

PART 6

LEGAL AID AND LEGAL ADVICE IN RELATION TO CORONERS' INQUESTS

Amendment of Coroners Act 1962

24. The Coroners Act 1962 is amended—

(a) in section 29—

(i) by substituting the following subsection for subsection (3):

“(3) A coroner shall furnish a copy of any document preserved by him or her under this section to every person who applies for a copy of such document and, except where the application is made on behalf of—

- (a) a Minister of the Government,
 - (b) the Attorney General,
 - (c) the Garda Síochána,
 - (d) the Defence Forces,
 - (e) the Garda Síochána Ombudsman Commission, or
 - (f) an applicant within the meaning of section 60,
- shall charge for the copy such fee as may be prescribed.”,

and

(ii) by substituting the following subsection for subsection (4):

“(4) A county registrar shall furnish a copy of any document preserved by him or her under this section to every person who applies for a copy of such document and, except where the application is made on behalf of—

- (a) a Minister of the Government,
- (b) the Attorney General,
- (c) the Garda Síochána,
- (d) the Defence Forces,
- (e) the Garda Síochána Ombudsman Commission, or
- (f) an applicant within the meaning of section 60,

shall charge for the copy such fee as may be prescribed.”,

and

(b) by inserting the following section after section 59:

“Legal aid and legal advice for inquests

60. (1) Where an inquest in relation to the death of a person is to be held under Part III of this Act, a family member of the deceased (in this section referred to as ‘the

applicant') may apply to the coroner for a request to be submitted by that coroner to the Legal Aid Board in relation to the granting of legal aid or legal advice, or both, to the applicant pursuant to the Civil Legal Aid Act 1995.

- (2) An application referred to in subsection (1) shall be made before the commencement of the inquest, unless the coroner otherwise permits.
- (3) A coroner shall determine an application referred to in subsection (1) and shall notify the applicant of his or her determination within 10 working days of the receipt of the application.
- (4) Subject to subsections (5) and (6), where a coroner receives an application referred to in subsection (1) in respect of an inquest, he or she shall request the Legal Aid Board to grant legal aid or legal advice, or both, to the applicant in respect of the inquest concerned.
- (5) A coroner shall not make a request referred to in subsection (4) unless—
 - (a) the deceased was, at the time of his or her death or immediately before his or her death, in the custody of the Garda Síochána,
 - (b) the deceased was, at the time of his or her death or immediately before his or her death, in custody in a prison within the meaning of section 2 of the Prisons Act 2007,
 - (c) the deceased was, at the time of his or her death or immediately before his or her death, in service custody within the meaning of section 2 of the Defence Act 1954,
 - (d) the deceased was, at the time of his or her death or immediately before his or her death, involuntarily detained under Part 2 of the Mental Health Act 2001 in an approved centre within the meaning of section 2 of that Act,
 - (e) the deceased was, at the time of his or her death or immediately before his or her death, detained in a designated centre within the meaning of section 3 of the Criminal Law (Insanity) Act 2006 or was a person to whom section 20 of that Act refers,
 - (f) the deceased was, at the time of his or her death or immediately before his or her death, in custody in a remand centre within the meaning of section 3 of the Children Act 2001 or detained in a children detention school within the meaning of that section,
 - (g) the deceased was, at the time of his or her death or immediately before his or her death, a child in care, or
 - (h) the coroner is of the opinion that the death of the deceased occurred in circumstances the continuance or possible recurrence of which would be prejudicial to the health or safety of the public or any section of the public such that there is a significant public interest in the family member of the deceased person being granted legal aid or legal advice, or both, for the purposes of the inquest concerned.

- (6) Where legal aid or legal advice, or both, are granted by the Legal Aid Board to an applicant in respect of an inquest further to a request by a coroner under subsection (4), no further applications under subsection (1) may be made by a family member in respect of the inquest concerned.
- (7) In this section—
- ‘child in care’ means a child who was in the care of the Health Service Executive pursuant to section 4 or Part III, IV or IVA of the Child Care Act 1991;
- ‘family member’, in relation to a deceased person, means—
- (a) a parent, grandparent, child, brother, sister, nephew, niece, uncle or aunt, whether of the whole blood, of the half blood or by affinity, of the person,
- (b) a spouse, a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or a cohabiting partner of the person,
- (c) any other person who is ordinarily a member of the person’s household, or
- (d) any child who has been placed in foster care with the person or any person referred to in paragraphs (a) to (c),
- and includes a reference to any such member of his or her family who is adopted;
- ‘legal advice’ has the same meaning as it has in the Civil Legal Aid Act 1995;
- ‘legal aid’ has the same meaning as it has in the Civil Legal Aid Act 1995.”.

Amendment of Civil Legal Aid Act 1995

25. The Civil Legal Aid Act 1995 is amended—

(a) in section 1—

(i) by substituting the following definition for the definition of “applicant”:

“ ‘applicant’ means, subject to subsection (1A), a person who makes an application for legal aid or advice, or both;”

and

(ii) by inserting the following subsection after subsection (1):

“(1A) A person in respect of whom a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of the Coroners Act 1962 shall be deemed to be an applicant for the purposes of this Act.”.

(b) by inserting the following section after section 24:

“Restriction on right to apply for legal aid and advice

24A. A person shall not be granted legal aid or advice in relation to an inquest under Part III of the Coroners Act 1962 unless a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of that Act in respect of the person.”.

(c) in section 26(3), by substituting the following for paragraph (b):

“(b) a person shall qualify for legal advice, in respect of a matter referred to in section 28(9)(a), in the cases mentioned in subparagraphs (i) to (v) and (vii) of section 28(9)(c).”,

(d) in section 27—

(i) by substituting the following for subsection (1):

“(1) In this Act ‘legal aid’ means representation by a solicitor of the Board, or a solicitor or barrister engaged by the Board under section 11, in any civil proceedings to which this section applies or at an inquest under Part III of the Coroners Act 1962, and includes all such assistance as is usually given by a solicitor or barrister, as the case may be, in contemplation of, ancillary to or in connection with, such proceedings or inquest, and whether for the purposes of arriving at or giving effect to any settlement in proceedings or otherwise.”,

and

(ii) in subsection (2), by substituting “This section applies to an inquest under Part III of the Coroners Act 1962 where a request for legal aid has been made to the Board by a coroner pursuant to section 60 of that Act and to all civil proceedings other than proceedings relating to” for “This section applies to all civil proceedings other than those relating to”,

and

(e) in section 28—

(i) in subsection (2), by substituting “under this section to a person, other than a person referred to in subsection (2A), if, in the opinion of the Board” for “under this section to a person if, in the opinion of the Board”,

(ii) by inserting the following subsection after subsection (2):

“(2A) Subject to sections 24 and 29 and the other provisions of this section and to regulations (if any) made under section 37, the Board shall grant a legal aid certificate under this section to a person in respect of whom a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of the Coroners Act 1962 if, in the opinion of the Board, the person satisfies the criteria in respect of financial eligibility specified in section 29.”,

and

(iii) in subsection (9)(c), by substituting the following paragraphs for paragraph (vi):

“(vi) in respect of a conveyancing matter connected to a matter in which legal aid or advice has already been granted;

(vii) in respect of an inquest under Part III of the Coroners Act 1962 where a request for legal aid has been made to the Board by a coroner pursuant to section 60 of that Act.”.