in the Fourth Schedule.

**Application for public defence services**

**53.** (1) An application by a person who requires public defence services shall be made to the Chief Public Defender in such manner as may be determined by the Director General.

(2) An application under subsection (1) shall be accompanied by such information, particulars or documents as may be determined by the Director General.

(3) The application under subsection (1) may be made at any time within a period of fourteen days—

- (a) after the case is transferred to the High Court under section 177A of the Criminal Procedure Code [Act 593];
- (b) after a charge before any court;
- (c) after conviction by any court; or
- (d) after receiving a notice of appeal.

(4) If the applicant is a child, the application shall be made on behalf of the child by his parents or guardian and any reference to the applicant in this Chapter shall include the parents or guardian of the child.

(5) Subject to the limitation under section 56, no person arrested in relation to any offence or charged with any offence shall be denied the opportunity to apply for public defence services.

### **Issuance of public defence certificate**

**54.** The Chief Public Defender may issue a public defence certificate to the applicant after payment of the prescribed fee and after considering the application under section 53 and being satisfied that—

- (a) the applicant has reasonable grounds to obtain public defence services in the criminal proceedings;
- (b) the applicant meets the criteria and the means test as prescribed by the Minister; and
- (c) the offence charged against the applicant is within the scope of the public defence services.

### **Issuance of public defence certificate after obtaining authorization of Minister**

**55.** Notwithstanding section 53, the Director General shall, after obtaining the authorization of the Minister to provide public defence services pursuant to subsection 52(2) and after payment of the prescribed fee, issue a public defence certificate to an applicant.

**Limitation of public defence services**

**56.** No public defence services shall be provided in relation to any criminal proceedings as specified in the Fifth Schedule.

**Record and filing of public defence certificate**

**57.** (1) The Chief Public Defender may, upon issuing a public defence certificate to the aided accused under sections 54 and 55—

- (a) act on behalf of the aided accused; or
- (b) assign a solicitor who is chosen by either the aided accused or the Chief Public Defender to act on behalf of the aided accused.

(2) The Chief Public Defender shall record the name of the assigned solicitor in the public defence certificate.

(3) The Chief Public Defender or the assigned solicitor shall file the public defence certificate without being imposed with a court fee to commence any proceedings in court.

(4) The Chief Public Defender or the assigned solicitor shall represent the aided accused in court proceedings after the public defence certificate is filed in court.

(5) If there is any change in the solicitor assigned to the aided accused, the Chief Public Defender or new assigned solicitor shall file in the court hearing the proceedings a notice of change of solicitors.

(6) When the public defence certificate has been filed pursuant to subsection (3), the aided accused—

- (a) shall be given a copy of the record of the judge's notes of the aided accused's criminal proceedings free of charge; and
- (b) shall not be liable to pay any court fees.



**Revocation of public defence certificate**

**58.** (1) Subject to subsections (2) and (3), the Chief Public Defender may revoke—

- (a) any public defence certificate issued under section 54, whether or not an application has been made to that effect; and
- (b) after obtaining authorization from the Minister, any public defence certificate issued under section 55.

(2) The Chief Public Defender or any public defender officer shall take any reasonable or necessary action to issue a notice of revocation of the public defence certificate to the aided accused.

(3) The notice of revocation of public defence certificate issued to the aided accused shall be effective from the date the aided accused receives such notice.

(4) Where the revoked public defence certificate has been filed in any court, the Chief Public Defender or public defender officer shall file in the court a notice of revocation of the public defence certificate and the revocation shall be effective from the date of filing of such notice in court.

(5) The court shall, upon receiving the notice of revocation under subsection (4), order all pending criminal proceedings in relation to the aided accused be stayed—

- (a) for a period of one month; or
- (b) for any other period after taking into account the interests of justice of parties who may be affected by the stay order.

(6) A person shall cease to be an aided accused effective from—

- (a) the date such person receives the notice of revocation under subsection (3); or
- (b) the date of filing of the notice of revocation in court under subsection (4).

**Advances for unexpected expenses in criminal proceedings**

**59.** (1) The Chief Public Defender may request any applicant or aided accused to advance a sum of money at any time the Chief Public Defender thinks fit to be deposited into the trust account for the purposes of the payment of unexpected expenses arising specifically in relation to the provision of public defence services under this Part.

(2) The Chief Public Defender when requesting the advance referred to in subsection (1) shall ensure the request does not cause—

(a) undue hardship to the applicant or aided accused; and

(b) all consequential matters related to the public defence services to be suspended pending the payment of such advance to the extent that it may harm the interests of the applicant or aided accused.

(3) The advance referred to in subsection (1) shall only be used for the purposes of unexpected expenses.

(4) The Chief Public Defender may pursue any action at the expense of public money or money from the trust account in the interests of justice even though the applicant or aided accused fails to advance a sum of money under subsection (1).

(5) If there is any excess of advance on the account of the aided accused, the aided accused may, within a period of six months from the date the certificate is revoked, apply to the Chief Public Defender for the excess of the advance to be refunded.

(6) The excess of the advance to be refunded under subsection (5) shall not exceed twenty-five percent of the advance being the advocacy costs paid pursuant to subsection (1).

(7) The aided accused shall be deemed to have waived his rights if the aided accused does not apply for the return of the excess advance within the period specified under subsection (5).

**Appeal of aided accused against decision of court**

**60.** (1) If the aided accused is aggrieved by any decision of the court and wishes to appeal against the decision of the court, the aided accused shall apply for a new certificate for the purposes of such appeal.

(2) The application for public defence services under subsection (1) shall be deemed to be a new application for public defence services.

(3) Sections 53, 54, 56, 57, 58 and 59 shall apply *mutatis mutandis* to an application for public defence services under this section.

(4) The appeal referred to under subsection (1) shall be made with the approval of the Chief Public Defender subject to any conditions as may be determined by the Chief Public Defender.

(5) Notwithstanding subsection (4), for the purpose of complying with rules regarding the time period prescribed for the filing of an appeal, a notice of appeal may be filed in advance without the approval of the Chief Public Defender.

(6) A notice of appeal filed by the aided accused may be proceeded with on his own even though his application for public defence services is not approved by the Chief Public Defender.

### **Appeal against decision of court by Public Prosecutor**

**61.** If the Public Prosecutor appeals against any decision of the court, the public defence certificate issued by the Chief Public Defender for the benefit of the aided accused under this Act shall remain in effect until all matters arising from the appeal are disposed of.

## **PART V**

### **GENERAL**

#### **Use of electronic service**

**62.** (1) Notwithstanding any other provision of this Act and subject to the regulations made under this Act, the Director General may provide an electronic service to any registered user for—

- (a) the filing or submission of any application for legal aid or public defence services;

- (b) the filing or submission of any statutory declaration, cause paper, recorded settlement or agreement, or any other documents;
- (c) the payment of any fee, contribution, cost, charges and any other payment;
- (d) the service of any certificate, notice, directions, order, cause paper, receipt or any other documents;
- (e) the assignment or change of a solicitor for the purposes of legal aid and public defence services in relation to any provision under this Act; and
- (f) the provision of legal advice and mediation services.

(2) The Director General shall not be liable for any loss or damage suffered by the registered user by reason of any error or omission of whatever nature or however arising appearing in the electronic service if the error or omission was made in good faith and in the ordinary course of the discharge of the duties of the Director General or occurred or arose as a result of any defect or breakdown in the electronic service or in the equipment used for the provision of the electronic service.

(3) All transactions made under subsection (1) are deemed to have been furnished by a person to the Director General on the date the acknowledgement of receipt of the transaction is transmitted electronically by the Director General to the person.

**False or misleading statement, etc.**

**63.** A person who knowingly—

- (a) makes any false or misleading statement or representation in the application for legal aid or public defence services;
- (b) fails to make full disclosure of his financial ability; or

- (c) fails to inform the Director General of any change in his means or condition which may render him ineligible for legal aid or public defence services under this Act,

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or imprisonment for a period not exceeding two years or to both.

### **Court order for costs against aided person or aided accused**

**64.** (1) The court may order the aided person or aided accused to pay costs to the affected person if—

- (a) the legal aid provided to the aided person or public defence services provided to the aided accused was obtained through fraud or misrepresentation;
- (b) the aided person or aided accused has behaved or committed any act that may prejudice the interests of justice; or
- (c) for civil or syariah proceedings, the aided person is found to have misused the court process in actions or defences related to the proceedings.

(2) If an order is made under subsection (1), the cost shall be assessed as if the party ordered to pay the costs is not the aided person or aided accused and the costs may be deposited into the trust account.

(3) The costs ordered to be paid, unless otherwise directed by the order, shall include—

- (a) fees referred to in paragraphs 28(6)(a) and (b) or paragraphs 57(6)(a) and (b); and
- (b) any money which has been expended by the Director General to pay unexpected expenses in accordance with section 30 or 59.

(4) If the order for costs under subsection (1) consists of costs referred to in subsection (3) and any other costs, the costs received by the affected person shall first be expended for the payment of costs referred to in subsection (3).

(5) After an order for costs is made under subsection (1), the court may allow the aided person or aided accused—

- (a) in criminal proceedings, to continue his defence at his own expense; or
- (b) in civil or syariah proceedings, to withdraw pleadings for any reason allowed in accordance with the rules of the court.

(6) For the purposes of subsection (1), “affected person” means the Director General who acted for the aided person, the Chief Public Defender who acted for the aided accused, a solicitor assigned to act for the aided person or aided accused or a person who has been made as another party to any proceedings in any court.

### **Privileged communications**

**65.** (1) All communications between—

- (a) an applicant for legal aid or public defence services and the Director General or the Chief Public Defender; or
- (b) an aided person or aided accused and the Director General, Chief Public Defender, appointed officer, public defender officer, assigned solicitor or mediator,

are privileged to the same extent as communications between a solicitor and his client.

(2) Notwithstanding subsection (1), the privileged communication shall not cover any information provided to the Director General regarding the property or income of the applicant which is required for the purpose of investigation under section 22, and issuance of any legal aid certificate under sections 23, 24, 25 and 26 and issuance of any public defence certificate under sections 54 and 55.

### **Duty to avoid conflict of interest**

**66.** (1) The Director General or the appointed officer shall not represent both of the parties in the same civil or syariah proceedings.

(2) In the event that different aided persons are involved in the same civil or syariah proceedings, the Director General shall assign a different solicitor from the panel of solicitors to conduct the civil or syariah proceedings independently and impartially in the interests of justice for both parties.

