



Australian Capital Territory

Legal Aid Act 1977

A1977-31

Republication No 10

Effective: 10 January 2005 – 17 March 2005

Republication date: 10 January 2005

Last amendment made by A2004-60

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Legal Aid Act 1977* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 10 January 2005. It also includes any amendment, repeal or expiry affecting the republished law to 10 January 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

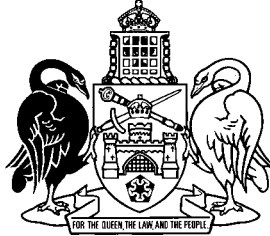
Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Legal Aid Act 1977

Contents

	Page	
Part 1	Preliminary	
1	Short title	2
5	Interpretation for Act	2
Part 2	Establishment and functions of legal aid commission	
6	Establishment of commission	5
7	Constitution of commission	5
8	Functions of commission	6
8A	Funding agreements—application of Act	7
9	Powers of commission	7
10	Duties of commission	9
11	Guidelines for allocation of work	10
12	Guidelines for provision of assistance	11

R10
10/01/05

Legal Aid Act 1977
Effective: 10/01/05-17/03/05

contents 1

	Page
13 Professional conduct by officers of commission	12
Part 3 Establishment and functions of legal aid committees	
14 Establishment of committees	14
15 Constitution of committees	14
16 Functions of committees	15
Part 4 Officers of commission	
17 Chief executive officer and assistant executive officers	16
18 Qualifications for appointment	16
19 Duties of assistant executive officers	16
19A Statutory officers of the commission to furnish reports	16
19B Statutory officers of the commission to follow directions	17
20 Staff of commission	17
21 Delegation	17
22 Rights of officers of commission in relation to legal practice	18
23 Legal practitioner on record	19
Part 5 Provision of legal assistance by commission	
24 Bringing services of commission to public notice	21
25 Application for legal assistance	21
26 Determination of applications for legal assistance	22
27 Termination or variation of legal assistance	23
28 Circumstances in which legal assistance may be provided	24
28A Legal assistance under the convention	25
29 Legal assistance—interests adverse to Territory	26
30 Legal advice and duty lawyer services	26
31 Contribution towards costs and expenses	27
31A Security for payment of contribution	28
32 Arranging for services of private legal practitioners	30
32A Prohibition of additional payments to private practitioners	32
33 Entitlement of legally assisted persons to costs in proceedings	33
34 Payment by commission of costs awarded against legally assisted persons	35
35 Notification of decisions	36

	Page
Part 6	Reconsideration and review of decisions
36	Reconsideration of decision 38
37	Establishment and constitution of review committees 40
39	Function of review committee 41
39A	Chief executive officer and person requesting review to have opportunity to be heard 42
39B	Power of review committees to obtain information and documents 42
40	Decision of review committee 43
40A	Cessation of committee 43
Part 7	Finances of commission
41	Establishment of fund 44
42	Banking accounts 44
43	Application of fund 45
44	Limitation on contracts 46
45	Estimates of expenditure 46
46	Proper accounts to be kept by commission 47
47	Audit 47
Part 8	Administrative provisions relating to commission
Division 8.1	Commissioners
48	Tenure of office 48
50	Qualifications for appointment 48
51	Resignation 49
52	Removal from office 49
53	Acting president of commission 49
54	Meetings 50
55	Interests to be disclosed 51
Division 8.2	Officers of commission
56	Conditions of appointment 52
58	Leave of absence 52
59	Resignation 53
60	Removal from office 53
60A	Review of decision to remove from office 53

Contents

		Page
61	Outside employment	54
62	Acting appointments	54
68	Conditions of employment of staff	55
68A	Personnel management	55
69	Application of Legal Practitioners Act to officers of commission	58
Part 9	Administrative provisions relating to legal aid committees	
70	Tenure of office	59
71	Senior member etc of committee	59
72	Resignation	59
73	Removal from office	59
74	Meetings of committee	60
75	Interests to be disclosed	60
Part 10	Administrative provisions relating to review committees	
76	Membership of panel	62
77	Resignation from panel	62
78	Removal from panel	62
79	Allowances	63
80	Meetings of review committee	63
81	Interests to be disclosed	64
Part 11	Consultative committees	
82	Establishment of consultative committees	65
83	Constitution of consultative committees	65
84	General provisions relating to consultative committees	66
Part 11A	Inquiry relating to affairs of commission	
84A	Definitions for pt 12	67
84B	Appointment of person to conduct inquiry	67
84C	Assistants	68
84D	Access to documents etc	68
84E	Professional privilege	68

