

Legal Aid Commission (Amendment) Bill

EXPLANATORY MEMORANDUM

Clause 1 sets out the purposes of the Act.

Clause 2 provides for the Act to come into operation on a day or days to be proclaimed.

Clause 3 refers to the *Legal Aid Commission Act 1978* as the Principal Act.

Clause 4 amends section 2 of the Principal Act so that “person” includes a body corporate.

Clause 5 amends sections 4A (9) and 21 of the Principal Act so that remunerations and allowances paid to alternate members of the Commission and members of Legal Aid Review Committees are fixed by the Governor in Council.

Clause 6 inserts a new sub-section 16 (4) which requires the Commission to indemnify the Director and officers of the Commission.

Clause 7 amends section 20 (1) (b) of the Principal Act to include certain decisions of the Commission as subject to review.

Clause 8 amends section 23 (1) of the Principal Act to provide that the form of an application for legal assistance is to be as approved by the Commission rather than as prescribed.

Clause 9 makes a number of miscellaneous amendments to section 30 of the Principal Act including:

Inserting sub-section (4A) and amending sub-section (5) of the Principal Act to provide that inclusion of a practitioner or firm of solicitors on the referral panel will be subject to acceptance of certain conditions.

Amending sub-section (8) of the Principal Act to allow for a specified period to be fixed for the removal of a name from the referral panel.

Inserting sub-section (9A) to provide that during a period of removal the practitioner or firm will not be eligible to give notice to be included on a referral panel.

Clause 10 amends section 31 of the Principal Act to clarify that both barristers and solicitors are required to disclose information to the Commission upon request despite common law principles governing the practitioner/client relationship.

Clause 11 clarifies the Commission’s powers under section 32 of the Principal Act to fix lump sum fees and fees where none are fixed under a statutory rule.

Clause 12 inserts sub-section (1A) in each of sections 34, 35 and 36 of the Principal Act to empower the Director to waive or extend in certain circumstances the time allowed for requesting reconsideration or review of a decision.

Clause 13 amends section 43 of the Principal Act to extend confidentiality to documents and information received in relation to the provision of legal assistance.

Clause 14 amends section 48 of the Principal Act to enable the Commission to recover the whole or part of any costs ordered against the assisted person and paid by the Commission.

Clause 15 amends sections 16 and 41 to require the Commission, rather than the Director, to maintain a trust account.

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