(3) An assigned solicitor and his legal firm shall not represent —

- (a) both the aided accused and the victim of a crime allegedly committed by the aided accused in the same criminal proceedings; or
- (b) both the aided accused and the victim of a crime allegedly committed by the aided accused, if the aided accused is subject to any civil proceedings brought by the victim against him.

(4) Where a situation referred to in subsection (3) arises, an assigned solicitor shall, as soon as practicable, inform the Director General or the Chief Public Defender of such facts.

### **Finality of decisions**

**67.** Any decision made by the Director General or the Chief Public Defender—

- (a) to give or refuse to give legal aid under Part III or public defence services under Part IV to any applicant;
- (b) to revoke a legal aid certificate, terminate legal companion services or revoke a public defence certificate; or
- (c) to refuse an application for legal aid or public defence services to appeal against the decision of the court under section 33 or 60 to the aided person or aided accused respectively,

may be appealed to the Minister and the Minister may confirm, reverse or vary any decision of the Director General or the Chief Public Defender and the decision of the Minister is final.

**Public servant**

**68.** The Director General, the Chief Public Defender, the assigned solicitor, appointed officer, public defender officer and mediator, who is not a member of the public service, while discharging his duties under this Act shall be deemed to be a public servant within the meaning of the Penal Code.

**Application of Public Authorities Protection Act 1948**

**69.** The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Director General, the Chief Public Defender, the assigned solicitor, appointed officer, public defender officer and mediator, who is not a member of the public service, in respect of any act, neglect or default done or committed by him in good faith, or any omission by him in good faith in such capacity.

**Protection against suit and legal proceedings**

**70.** No action, suit, prosecution or other proceedings shall be brought, instituted or maintained in any court against the Minister, the Director General, the Chief Public Defender, the assigned solicitor, appointed officer, public defender officer and mediator on account of or in respect of any act, neglect or default done or omitted by him in the course of carrying out his duties under this Act unless it can be proven that the act, neglect or default was done or omitted in bad faith and without reasonable cause.

**Power to suspend**

**71.** (1) Notwithstanding the provisions of this Act, the Minister may, after consultation with the Minister of Finance, by order published in the *Gazette*, suspend any legal aid or public defence services provided under this Act for a reasonable period on the grounds of public interest.



(2) Any suspension of legal aid or public defence services made by the Minister under this section shall not affect the legal aid certificate or public defence certificate that has been issued under this Act before the suspension and any matters arising in accordance with the requirements of such certificate shall be continued by the Director General until they are disposed of to the extent that the legal aid or public defence services is not affected by the suspension order.

### **Power to amend Schedule**

**72.** (1) The Minister may, by order published in the *Gazette*, amend the Schedules to this Act.

(2) Notwithstanding subsection (1), the Minister may, after consultation with the Attorney General, by order published in the *Gazette*, amend the Fifth Schedule to limit public defence services in the interests of justice.

### **Power to make regulations**

**73.** (1) The Minister may make regulations as may be necessary or expedient for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations—

- (a) to prescribe all matters relating to the provision of legal aid and public defence services;
- (b) to prescribe all fees, charges, costs, contributions, advances or any other payment payable under this Act;
- (c) to prescribe all matters relating to the recovery of money due in respect of legal aid and public defence services;

- (d) to prescribe any provision necessary for special circumstances if—
- (i) a person seeks legal aid and public defence services in a matter of special urgency;
  - (ii) a person begins to receive legal aid and public defence services after consulting with a solicitor in the ordinary way in respect of the matter, or ceases to receive legal aid and public defence services before the matter in question is finally settled; and
  - (iii) there is any relevant change of circumstances while a person is receiving legal aid and public defence services;
- (e) to prescribe any other matter required to be prescribed under this Act.

## PART VI

### REPEAL, SAVING AND TRANSITIONAL

#### **Repeal**

**74.** The Legal Aid Act 1971 [*Act 26*] is repealed.

#### **Person holding office, etc.**

**75.** (1) The person holding office as the Director General of Legal Aid under the repealed Act shall be deemed to have been appointed under this Act and shall continue to hold office unless he sooner resigns his office or is transferred to another office in the general public service of the Federation.

(2) All officers and staff holding an appointment under the repealed Act shall be deemed to be officers and staff appointed under this Act and shall continue to hold office unless he sooner resigns his office or is transferred to another office in the general public service of the Federation and shall hold such title of office as may be determined by the Minister.

**Transfer of powers, rights, duties, etc.**

**76.** All powers, rights, duties, liabilities and obligations which immediately before the date of coming into operation of this Act were the powers, rights, duties, liabilities and obligations of the former Director General of Legal Aid and appointed officers under the repealed Act shall, on the date of coming into operation of this Act, be devolved on the Director General and appointed officers under this Act.

**Transfer of moneys in trust account**

**77.** All moneys standing in and due to be paid into the trust account created and maintained by the former Director General of Legal Aid under the repealed Act shall on the date of coming into operation of this Act be transferred to and be deemed to be part of the trust account created and maintained by the Director General under this Act.

**Contributions, etc.**

**78.** All contributions and advance payments for unexpected expenses paid to the Director General of Legal Aid immediately before the coming into operation of this Act, shall, on the date of coming into operation of this Act, be deemed to be paid under this Act and dealt with under this Act.

**Application for legal aid**

**79.** Any application for legal aid under the repealed Act immediately before the date of coming into operation of this Act, shall be dealt with under this Act.

