

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Legal Aid (Amendment) Bill 1991

A BILL

FOR

An Act to amend the *Legal Aid Act 1977*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Legal Aid (Amendment) Act 1991*.

5 Principal Act

2. In this Act, "Principal Act" means the *Legal Aid Act 1977*.¹

Insertion

3. After section 68 of the Principal Act the following section is inserted:

10 Personnel management

"68A. (1) The Commission's powers in relation to employment matters shall be exercised—

- (a) without patronage, favouritism or unjustified discrimination; and

- (b) with regard to the equal employment opportunity program for the Commission.

5 “(2) Without limiting the generality of paragraph (1) (a), and subject to paragraph (1) (b), the Commission’s powers in relation to employment matters shall be exercised in accordance with procedures that ensure that where a person is to be selected for engagement for a period exceeding 3 months, or for advancement, by the Commission—

- 10 (a) all persons who are eligible have, so far as practicable, a reasonable opportunity to apply for selection; and
- 15 (b) the selection is made on the basis of an assessment of the relative suitability of the applicants having regard to—
- (i) the nature of the duties to be performed; and
- (ii) the abilities, qualifications, experience, personal qualities and potential for development of each applicant that are relevant to the performance of the duties.

 “(3) A reference in this section to the exercise of a power shall be read as including a reference to the making of a report or recommendation in relation to the exercise of that power.

20 “(4) For the purposes of paragraph (1) (b), the Commission shall, after consulting with each relevant staff organisation and such other persons as the Commission considers appropriate—

- (a) develop an equal employment opportunity program for the Commission; and
- (b) from time to time, review that program.

25 “(5) The Commission shall comply with paragraph (4) (a) as soon as practicable and, in any event, within 12 months after the commencement of this section.

30 “(6) As soon as practicable after the development or review of the equal employment opportunity program, the Commission shall provide the Head of Administration with written particulars of the program.

 “(7) The Head of Administration may, from time to time, by notice in writing given to the Commission, issue guidelines to the Commission on the provisions to be made by the equal employment opportunity program, and on the development, implementation or review of the program.

35 “(8) The Commission shall take any action necessary to give effect to the equal employment opportunity program and to comply with any guidelines issued under subsection (7).

"(9) The Commission shall furnish to the Minister a written report relating to the operation of this section during each financial year.

"(10) In this section—

5 'advancement' means movement within the Commission resulting in an employee undertaking work, and being remunerated, at a higher level than previously;

'designated group' means any of the following classes of persons:

- 10 (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is a language other than English, and the children of such persons;
- (c) persons who are physically or mentally disabled;
- 15 (d) any other class of persons declared by the regulations to be a designated group for the purposes of this definition;

'employment' means—

- (a) appointment as a statutory officer of the Commission under section 17; or
- 20 (b) employment as a member of the staff of the Commission under section 20;

'employment matter', in relation to the Commission, means—

- (a) the selection of persons by the Commission for engagement and advancement;
- 25 (b) the transfer of employees of the Commission;
- (c) training and staff development for employees of the Commission;
- (d) the conditions of service of employees of the Commission; or
- 30 (e) any other matter related to the employment of persons by the Commission;

'equal employment opportunity program', in relation to the Commission, means a program designed to ensure that—

- (a) appropriate action is taken to eliminate unjustified discrimination against women and persons in designated groups in relation to employment matters; and
- 5 (b) measures are taken to enable employees who are women or persons in designated groups—
- (i) to compete for engagement, transfer or advancement; and
- (ii) to pursue careers;
- 10 as effectively as other persons and to have equal opportunities with others in relation to other employment matters;
- ‘relevant staff organisation’ means an organisation—
- (a) within the meaning of the *Industrial Relations Act 1988* of the Commonwealth;
- 15 (b) in which persons employed by the Commission would be eligible for membership; and
- (c) that is a party to an industrial award that applies in relation to the salary payable in respect of that employment;
- ‘unjustified discrimination’ includes—
- 20 (a) discrimination that is unlawful under the *Human Rights and Equal Opportunity Act 1991*; and
- (b) unjustified discrimination on the ground of age or social origin;
- but does not include—
- 25 (c) discrimination that is essential for the effective performance of the relevant duties, is not unlawful under the *Human Rights and Equal Opportunity Act 1991* and is prescribed; or
- 30 (d) discrimination that is not unlawful under the *Human Rights and Equal Opportunity Act 1991* and is in accordance with the equal employment opportunity program for the Commission or with a prescribed program.”.

NOTE

1. Ordinance No. 31, 1977 as amended by Nos. 29 and 46, 1978; No. 15, 1980; No. 84, 1982; No. 3, 1984; No. 55, 1984 (as amended by No. 1, 1985); No. 63, 1986; Nos. 17 and 41, 1988; Nos. 21 and 38, 1989; Act No. 25, 1990; modified by Regulations 1990 No. 1.