

# **10 FREE LEGAL ASSISTANCE, ALSO YOUR RIGHT?**

## **1. Free Legal Assistance**

Free Legal Assistance in St Maarten is regulated in the Free Legal Assistance Decree (P.B. 1959, no. 198).

This regulation provides free legal assistance to impoverished persons, who request this service and are entitled to it.

In this document you will find in short what conditions you have to meet in order to be eligible for (free) legal assistance.

## **2. When is free legal assistance possible?**

Free legal assistance can be given in cases of:

- civil dispute (for example a labour dispute, divorce cases, alimony cases, rental dispute etc.);
- penal cases.

## **3. Who is entitled to free legal assistance?**

In general people who are indigent and who legally reside in St Maarten can be eligible for free legal assistance.

Both Dutch residents and alien residents can be eligible for free legal assistance in civil cases.

When a treaty is applicable, alien non-residents can also be eligible for free legal assistance in civil cases.

Both Dutch residents, alien residents and alien non-residents can be eligible for free legal assistance in penal cases.

## **4. Who is qualified as "indigent"?**

a. In a civil case (but not a labour dispute) or a penal case by indigent it is meant: those whose income from labour is equal or less than the legal stipulated minimum wage in category I. This minimum wage is Nafl. 13.200,- per year.

By income is meant in this case: net income for the income tax.

b. In case of a labour dispute as from August 1, 2000 is meant as indigent: those whose yearly gross income from labour is equal or less than Nafl. 12.000,-

Also those whose yearly gross income is more than Nafl. 12.000,- but equal or less than Nafl. 22.500,-, can lay claim to legal assistance provided he/she pays a contribution to the cashier of Receiver's Office (**Landsontvanger**) of:

- Nafl. 50,- if the gross income per year is more than Nafl. 12.000,- but equal or less than Nafl. 15.000,-;
- Nafl. 125,- if the gross income per year is more than Nafl. 15.000,- but equal or less than Nafl. 17.500,-;
- Nafl. 225,- if the gross income per year is more than Nafl. 17.500,- but equal or less than Nafl. 20.000,-;
- Nafl. 350,- if the gross income per year is more than Nafl. 20.000,- but equal or less than Nafl. 22.500,-.

In other words the higher the income, the higher the contribution necessary.

Mind you: your contribution is required only in cases of labour disputes.

For this purpose income is defined as: the gross income from labour plus income from any side jobs, which contributes to at least 1/10th of the total yearly gross income.

## **5. What should you do to be eligible for free legal assistance?**

In the case of a civil dispute, not a labour dispute or a penal case you have to visit the Free Legal Assistance Section of the Department of Labour with your income tax declaration. You can get this declaration at the Inspectorate of Taxes.

In the case of a labour dispute you also have to visit the abovementioned Department with your pay-slip and if it is applicable to your case, with a receipt from the Receiver's Office (**Landsontvanger**) showing the payment of your contribution.

If you don't have a pay-slip, you can use your income tax declaration from the Tax Inspectorate, on the understanding that this declaration not only shows the net income but also the gross income from labour.

Address of Inspectorate of Taxes:

- W. G. Buncamper road 33, Vineyard Building. Tel: 542-2143

## **6. What can you do when you are denied a free legal assistance-card?**

In this case you have the possibility to appeal your case to the Minister of Justice. In particular cases he may decide to give you a card. If your economic situation is as such, that even though you have a higher taxable income than indicated under paragraph 4, you still are not able to pay the presumed costs of the fee of the attorney. You will have to prove this though.

## **7. Which steps can be taken when your attorney is in your opinion not paying enough attention to your case?**

If you are of the opinion that the appointed attorney in your case is insufficiently looking after your interests, you can bring this to the attention of the Minister of Justice, so an investigation can be started.