**Continuance of legal aid**

**80.** All legal aid given before the date of coming into operation of this Act under the repealed Act, shall continue to be given under this Act.

**Continuance of legal aid certificate**

**81.** (1) All legal aid certificates issued under the repealed Act before the date of coming into operation of this Act shall, subject to the terms, conditions, limitations and period of validity specified in the certificate, on the date of coming into operation of this Act, continue to remain in force and enforceable until such certificate is revoked.

(2) The Director General may amend, renew or cancel the certificate referred to in subsection (1) in accordance with the provisions of this Act.

**Continuance of panel of solicitors**

**82.** (1) All assignments of a panel of solicitors under the repealed Act immediately before the coming into operation of this Act shall, on the date of coming into operation of this Act, be deemed to have been assigned under this Act.

(2) The Director General may renew or cancel the assignment of solicitors referred to in subsection (1) in accordance with the provisions of this Act.

**Continuance of decisions, etc.**

**83.** All decisions, directions and notices made or issued by the Director General of Legal Aid or the Minister under the repealed Act shall, in so far as those decisions, directions and notices are consistent with this Act, on the date of coming into operation of this Act, continue in force until such decisions, directions and notices are revoked or amended.

## FIRST SCHEDULE

## [Section 16]

DESCRIPTION OF MATTERS IN RESPECT OF WHICH LEGAL ADVICE  
MAY BE GIVEN

Legal advice on all legal matters in relation to laws of Malaysia

SECOND SCHEDULE

[Section 20]

DESCRIPTION OF CIVIL AND SYARIAH PROCEEDINGS IN  
RESPECT OF WHICH LEGAL AID MAY BE PROVIDED

Part I

*Proceedings in Civil Courts*

(1) No.	(2) Proceedings
1.	Proceedings under the Married Women and Children (Maintenance) Act 1950 [ <i>Act 263</i> ].
2.	Proceedings under the Maintenance Ordinance 1959 [ <i>Sabah No. 7 of 1959</i> ]
3.	Proceedings under the Married Women and Children (Enforcement of Maintenance) Act 1968 [ <i>Act 794</i> ].
4.	Proceedings under the Sarawak Native Customary Marriage (Maintenance) Ordinance 2003 [ <i>Chapter 55</i> ].
5.	Proceedings under the Maintenance Orders (Facilities for Enforcement) Act 1949 [ <i>Act 34</i> ] for provisional order
6.	Proceedings relating to rights and liabilities regarding divorce and custody
7.	Proceedings relating to rights and liabilities under the Adoption Act 1952 [ <i>Act 257</i> ]
8.	Proceedings relating to rights and liabilities under the Adoption Ordinance 1960 ( <i>Sabah No. 23 of 1960</i> )
9.	Proceedings under the Sarawak Adoption Ordinance ( <i>Chapter 91</i> )
10.	Proceedings relating to rights and liabilities under the Small Estates (Distribution) Act 1955 [ <i>Act 98</i> ]
11.	Application for Probate and Letter of Administration of the Estate
12.	Proceedings relating to rights and liabilities under the Sabah Probate and Administration Ordinance 1947 ( <i>Chapter 109</i> )
13.	Proceedings relating to rights and liabilities under the Sarawak Administration of Estates Ordinance ( <i>Chapter 80</i> )
14.	Proceedings relating to rights and liabilities under the Padi Cultivators (Control of Rent and Security of Tenure) Act 1967 [ <i>Act 793</i> ]

(1) No.	(2) Proceedings
15.	Proceedings relating to rights and liabilities regarding civil actions for damages arising from accidents involving motor vehicles within the meaning of the Road Transport Act 1987 [ <i>Act 333</i> ]
16.	Proceedings relating to rights and liabilities under the Moneylenders Act 1951 [ <i>Act 400</i> ]
17.	Proceedings relating to rights and liabilities regarding proceedings relating to tenancy
18.	Proceedings relating to rights and responsibilities under the Hire-Purchase Act 1967 [ <i>Act 212</i> ]
19.	Consumer claims which include— (a) matters relating to enforcement of the Tribunal for Consumer Claims award; and (b) judicial review proceedings naming the user as a respondent in the legal action
20.	Application for an order on presumption of death
21.	Proceedings under the Guardianship of Infants Act 1961 [ <i>Act 351</i> ]
22.	Proceedings under the Sarawak Guardianship of Infants Ordinance ( <i>Chapter 93</i> )
23.	Proceedings under the Sabah Guardianship of Infants Ordinance ( <i>Chapter 54</i> )
24.	Judicial review or appeal of a decision made in relation to labour and industrial relations law naming an employee as respondent by his employer or former employer in the legal action

## Part II

*Proceedings in Syariah Courts*

(1) No.	(2) Proceedings
1.	Proceedings relating to engagement (damages), <i>wali hakim</i> , maintenance, custody, divorce, <i>ruju'</i> , marital debt, <i>muta'ah</i> and <i>harta sepencarian</i> , <i>harta dom</i> ( <i>harta bawaan</i> ) including proceedings relating to the enforcement and execution of orders for these proceedings
2.	Proceedings relating to gift <i>inter vivos</i> ( <i>hibah</i> ) and will

(1) No.	(2) Proceedings
3.	Application for presumption of death for dissolution of marriage
4.	Application for confirmation of <i>nasab</i> of child
5.	Application for confirmation of marriage

Note: For the purposes of this Schedule, any words and expressions in the Arabic language, shall be deemed to have the meaning assigned to them under any relevant Federal Acts or State Enactment.

