



**Australian Government**  
**Attorney-General's Department**

**Social Inclusion Division**

**GUIDELINES**

**SPECIAL CIRCUMSTANCES SCHEME**

Guidelines for consideration of financial assistance for legal costs and related expenses in special circumstances in cases not covered by extant statutory and non-statutory schemes.

**CRITERIA FOR ASSISTANCE**

Financial assistance for legal costs and related expenses may be authorised:

- (a) where the matter in respect of which payment is sought is covered by specific legislation but application of the legislation would produce a result that was unintended, anomalous, inequitable or otherwise unacceptable in the particular circumstances; or
- (b) where the matter in respect of which payment is sought is not covered by legislation but it is intended to introduce legislation and for special reasons it is considered desirable in a particular case to apply the benefits of the proposed legislation prospectively by act of grace; or
- (c) where in a particular case there are other special circumstances which lead to the conclusion that there is a moral obligation on the Commonwealth to make a payment.

Applicants for payment of legal costs and related expenses in special circumstances should set out the matters which they consider constitute those special circumstances relating them, as appropriate, to the above guidelines.

A party to a civil proceeding who receives a notice from the Secretary of the Attorney-General's Department under subsection 39A(1) of the *National Security Information (Criminal and Civil Proceedings) Act 2004* (NSI Act) is eligible to apply for financial assistance under this scheme if:

- the party is not legally represented in the civil proceeding, and
- the party has applied for a security clearance by the Attorney-General's Department and is not given a security clearance at the level considered appropriate by the Secretary in relation to the information concerned.

In these circumstances, assistance will be approved for the purpose of the party engaging a legal representative, who has been given a security clearance at the level considered appropriate, to represent the party at a closed hearing under subsection 38G(1) or subsection 38H(6) of the NSI Act

or in relation to an appeal under Division 4 of Part 3A of the NSI Act, subject to the Attorney-General or delegate being satisfied that the party would suffer financial hardship if the application was refused.

Applications for assistance, or inquiries relating to the provision of legal or financial assistance by the Commonwealth, should be addressed to:

Assistant Secretary  
Legal Assistance Branch  
Attorney-General's Department  
3-5 National Circuit  
Barton ACT 2600

Telephone: (02) 6141 4770

Facsimile: (02) 6141 4926