		Page
Part 13	Miscellaneous	
91	Liabilities of commission and Territory	70
91A	Grants to voluntary legal assistance organisations	71
92	Secrecy	71
92AA	General exceptions to secrecy provisions	73
92A	Power of commission to obtain information or documents	73
93	Exemption from fees and taxes	73
94	Commission to operate as Legal Aid Office (A.C.T.)	74
95	False or misleading statements	74
95A	Interest on amounts due to commission	75
96	Certificate as to amounts owing to commission	76
98	Superannuation	76
99	Approved forms	76
100	Regulation-making power	76
Endnotes		
1	About the endnotes	77
2	Abbreviation key	77
3	Legislation history	78
4	Amendment history	83
5	Earlier republications	91



Australian Capital Territory

Legal Aid Act 1977

An Act relating to the provision of legal aid

Part 1 Preliminary

1 Short title

This Act may be cited as the *Legal Aid Act 1977*.

5 Interpretation for Act

(1) In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

assistant executive officer means an Assistant Executive Officer of the commission.

bar association means the Bar Association of the Australian Capital Territory.

chief executive officer means the Chief Executive Officer of the commission.

commencing day means 3 July 1978.

commission means the legal aid commission established by section 6.

commissioner means a commissioner of the commission, and includes the president of the commission.

consultative committee means a consultative committee established under part 11.

duty lawyer services means legal services provided by a legal practitioner attending at a proceeding of a court or tribunal, being legal services consisting of appearing on behalf of a person at, or giving legal advice to a person in connection with, the proceeding, otherwise than by prior arrangement with the person.

fund means the legal aid fund established by section 41.

funding agreement means an agreement between the Territory and the Commonwealth, a State or another Territory (***the other jurisdiction***) for the provision of legal assistance by the commission in matters arising under the laws of the other jurisdiction, if the agreement provides for the full funding of such assistance by the other jurisdiction, including funding of all overheads (including administrative overheads) involved in implementing the agreement.

judge means a judge of a federal court or of the Supreme Court of a State or Territory.

law society means the Law Society of the Australian Capital Territory.

legal aid commission means an authority established by or under a law of a State or Territory for the purpose of, or for purposes that include, the provision of legal assistance.

legal aid committee means a legal aid committee established under section 14.

legally assisted person means a person to whom legal assistance is provided under this Act.

member of a legal aid committee includes a deputy of a member of a legal aid committee other than a deputy of the chief executive officer.

member of a review committee includes a deputy of a member of a review committee.

member of the staff of the commission means a person employed under section 20.

officer of the commission means a statutory officer of the commission or a member of the staff of the commission.

practising certificate means a restricted practising certificate or an unrestricted practising certificate issued under the *Legal Practitioners Act 1970*.

private legal practitioner means a person who is practising as a barrister, as a solicitor, or as a barrister and solicitor, on his or her own account or in partnership.

produce includes permit access to.

review committee means a review committee established under part 6.

statutory interest account means an account maintained at a bank in accordance with the *Legal Practitioners Act 1970*, section 128 (2).

statutory officer of the commission means the chief executive officer or an assistant executive officer.

Territory matter means a matter arising under a Territory law, other than a law in relation to which a funding agreement is in force.

tribunal includes an authority or person having power to require the production of documents or the answering of questions, but does not include a court.

unrestricted practising certificate means an unrestricted practising certificate issued under the *Legal Practitioners Act 1970*.

- (2) A reference in this Act to the provision of legal assistance is a reference to the provision of legal services (including the giving of legal advice) without charge to the person to whom the legal services are provided or subject to the making of a payment by that person that is less than the full cost of the provision of the legal services.

- (e) a commissioner chosen from a panel of not less than 3 persons nominated by the council of the law society; and
 - (f) a commissioner chosen from a panel of not less than 3 persons nominated by the executive committee of the Council of Social Service of the Australian Capital Territory; and
 - (g) a commissioner who, in the opinion of the Minister, is a person who, by reason of qualifications, training or experience, will be able to afford specialist assistance to the commission in the performance of its functions.
- (2) The chief executive officer shall, *ex officio*, be a commissioner of the commission.
 - (3) The president and the other commissioners other than the chief executive officer shall be appointed by the Minister and shall hold office on a part-time basis.
 - (4) The performance of the functions, or the exercise of the powers, of the commission is not affected by reason of there being a vacancy or vacancies in the membership of the commission.
 - (5) The appointment of a commissioner is not invalidated, and shall not be called in question, by reason of a defect or irregularity in connection with his or her nomination.
 - (6) In this section, a reference to the chief executive officer is, if there is a person acting in the office of chief executive officer, a reference to the person so acting.

8 Functions of commission

- (1) The commission shall provide legal assistance in ACT matters in accordance with this Act.
- (2) Legal assistance may be provided by the commission by arranging for the services of private legal practitioners to be made available at the expense of the commission or by making available the services of officers of the commission.