### THIRD SCHEDULE

[Section 36]

#### DESCRIPTION OF OFFENCES IN RESPECT OF WHICH LEGAL COMPANION SERVICES MAY BE PROVIDED

All offences against children as provided for in any written law

### FOURTH SCHEDULE

[Section 52]

#### DESCRIPTION OF CRIMINAL PROCEEDINGS IN RESPECT OF WHICH PUBLIC DEFENCE SERVICES MAY BE PROVIDED

(1) No.	(2) Proceedings
1.	All criminal proceedings in which the accused and the child accused of any offence are not represented by a solicitor
2.	All criminal proceedings against a person with disabilities who is a citizen of Malaysia and children with disabilities of non-citizens subject to certain conditions
3.	All criminal proceedings under the Minor Offences Act 1955 [Act 336]
4.	All criminal proceedings against children in the Court For Children under the Child Act 2001 [Act 611] regardless of nationality or citizenship
5.	All applications under section 117 of the Criminal Procedure Code [Act 593] for the purposes of further investigation

FIFTH SCHEDULE  
[Section 56]

DESCRIPTION OF CRIMINAL PROCEEDINGS IN RESPECT OF  
WHICH PUBLIC DEFENCE SERVICES MAY NOT BE PROVIDED

(1) No.	(2) Proceedings
1.	Charges for criminal offences punishable with the death penalty or imprisonment for life
2.	Charges for criminal offences under Chapters VI, VIA and VIB of the Penal Code [Act 574] except for a child offender
3.	Charges for criminal offences involving child victims

EXPLANATORY STATEMENT

The Legal Aid and Public Defence Bill 2025 (“the proposed Act”) seeks to enhance and reform legal aid services in Malaysia by repealing the Legal Aid Act 1971 [Act 26] and replacing it with the proposed Act. The proposed Act upgrades the legal aid services in criminal proceedings by renaming it as public defence services and introducing two new offices of titles namely the Chief Public Defender and public defender officer. Under this proposed Act, any person may be appointed as the Director General or the Chief Public Defender provided that such person has an academic qualification in the field of law recognized by the Government as shall have the practical skills, knowledge and experience in advocacy and litigation. Currently, the Director General is appointed among members of public services. The proposed Act also expands legal companion services to all children regardless of nationality and citizenship.

PART I

- 2. Part I of the proposed Act contains preliminary matters.
- 3. *Clause 1* contains the short title and provision on the commencement of the proposed Act.
- 4. *Clause 2* contains the definition of certain words and expressions used in the proposed Act.



PART II

Chapter 1

5. Chapter 1 of Part II of the proposed Act deals with the provisions relating to administration.

6. *Clause 3* seeks to provide for the appointment of the Director General, Deputy Directors General and other officers assisting the Director General. This *clause* also provides that the Director General shall have an academic qualification in the field of law recognized by the Government and shall have the practical skills, knowledge and experience in advocacy and litigation.

This *clause* also empowers the Director General and the appointed officers to appear and plead in all courts in Malaysia.

This *clause* also provides that every officer appointed is subject to the general supervision and directions of the Director General.

This *clause* also provides that the Director General shall devote the whole of his professional time as the Director General and while holding office shall not occupy any other office or employment whether remunerated or not.

This *clause* further provides that the Director General and every appointed officer who is not a member of the public service shall receive remuneration as determined by the Minister after consultation with the Minister of Finance.

7. *Clause 4* seeks to provide for the appointment of the Chief Public Defender and the public defender officers for the purposes of public defence services under the proposed Act. The Chief Public Defender and the public defender officers appointed shall have academic qualification in the field of law recognized by the Government. This *clause* further provides that the person appointed as Chief Public Defender shall have the practical skills, knowledge and experience in advocacy and litigation.

This *clause* also provides that the Chief Public Defender shall devote the whole of his professional time as the Chief Public Defender and while holding office shall not occupy any other office or employment whether remunerated or not.

This *clause* also provides that the Chief Public Defender and the public defender officers shall be subjected to the general supervision and directions of the Director General.

This *clause* also empowers the Chief Public Defender and the public defender officers to appear and plead in all criminal proceedings in Malaysia for aided accused, for the purposes of the proposed Act.

8. *Clause 5* seeks to provide that the Director General may issue such directive as he considers necessary for the purpose of ensuring compliance with the proposed Act.

9. *Clause 6* seeks to provide that the Director General is under the supervision of the Minister.

## Chapter 2

10. Chapter 2 of Part II of the proposed Act deals with panels of solicitors for legal aid and public defence services.

11. *Clause 7* seeks to impose responsibility on the Director General to prepare and maintain panels of solicitors who shall investigate any application for legal aid, make reports on the investigation, give opinions on the application for legal aid, act on behalf of the aided persons or provide legal advice under the proposed Act.

This *clause* also provides that the Director General may prepare separate panels of solicitors for different purposes and for different courts and any solicitor may apply to the Director General to have his name registered in any panel of solicitors.

This *clause* also seeks to provide that any solicitor who has been assigned to represent the aided person may appear and plead in all courts on behalf of the Director General.

