

**LEGAL SERVICES COMMISSION (AMENDMENT) BILL,  
1985**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Statutory and Other Offices Remuneration (Legal Services Commission) Amendment Bill, 1985, is cognate with this Bill.

The object of this Bill is to amend the Legal Services Commission Act, 1979 ("the Act"), so as—

- (a) to make provision in connection with the reconstitution of the Legal Services Commission of New South Wales as the Legal Aid Commission of New South Wales ("the Commission"), and other matters, and in particular—
  - (i) to change the name of the Legal Services Commission of New South Wales to the Legal Aid Commission of New South Wales (Schedule 1 (6) (a));
  - (ii) to establish the statutory office of Director of the Commission, being the chief executive officer of the Commission and having the powers and functions of, and to replace, the former offices of Deputy Chairman, Public Solicitor, Deputy Public Solicitor and Referrals Director (Schedule 1 (12)—proposed sections 14–16);
  - (iii) to provide that the Director or a member of staff of the Commission shall exercise the functions of a solicitor under the Act only while holding a current practising certificate and shall, in exercising those functions, have, in the case of the Director, all the functions and duties of a solicitor practising on the solicitor's own account and, in the case of a member of staff, the functions and duties of a solicitor employed by a solicitor so practising (Schedule 1 (14)—proposed section 24);
  - (iv) to enable the Commission to determine that certain provisions of the Act do not apply to a grant of a sum of money for a specified purpose (Schedule 1 (19) (b)—proposed section 30 (4));
  - (v) to provide that notice is to be given to other parties to proceedings of the grant of legal aid and of the effect of section 47 of the Act (Schedule 1 (20)(b)—proposed section 34 (6)–(8));

- (vi) to provide that a private legal practitioner acting for a legally assisted person, or a legally assisted person, or both, must notify the Commission of certain changes in the means or circumstances of the person or in other matters (Schedule 1 (23)—proposed section 38A);
- (vii) to enable the Commission to defer payment of fees to a private legal practitioner until it is satisfied that a reasonable attempt has been made to recover any party and party costs to which the legally assisted person concerned is entitled (Schedule 1 (24)—proposed section 43A);
- (viii) to enable the Director to determine costs, not exceeding ordinary professional costs, payable by a legally assisted person to the Commission (Schedule 1 (25)—proposed section 46);
- (ix) to abolish Legal Aid Committees (Schedule 1 (27));
- (x) to provide that certain money paid in respect of matters referred to private legal practitioners be kept in a separate account or accounts in the Legal Aid Fund (Schedule 1 (28) (c)—proposed section 63 (3) and (4));
- (xi) to establish the Director of the Legal Aid Commission's Trust Account (Schedule 1 (29)—proposed section 64A);
- (xii) to substitute the provisions of the Act relating to delegation of functions (Schedule 1 (30)—proposed section 69);
- (xiii) to provide that the Public Service Act, 1979, does not apply in respect of part-time commissioners (Schedule 1 (33)(b)—proposed clause 9 of Schedule 2);
- (xiv) to provide that the Public Service Act, 1979, does not apply in respect of the Director (Schedule 1 (35) (l)—proposed clause 6 of Schedule 4);
- (xv) to enable the Commission to appoint more than one person to act in the absence of a single member of the Legal Aid Review Committee (Schedule 1 (38)—proposed clause 4 (4) and (5) of Schedule 7);
- (xvi) to make provision with respect to the construction of certain references to former statutory offices and the Legal Services Commission of New South Wales (Schedule 1 (39) (b)—proposed clause 13 of Schedule 8);
- (xvii) to provide for the continuity of the Legal Services Commission of New South Wales on reconstitution (Schedule 1 (39) (b)—proposed clause 14 of Schedule 8);
- (xviii) to make provision with respect to existing part-time commissioners (Schedule 1 (39) (b)—proposed clause 15 of Schedule 8);
- (xix) to make provision in connection with the appointment of the existing Deputy Chairman of the Legal Services Commission of New South Wales as Director of the Commission and for the appointment of any other existing statutory officers under the Act to positions in the Public Service (Schedule 1 (39) (b)—proposed clause 16 of Schedule 8);

- (xx) to make provision in respect of the costs and expenses of legal services provided to a legally assisted person prior to the commencement of the Bill (Schedule 1 (39) (b)—proposed clause 17 of Schedule 8); and
  - (xxi) to provide that regulations may be made containing provisions of a savings or transitional nature (Schedule 1 (39) (b)—proposed clause 18 of Schedule 8); and
- (b) to make other amendments of a minor, consequential or ancillary nature.
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