- (3) If a funding agreement is in force—
 - (a) the Minister may direct the commission to apply the agreement; and
 - (b) the commission shall comply with the Minister's direction.
- (4) The Minister shall cause a copy of a direction under subsection (3) (a), together with a copy of the relevant funding agreement, to be laid before the Legislative Assembly within 15 sitting days after the day on which the direction is issued.

8A Funding agreements—application of Act

- (1) If the Minister issues a direction under section 8 (3) (a), this Act applies in relation to the provision of legal assistance in a matter to which the relevant funding agreement applies, subject to subsection (2).
- (2) The following provisions of this Act only apply in relation to the provision of legal assistance in a matter to which a funding agreement applies to the extent to which those provisions are not inconsistent with the funding agreement:
 - (a) section 10 (1) (g);
 - (b) sections 11 and 12;
 - (c) parts 5 and 6.

9 Powers of commission

- (1) The commission may do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) If the commission provides legal assistance by making available the services of officers of the commission, the commission shall pay any disbursements (including barristers' fees) and out-of-pocket expenses incurred in the course of providing that assistance.
- (3) If the commission provides legal assistance by arranging for the services of private legal practitioners, the commission shall, except

if the services are provided on a voluntary basis, pay fees to those private legal practitioners for the performance of those services (being fees determined by the commission in accordance with section 32 (8), (9) and (10)) and shall pay any disbursements (including barristers' fees) and out-of-pocket expenses properly incurred by them.

- (4) The commission may accept money or other property on trust and may act as trustee of money or other property held by the commission on trust.
- (5) Notwithstanding anything contained in any other provision of this Act, but subject to subsection (7), any money or other property held by the commission on trust shall be dealt with in accordance with the powers and duties of the commission as trustee under the *Trustee Act 1925*.
- (6) The provisions of the *Legal Practitioners Act 1970* relating to the keeping of accounts by solicitors in respect of money held by them on trust, and the audit of such accounts, do not apply in relation to money held by the commission on trust.
- (7) The provisions of the *Legal Practitioners Act 1970*, division 11.8 apply to and in relation to money held by the commission on trust for persons who are or have been legally assisted persons and, in the application of those provisions by reason of this subsection, a reference in those provisions to a solicitor is a reference to the commission.
- (8) Money held by the commission on trust (other than money required to be deposited with the law society under the *Legal Practitioners Act 1970*, division 11.8) may be invested by the commission in any manner in which trust funds may, for the time being, be invested under the *Trustee Act 1925*, but not otherwise, and any money resulting from investments so made shall be paid to the credit of the fund.

10 Duties of commission

- (1) In the performance of its functions, the commission shall—
- (a) ensure that legal assistance is provided in the most effective, efficient and economical manner; and
 - (b) ensure that its activities are carried on consistently with, and do not prejudice, the independence of the private legal profession; and
 - (c) liaise and cooperate with and, if the commission considers it desirable to do so, make reciprocal arrangements with, other legal aid commissions, professional bodies representing private legal practitioners and other bodies engaged or interested in the provision of legal assistance in the ACT or elsewhere; and
 - (d) liaise with professional bodies representing private legal practitioners in order to facilitate the use, in appropriate circumstances, of services provided by private legal practitioners; and
 - (e) make maximum use of services which private legal practitioners offer to provide on a voluntary basis; and
 - (f) make the services of the commission available to persons eligible for legal assistance by establishing such local offices as it considers appropriate and by making such other arrangements as it considers appropriate; and
 - (g) determine priorities in the provision of legal assistance as between different classes of persons or classes of matters; and
 - (h) arrange for the provision of duty lawyer services at sittings in the ACT of such courts and tribunals as the commission considers appropriate; and

- (i) endeavour to secure the services of language interpreters, marriage counsellors, welfare officers and other appropriate persons to assist legally assisted persons in connection with matters in respect of which they are provided with legal assistance; and
 - (j) encourage and permit law students to participate, so far as the commission considers it practicable and proper to do so, on a voluntary basis, under professional supervision, in the provision of legal assistance by officers of the commission.
- (2) The commission shall—
- (a) make recommendations to the Minister with respect to any reforms of the law the desirability for which has come to its attention in the course of the performance of its functions; and
 - (b) initiate and carry out educational programs designed to promote an understanding by the public, and by sections of the public who have special needs in this respect, of their rights, powers, privileges and duties under the law in force in the ACT.
- (3) In the performance of its functions, the commission shall have regard to the amount of money for the time being standing to the credit of the fund and of any money likely to be received by the commission for the purposes of the fund.