12. *Clause 8* seeks to impose responsibility on the Chief Public Defender to prepare and maintain panels of solicitors for public defence services who shall investigate any application for public defence services, make reports on the investigation, give opinion on the application for public defence services and on any question of law arising in the proceedings involving the applicant and act on behalf of the aided accused.

This *clause* also provides that the Chief Public Defender may prepare separate panels of solicitors for different purposes and for different courts and any solicitor may apply to the Chief Public Defender to have his name registered in any panel of solicitors.

This *clause* also seeks to provide that any solicitor who has been assigned to represent the aided accused may appear and plead in all courts on behalf of the Chief Public Defender.

13. *Clause 9* seeks to provide for the payment for an assigned solicitor for any legal aid or public defence services provided by him, for the amount prescribed by the Minister.

14. *Clause 10* seeks to provide that the Director General or the Chief Public Defender may remove the name of a solicitor from any panel of solicitors for legal aid services or panel of solicitors for public defence services.

15. *Clause 11* seeks to provide that the Director General or the Chief Public Defender shall make a recommendation to the Minister to establish a disciplinary committee to conduct disciplinary proceedings against any solicitor.

This *clause* also enables any solicitor who is aggrieved by a decision of the Minister or a disciplinary committee to apply to the High Court for a judicial review of such decision.

16. *Clause 12* seeks to prohibit any aided person or aided accused from terminating the legal aid or the public defence services provided by any assigned solicitor, without permission of the Director General or the Chief Public Defender.

This *clause* also prohibits any assigned solicitor from terminating his legal aid or public defence services without permission of the Director General or the Chief Public Defender.

### Chapter 3

17. Chapter 3 of Part II of the proposed Act deals with the fee for legal aid services and public defence services.

18. *Clause 13* seeks to provide that any person eligible for legal aid and public defence services under the proposed Act, shall pay to the Director General a fee as prescribed by the Minister which shall be deposited into the trust account.

### Chapter 4

19. Chapter 4 of Part II of the proposed Act deals with the trust account.

20. *Clause 14* seeks to impose responsibility on the Director General to create and maintain a trust account according to the Financial Procedure Act 1957 [Act 61] for the purposes of collection or payment of, any fee, contribution, cost, charges and any other payment in relation to legal aid and public defence services under the proposed Act.

## PART III

### Chapter 1

21. Chapter 1 of Part III of the proposed Act deals with the provision of legal aid.

22. *Clause 15* seeks to provide that the legal aid provided under the proposed Act shall consist of legal advice, legal aid in civil and syariah proceedings, legal companion services and mediation. This *clause* also provides that the legal aid may be provided to citizens of Malaysia only except for special circumstances which may be allowed by the Minister for the interests of justice.

### Chapter 2

23. Chapter 2 of Part III of the proposed Act deals with the provision of legal advice services.

24. *Clause 16* seeks to provide for the scope of legal advice services.

25. *Clause 17* seeks to provide for application for legal advice services.

26. *Clause 18* seeks to provide that the legal advice services under the proposed Act may be given orally, through electronic service or remote communication technology.

This *clause* also provides that the Director General may also conduct any investigation on the aided person's means and condition.

27. *Clause 19* seeks to provide that the Director General may require an aided person to pay a contribution for an amount as prescribed by the Minister and the contribution shall be deposited into the trust account.

This *clause* also provides that Director General may require an aided person to pay any additional contribution as prescribed by the Minister if the Director General, after conducting the investigation under *subclause 18(2)* or after obtaining any other information from any other sources, finds that the aided person has income that exceeds the eligibility limit based on the criteria and means test as prescribed by the Minister.

### Chapter 3

28. Chapter 3 of Part III of the proposed Act deals with the provision of legal aid in civil and syariah proceedings.

29. *Clause 20* seeks to provide for the scope of legal aid in civil and syariah proceedings. This *clause* also empowers the Minister to expand the scope of legal aid in civil and syariah proceedings.

30. *Clause 21* seeks to provide for the application for legal aid in civil and syariah proceedings.

31. *Clause 22* seeks to empower the Director General to conduct investigations in relation to the application made under *clause 21* before issuing a legal aid certificate to the applicant.

32. *Clause 23* seeks to provide for the issuance of legal aid certificate in civil and syariah proceedings to the qualified applicant.

33. *Clause 24* seeks to provide that the Director General may issue only one legal aid certificate to the applicant in syariah proceedings even though his dispute may lead to several consequential causes of action if all the causes of action involve the same parties.

34. *Clause 25* seeks to provide for the additional power of the Director General to provide legal aid in relation to any civil and syariah proceedings subject to payment of a contribution to the Director General.

35. *Clause 26* seeks to provide that in addition to legal aid certificate issued under *clauses 23 and 25*, the Director General may issue a legal aid certificate to the applicant after obtaining the authorization of the Minister. This *clause* also provides that the Director General may require the applicant to pay a contribution before issuing a legal aid certificate to the applicant. This *clause* also empowers the Director General to issue separate certificates to the applicant for each different cause of action and require the applicant to pay a contribution for each certificate.

36. *Clause 27* seeks to empower the Director General to require an aided person in civil or syariah proceeding to pay a contribution for an amount of money prescribed by the Minister. This *clause* also seeks to provide for the refund of excess of the contribution to the aided person. The applicant may apply for the refund of excess contribution within six months from the date his legal aid certificate was terminated, and the aided person is deemed to have waived his right if he fails to do within six months. The excess contribution to be refunded under this *clause* shall not exceed twenty-five percent of the contribution. Further, any unpaid contribution shall be first charged on any property that may be recovered or preserved for the aided person in civil or syariah proceedings.

