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# ELIZABETHAE II REGINAE

A.D. 1990

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No. 22 of 1990

An Act to amend the Legal Services Commission Act, 1977.

[Assented to 26 April 1990]

The Parliament of South Australia enacts as follows:

## Short title

1. (1) This Act may be cited as the *Legal Services Commission Act Amendment Act, 1990*.

(2) The *Legal Services Commission Act, 1977*, is referred to in this Act as “the principal Act”.

## Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

## Interpretation

3. Section 5 of the principal Act is amended by striking out the definition of “legal costs” and substituting the following definition:

“legal costs” includes disbursements and any interest payable on account of legal costs.

## Constitution of Legal Services Commission

4. Section 6 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (4) and substituting the following paragraph:

(b) two persons appointed by the Governor on the nomination of the Attorney-General for the Commonwealth;

(b) by striking out from subsection (5) “the member” and substituting “a member”.

## Functions of the Commission

5. Section 10 of the principal Act is amended by striking out from paragraph (ha) of subsection (1) “the Legal Aid Commission of the Commonwealth” and substituting “any body established by the Commonwealth for the purpose of the administration of legal aid”.

**Employment of legal practitioners and other persons by the Commission**

6. Section 15 of the principal Act is amended by striking out subsections (3) to (7), inclusive, and substituting the following subsection:

(3) Persons employed by the Commission must be appointed on such terms and conditions as are from time to time determined by the Commission and approved by the Commissioner for Public Employment.

**Insertion of s. 18a**

7. The following section is inserted after section 18 of the principal Act:

**Legal costs secured by charge**

18a. (1) Where, pursuant to a condition on which legal assistance is granted, legal costs payable to the Commission by the assisted person are to be secured by a charge on land, the Director may lodge with the Registrar-General a notice (in a form approved by the Registrar-General) specifying the land to be charged and certifying that legal costs are to be charged on the land.

(2) Where a notice is lodged under subsection (1), the Registrar-General must register the notice by entering a memorandum of charge in the register book or register of Crown leases.

(3) If the land to be charged is not under the *Real Property Act, 1886*, a notice specifying the land to be charged and certifying that legal costs are to be charged on the land may be registered in the General Registry Office.

(4) Where a notice is lodged with the Registrar-General or registered in the General Registry Office under this section, the Director must inform the assisted person in writing of the action so taken.

(5) On the registration of a notice under this section, legal costs payable to the Commission by the assisted person are a charge on the land for the benefit of the fund.

(6) If any default is made in the payments on account of legal costs, the Commission has the same powers of sale over the land charged as are given by the *Real Property Act, 1886*, to a mortgagee under a mortgage in respect of which default has been made in the payment of principal.

(7) Where the amount secured by a charge registered under this section is paid or recovered or the Commission determines that such a charge is no longer required, the Director must—

(a) in the case of a charge on land under the *Real Property Act, 1886*—request the Registrar-General to remove the charge;

(b) in the case of a charge on land not under the *Real Property Act, 1886*—register a notice of the removal of the charge in the General Registry Office.

(8) The Registrar-General must, on receipt of a request for the removal of a charge on land under the *Real Property Act, 1886*, register a memorandum of the removal of the charge in the register book or register of Crown leases.

(9) No stamp duty or fee is payable in respect of any notice lodged or action of the Registrar-General pursuant to this section.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor