



Access to Legal Aid Services

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<http://www.dal.ca/faculty/law/dlas/public-legal-education.html>

Acknowledgement

Dalhousie Legal Aid Service would like to gratefully acknowledge and thank the [Law Foundation of Ontario](#) for its financial support of LEAP.

Disclaimer

This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

Laws change frequently. We will try our best to make sure the information contained in all of our documents, as well as any other information you receive from Dalhousie Legal Aid Service, is reliable. However, **we cannot guarantee that the information in this document is completely accurate and up-to-date.** By accessing information from Dalhousie Legal Aid Service you assume any risks that arise from doing so.

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Applying for Legal Aid

Nova Scotia Legal Aid

The Nova Scotia Legal Aid Commission was established in 1977 by the *Legal Aid Act*:
<http://nslegislature.ca/legc/statutes/legalaid.htm>

There are also regulations passed pursuant to the *Legal Aid Act*:
<http://www.novascotia.ca/just/regulations/regs/lagentar.htm>

The Nova Scotia Legal Aid Commission is responsible for the provision of legal aid services across Nova Scotia. The Commission consists of 17 total members. Fifteen are appointed by the Provincial Government, and two non-voting members from the Public Service.

Legal aid services are provided by Staff Lawyers employed by the Commission, and by private bar lawyers who accept legal aid certificates.

Nova Scotia Legal Aid has offices located across the Province. A list of office locations can be found here: <http://www.nslegalaid.ca/contact.php>

Making an Application

In order to apply for Nova Scotia Legal Aid someone must contact their local legal aid office. The office will guide the applicant through the application process.

There is an Application Form that must be completed, and an applicant's income and identification must be verified.

Factors

There are three factors that will be considered when determining whether someone qualifies for legal aid:

1. Financial eligibility;
2. Area of law; and
3. Legal merit.

Financial Eligibility

According to the *Legal Aid Act* an applicant will qualify for legal aid from a financial perspective if:

- They are in receipt of income assistance; or
- If retaining a private lawyer would reduce their income to the point that they would qualify for income assistance.

Applicants may also qualify for legal aid if retaining private counsel would mean they would suffer undue financial hardship such as incurring heavy indebtedness or having to dispose of necessary modest assets.

According to the *Legal Aid Act* it is still possible for applicants who do not meet the financial eligibility criteria to qualify for legal aid by agreeing to enter into an agreement whereby they agree to contribute to the costs of the legal services provided on their behalf.

Given that the legislation gives discretion with respect to the financial qualifying criteria for legal aid it is extremely important that anyone interested in applying for services from Nova Scotia Legal Aid contact their local office, and complete the application process.

Area of Law

Nova Scotia Legal Aid provides representation in the following areas of law:

- Criminal law;
- Family law;
- Poverty law; and
- Other civil law.

Criminal Law

Nova Scotia Legal Aid provides representation for the following criminal matters:

- Offences for which there is a reasonable likelihood that upon conviction there will be a sentence of custody or imprisonment;
- For Youth Court matters, representation for *Youth Criminal Justice Act*, *Criminal Code* and other Federal Legislation offences are provided regardless if there will be a sentence of custody or imprisonment;
- Proceedings pursuant to Part XX.1 of the *Criminal Code* (Mental Disorder) including representation before the Nova Scotia Review Board; and
- Such other matters under the *Criminal Code* or other Federal Legislation where counsel is deemed necessary by the Nova Scotia Legal Aid Commission.

Family Law

Nova Scotia Legal Aid provides representation for the following family matters:

- Child protection proceedings under the *Children and Family Services Act*;
- Matters under the *Domestic Violence Intervention Act*; and
- Custody, access, maintenance/support, paternity, some divorces and division of property.

Poverty Law

Nova Scotia Legal Aid provides summary advice, and possible representation, for the following poverty matters across the Province (full service representation is provided for poverty law matters in Halifax, Dartmouth and surrounding areas):

- Income assistance;
- Residential Tenancies;
- Employment Insurance;
- Canada Pension Plan Disability; and
- Debtor/Creditor.