37. *Clause 28* seeks to provide that the Director General or an assigned solicitor will act on behalf of the aided person after a legal aid certificate is issued to the aided person. The Director General thereafter shall record the name of the assigned solicitor in the legal aid certificate. This *clause* also requires the Director General or assigned solicitor to file the legal aid certificate with the court. The Director General is also required to file a notice of change of solicitors, if any.

38. *Clause 29* seeks to provide for the revocation of the legal aid certificate. This *clause* also provides that the aided person shall cease to be the aided person from the date he receives a notice of revocation of the certificate or from the date of filing a notice of revocation of the certificate with the court.

39. *Clause 30* seeks to empower the Director General to request any applicant or aided person to advance a sum of money for the purposes of payment of any unexpected expenses arising specifically in relation to the provision of legal aid under Chapter 3.

40. *Clause 31* deals with the cost ordered by the court to the aided person and advocacy costs to be paid to the Director General by the aided person. Further this *clause* provides that—

- (a) if the money ordered by the court is less than ten thousand ringgit, the aided person is not liable to make any payment to the Director General as advocacy costs;
- (b) if the money ordered by the court is more than ten thousand ringgit, the aided person shall pay to the Director General one quarter of the amount ordered but not exceeding ten thousand ringgit as the advocacy costs;

- (c) if the court orders that an aided person is to receive any property valued at more than ten thousand ringgit, the aided person shall pay to the Director General an amount not exceeding ten percent of the property value as the advocacy costs; and
- (d) if the court affirms an award granted by a quasi-judicial body, the aided person shall pay to the Director General an amount not exceeding ten percent of the award as the advocacy costs.

41. *Clause 32* seeks to provide that if during any legal civil or syariah proceedings, a party to the proceedings makes an application for legal aid under the proposed Act, the Director General shall serve a notification to the other party and file the notification with the court. This *clause* also provides that after receiving the notification from the Director General, the court shall order the proceedings to be stayed for a period of one month.

42. *Clause 33* seeks to provide that if the aided person wishes to appeal against the decision of the court, the aided person shall apply for a new certificate for the purposes of such appeal.

43. *Clause 34*, on the other hand, seeks to provide that if the other party to the proceedings appeals against any decision of the court, the certificate issued earlier to the aided person shall remain in effect until all matters arising from the appeal are disposed of.

44. *Clause 35* seeks to provide that *clauses 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31* shall also apply to any person who requires legal aid for the purpose of making an appeal to a higher court or resisting an appeal brought by another party.

#### Chapter 4

45. Chapter 4 of Part III of the proposed Act deals with the provision of legal companion services.

46. *Clause 36* seeks to provide for the scope of legal companion services.

47. *Clause 37* seeks to provide that legal companion services may be given to advise on legal matters arising from proceedings, obtain relevant information relating to charges, accompany any aided person in court proceedings or advise the guardian or protector of an aided person on any matter relating to civil proceedings.

48. *Clause 38* seeks to provide that an application for legal companion services by any child shall be made through the parents or guardian of the child to the Director General.

49. *Clause 39* seeks to provide that the Director General may issue a legal aid certificate for legal companion services to the applicant.

50. *Clause 40* seeks to empower the Director General to require an aided person to pay a contribution if the Director General finds that the aided person has an income that exceeds the eligibility limit.

51. *Clause 41* seeks to provide that the Director General shall file the legal aid certificate issued to commence any proceedings in court and the Director General or assigned solicitor shall represent the aided person in court proceedings after the legal aid certificate is filed in court.

52. *Clause 42* seeks to provide for the revocation of the legal aid certificate for legal companion services. This *clause* also provides that the aided person shall cease to be the aided person from the date he receives a notice of revocation of the certificate or from the date of filing a notice of revocation of the certificate with the court.

## Chapter 5

53. Chapter 5 of Part III of the proposed Act deals with the provision of mediation services.

54. *Clause 43* seeks to provide for the scope of mediation services.

55. *Clause 44* seeks to provide for the application for mediation services.

56. *Clause 45* seeks to provide that the Director General may refer any person to mediation services.

57. *Clause 46* seeks to empower the Minister to appoint mediators for the purposes of Chapter 5. The appointed mediator shall be subject to the supervision and general directions of the Director General. Further, the appointed mediator shall not appear or plead before a court on behalf of any party in the same dispute that he has handled in a mediation session under the proposed Act.

58. *Clause 47* seeks to provide for the manner of conducting mediation.

59. *Clause 48* seeks to provide that parties to the mediation services may choose to attend and participate in mediation sessions voluntarily and may also withdraw from such sessions at any time. However, the attendance, participation, or withdrawal from mediation sessions shall not affect the rights or remedies of any party in the dispute.

60. *Clause 49* seeks to provide that no person shall be compelled to disclose any confidential communication with the mediator if the mediation process fails. However, if a person is called as a witness in proceedings relating to a dispute that has undergone mediation, the court may order the disclosure of such communication if it is necessary for the purpose of clarifying his testimony.

61. *Clause 50* seeks to provide that no settlement or agreement reached in a mediation session shall be binding on the parties or enforceable in court unless the settlement or agreement is reduced into writing and signed by all parties involved.

