



## Legal Services Amendment Regulations 2015

Jerry Mateparae, Governor-General

### Order in Council

At Wellington this 28th day of September 2015

Present:

The Hon Bill English presiding in Council

Pursuant to section 114(1)(o)(ii) of the Legal Services Act 2011, His Excellency the Governor-General makes the following regulations, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the advice of the Minister of Justice, the Minister being satisfied that the exemption under these regulations is justified on 1 or more of the following grounds:
  - (i) the exemption is in the public interest;
  - (ii) the exemption facilitates access to justice;
  - (iii) the exemption is just and equitable in the circumstances.

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## Regulations

### 1 Title

These regulations are the Legal Services Amendment Regulations 2015.

### 2 Commencement

These regulations come into force on 1 November 2015.

### 3 Principal regulations

These regulations amend the Legal Services Regulations 2011 (the **principal regulations**).

### 4 New regulation 9B inserted (Exemption from user charge for proceedings relating to historical abuse)

After regulation 9A, insert:

#### **9B Exemption from user charge for proceedings relating to historical abuse**

- (1) The following proceedings are exempt from the user charge payable under section 18A of the Act:
  - (a) the proceedings described in subclause (2); and
  - (b) any appeals made in connection with those proceedings.
- (2) The proceedings referred to in subclause (1)(a) are proceedings commenced by an aided person against the Crown in respect of an incident, or an alleged incident, that—
  - (a) occurred before 1 July 1993; and
  - (b) involved the abuse (whether physical, sexual, or psychological) or ill-treatment of the aided person; and
  - (c) occurred while the aided person—
    - (i) had a disability or was under 18; and
    - (ii) was in the care of the Crown.
- (3) In this regulation,—

**care of the Crown** means care provided under the direction or supervision of a specified agency in—

  - (a) a psychiatric hospital; or
  - (b) a hospital care institution as defined in section 58(4) of the Health and Disability Services (Safety) Act 2001; or
  - (c) an institution as defined in section 2 of the Child Welfare Act 1925; or
  - (d) a residence as defined in section 2(1) of the Children, Young Persons, and Their Families Act 1989; or
  - (e) a residential special school; or

- (f) any other place—
  - (i) defined or referred to in a repealed enactment and carrying a similar meaning to a place described in paragraphs (a) to (e); or
  - (ii) that is otherwise closely associated with, or similar to, a place described in paragraphs (a) to (e)

**disability** has the meaning given in section 21(1)(h) of the Human Rights Act 1993

**psychiatric hospital** means a hospital within the meaning of section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992

**residential special school** means a special school established under section 98(1) of the Education Act 1964 that has a boarding facility for students attending the school

**specified agency** means—

- (a) the Ministry of Education and the Ministry of Social Development; and
- (b) any former government department that exercised substantially the same functions as a Ministry specified in paragraph (a) but operated under a different name; and
- (c) a board of trustees constituted under Part 9 of the Education Act 1989; and
- (d) any of the following whose liabilities have since been transferred to the Crown under section 28(d) of the New Zealand Public Health and Disability Amendment Act 2012:
  - (i) a hospital board;
  - (ii) an area health board;
  - (iii) any other organisation.

Michael Webster,  
Clerk of the Executive Council.

### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 November 2015, amend the Legal Services Regulations 2011. The regulations exempt historical abuse claimants in proceedings against the Crown from the user charge of \$43.48, which is otherwise payable by every person granted legal aid for a civil matter. To qualify for the exemption, a person's claim must relate to an incident that occurred before 1 July 1993 while the person was in the care of the Crown.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 1 October 2015.  
These regulations are administered by the Ministry of Justice.