Other Civil Law

Nova Scotia Legal Aid also covers some other areas of civil (i.e. non criminal) law:

- Legal aid services may be provided for matters under the *Adult Protection Act*;
- Matters under the *Involuntary Psychiatric Treatment Act*; and;
- Subject to the availability of resources services may be provided for civil actions where the Staff Lawyer is of the opinion that there is merit and where failure to defend or prosecute the action will result in the loss of the applicant's sole place of residence or otherwise cause undue hardship to the applicant or the applicant's family.

Areas of Law Not Covered

Nova Scotia Legal Aid **does not** provide representation in the following areas:

- Divorces involving the division of matrimonial property or pensions will not be undertaken where the Staff Lawyer is of the opinion that the applicant for service can otherwise obtain legal service by paying a fee from the proceeds of the property/pension division to a private lawyer;
- Real estate transactions (except as incidental to matrimonial property divisions);
- Estates and trusts;
- Legal services arising out of the operation of a business;
- Representation in bankruptcy, orderly payment of debts or debt collection;
- Civil non-family matters which, if the claim is successful, the applicant could pay legal fees out of the amount recovered from the action;
- Cases in Small Claims Court unless, in the opinion of a Staff Lawyer, service should be provided as being a civil action with merit and where failure to defend or prosecute the action will result in the loss of the applicant's sole place of residence or otherwise cause undue financial hardship;
- Matters under the *Federal Immigration Act* including Refugee Hearings; and
- Nova Scotia Legal Aid will not generally represent either the complainant or the defendant in private prosecution matters or for matters pursuant to provincial legislation such as the *Motor Vehicle Act*, *Liquor Control Act*, *Wildlife Act*, etc. Although full-service representation is not available for charges under provincial legislation, summary advice may be provided to youth facing such charges.

Legal Merit

The final factor considered when determining whether an applicant qualifies for legal aid is whether their case has legal merit.

In order to qualify for legal aid services the Staff Lawyer assessing the application must be of the opinion that there is at least some possibility of success if legal aid services are provided.

If the Staff Lawyer assessing the application is of the opinion that there is no chance of success the application will be denied.

Appeals

Appealing a Legal Aid Decision

Types of Decisions that can be Appealed

According to the *Legal Aid Act* the following actions can be appealed to the Legal Aid Commission:

- Refusal to grant legal aid;
- Refusal of a legal aid certificate;
- Refusal to amend a legal aid certificate;
- A decision that contributions are required by the applicant as a condition of the granting of legal aid or the issuing of a certificate;
- Suspension or withdrawal of legal aid; or
- Cancellation or amendment of a legal aid certificate.

Appeal Procedure

Making the Request

An appeal request to the Legal Aid Commission **must** be made in writing.

Appeal requests should be sent to:

Appeal Committee Nova Scotia Legal Aid Commission 102-137 Chain Lake Drive Halifax, Nova Scotia B3S 1B3 Phone: (902) 420-6578 or 1-877-420-6578 Fax: (902) 420-3471

An appeal request should outline the reason legal aid services were denied, and should also include why the appellant feels they are entitled to receive services. Other than being written there are no formal requirements regarding the form an appeal request must take.

If the denial for legal services was based on financial eligibility criteria the appellant will be required to provide further particulars, and verification, of their household income and expenses.

After the Request is Made

Once the appeal process is initiated the office from which the appellant was denied services will be contacted and asked to submit a copy of the denied Legal Aid Application form along with supporting documentation outlining the basis of the rejection for services.

Upon receipt of an appeal request an appeal will be scheduled for a meeting of the Appeal Committee of the Legal Aid Commission.

The appellant will receive a letter advising them of the date the appeal will be heard. The Appeal Committee normally meets on the 4th Thursday of each month.

In the event that an appellant is unable to appear before the Appeal Committee in person, they may arrange to participate via telephone conference.

Representation at the Appeal

Appellants residing in Halifax, Dartmouth and surrounding areas can obtain legal representation for their appeal from the Dalhousie Legal Aid Service.

Dalhousie Legal Aid Service can be contacted at **(902) 423-8105**.