62. *Clause 51* seeks to provide that a mediator may conduct mediation sessions through remote communication technology. Any settlement or agreement that has been reduced into writing and signed electronically shall be binding and recorded in any court.

#### PART IV

63. Part IV of the proposed Act deals with the provision of public defence services.

64. *Clause 52* seeks to provide for the scope of public defence services. This *clause* also empowers the Minister to expand the scope of public defence services.

65. *Clause 53* seeks to provide for the application of public defence services.

66. *Clause 54* seeks to provide for the issuance of public defence certificate.

67. *Clause 55* seeks to provide that the Chief Public Defender shall issue a public defence certificate to the applicant after obtaining the authorization of the Minister.

68. *Clause 56* seeks to deal with the limitation for public defence services.

69. *Clause 57* seeks to provide that the Chief Public Defender or an assigned solicitor will act on behalf of the aided accused after a public defence certificate is issued to the aided accused. The Chief Public Defender shall then record the name of the assigned solicitor in the public defence certificate. This *clause* also requires the Chief Public Defender or assigned solicitor to file the public defence certificate in court. The Chief Public Defender is also required to file a notice of change of solicitors, if any.

70. *Clause 58* seeks to provide for the revocation of the public defence certificate. This *clause* also provides that the aided accused shall cease to be the aided accused effective from the date he receives a notice of revocation of the certificate or the date of filing a notice of revocation of the certificate in court.

71. *Clause 59* seeks to empower the Chief Public Defender to request any applicant or aided accused to advance a sum of money for the purposes of payment of any unexpected expenses arising specifically in relation to the provision of public defence services under Part IV. This *clause* also provides that if there is any excess of advance on the account of the aided accused, the aided accused may, within six months from the date the certificate is revoked, apply to the Chief Public Defender for the excess of the advance to be refunded. The excess of the advance to be refunded under this *clause* shall not exceed twenty-five percent of the advance.



72. *Clause 60* seeks to provide that if the aided accused wishes to appeal against any decision of the court, the aided person shall apply for a new certificate for the purposes of such appeal.

73. *Clause 61* seeks to provide that if the Public Prosecutor appeals against any decision of the court, the certificate issued earlier to the aided accused shall remain in effect until all matters arising from the appeal are disposed of.

#### PART V

74. Part V of the proposed Act deals with general provisions.

75. *Clause 62* seeks to enable the Director General to provide an electronic service to any registered user for, among others, the filing or submission of applications and documents. This *clause* also seeks to absolve the Director General of any liability for any loss or damage suffered by a registered user of electronic service.

76. *Clause 63* seeks to provide for the offence of providing false or misleading statements or representations in applications for legal aid or public defence services and for failure of a person to make full disclosure and to inform the Director General of any change in means and conditions.

77. *Clause 64* seeks to enable the court to order the aided person or aided accused to pay costs to any affected person if the aided person or aided accused had obtained legal aid or public defence services through fraud or misrepresentation, or committed any act that may prejudice the interests of justice. After the order for costs is made, the court may allow an aided person to withdraw his pleadings in civil or syariah proceedings or allow an aided accused to continue his defence at his own expense in criminal proceedings.

78. *Clause 65* seeks to provide that all communications, except any information provided to the Director General regarding the property or income of the applicant, are privileged to the same extent as communications between a solicitor and his client.

79. *Clause 66* seeks to prohibit the Director General or an appointed officer from representing both of the parties in the same civil or syariah proceedings. This *clause* also prohibits an assigned solicitor and his legal firm from representing both the aided accused and the victim of the alleged crime committed by the aided accused in the same criminal proceeding or both the accused and the victim of an alleged crime committed by the accused, if the aided accused is subject to any civil proceedings brought by the victim against him.

80. *Clause 67* seeks to provide that any decision made by the Director General or the Chief Public Defender to give or refuse legal aid or public defence services, revoke a legal aid or public defence certificate, terminate legal companion services or refuse an application to appeal, may be appealed to the Minister and the decision of the Minister shall be final.

81. *Clause 68* seeks to provide that every person appointed or employed who is not a member of the public service, shall be deemed to be a public servant within the meaning of the Penal Code.

82. *Clause 69* seeks to provide that the Public Authorities Protection Act 1948 applies to any action, suit, prosecution or proceedings against the Director General, the Chief Public Defender, the assigned solicitor, appointed officer, public defender officer and mediator who is not a member of the public service, in respect of any act, neglect or default done or committed by him in such capacity.

83. *Clause 70* seeks to provide for the protection of the Minister, the Director General, the Chief Public Defender, the assigned solicitor, appointed officer, public defender officer and mediator on account of or in respect of any act, neglect or default in the course of carrying out his duties under the proposed Act, provided that the act, neglect or default was not done or omitted in bad faith and without reasonable cause.

84. *Clause 71* seeks to empower the Minister to suspend legal aid or public defence services for a reasonable period on the grounds of public interest.

85. *Clause 72* seeks to empower the Minister to amend the Schedules to the proposed Act.

86. *Clause 73* seeks to empower the Minister to make regulations under the proposed Act.

## PART VI

87. Part VI consists of repeal, saving and transitional provisions arising from the repeal of the Legal Aid Act 1971.

### *FINANCIAL IMPLICATIONS*

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2) 3406]