11 Guidelines for allocation of work

The commission shall determine guidelines for the allocation of work between officers of the commission and private legal practitioners having regard to the following considerations:

- (a) the need for legal services to be readily available and easily accessible to disadvantaged persons;
- (b) the need to make the most efficient use of the money available to the commission;

- (c) the desirability of enabling a legally assisted person to obtain the services of the legal practitioner of his or her choice;
- (d) the desirability of maintaining the independence of the private legal profession;
- (e) the desirability of enabling officers of the commission to utilise and develop their expertise and maintain their professional standards by conducting litigation and doing other kinds of professional legal work.

12 Guidelines for provision of assistance

The Commission shall determine, and make known to the public, guidelines to be applied—

- (a) in the application of section 28 for the purposes of determining whether legal assistance may be provided to a person under this Act; and
- (b) in determining whether the granting of legal assistance to a person will be subject to any of the conditions mentioned in section 31 (1); and
- (c) in determining the extent (if any) to which the commission will pay costs awarded against a legally assisted person in any proceeding; and
- (d) in determining the amount of costs or disbursements that will be required to be paid to the commission under section 33 by a legally assisted person who has been successful in the proceeding in respect of which the legal assistance was provided.

13 Professional conduct by officers of commission

- (1) An officer of the commission, when practising as, or performing any of the functions of, a solicitor, or exercising a right of audience in a court or before a tribunal, under this Act—
 - (a) shall observe the same rules and standards of professional conduct and ethics as those that a private legal practitioner is, by law or the custom of the legal profession, required to observe in the practice of his or her profession; and
 - (b) is subject to the same professional duties as those to which a private legal practitioner is subject, by law or the custom of the legal profession, in the practice of his or her profession.
- (2) Subject to section 92AA, the like privileges as those that arise from the relationship of client and solicitor acting in his or her professional capacity and in the course of his or her professional employment shall arise between a person who has applied for legal assistance, or to whom legal assistance is being provided, under this Act and a statutory officer of the commission who practises as, or performs any of the functions of, a solicitor for the person under this Act.
- (3) For the application of subsection (1) in respect of an officer of the commission who is practising as, or performing any of the functions of, a solicitor, or is exercising a right of audience in a court or before a tribunal, in the ACT on behalf of a legally assisted person—
 - (a) if there are no assistant executive officers—
 - (i) the chief executive officer shall be deemed to be a solicitor lawfully practising on his or her own account in the ACT and retained by the person to act on his or her behalf; and
 - (ii) the members of the staff of the commission shall be deemed to be employed by the chief executive officer; or

- (b) if there is an assistant executive officer or there are assistant executive officers—
- (i) the chief executive officer and the assistant executive officer or assistant executive officers shall be deemed to be a firm of solicitors lawfully practising in partnership in the ACT and retained by the person to act on his or her behalf; and
 - (ii) the members of the staff of the commission shall be deemed to be employed by that firm.
- (4) In this section:

assistant executive officer includes a person acting in the office of assistant executive officer.

chief executive officer includes a person acting in the office of chief executive officer.

Part 3 Establishment and functions of legal aid committees

14 Establishment of committees

For this Act, there shall be such legal aid committees as the commission establishes in accordance with this part.

15 Constitution of committees

- (1) Each legal aid committee shall consist of the chief executive officer and 3 other members.
- (2) The members of a legal aid committee, other than the chief executive officer, shall be appointed by the commission.
- (3) The commission shall appoint as a member of a legal aid committee 1 person who is not a legal practitioner.
- (4) The members of a legal aid committee, other than the chief executive officer and the person appointed under subsection (3), shall be persons nominated by the law society or bar association.
- (5) Subject to subsection (6), the chief executive officer may appoint another officer of the commission to be his or her deputy, or may appoint other officers of the commission to be his or her deputies, in relation to his or her membership of legal aid committees.
- (6) An officer of the commission is not eligible to be appointed as the deputy or as a deputy of the chief executive officer under subsection (5) unless he or she holds a current practising certificate.
- (7) In the event of the absence of the chief executive officer from a meeting of a legal aid committee, the deputy of the chief executive officer, or, if there is more than 1 deputy, 1 of the deputies, is entitled to attend that meeting and, while so attending, shall be deemed to be a member of the committee.

- (8) The commission may appoint a person to be the deputy of a member of a legal aid committee other than the chief executive officer and, in the event of the absence of the member from a meeting of the legal aid committee, the deputy is entitled to attend that meeting and, while so attending, shall be deemed to be a member of the committee.
- (9) In this section:
chief executive officer includes a person acting in the office of chief executive officer.

16 Functions of committees

The functions of a legal aid committee are—

- (a) to decide applications for legal assistance coming before the committee; and
- (b) to decide any other matters coming before the committee under this Act.

Part 4 Officers of commission

17 Chief executive officer and assistant executive officers

- (1) There shall be a Chief Executive Officer of the commission who shall be charged with the management of the operations and affairs of the commission.
- (2) The chief executive officer shall be appointed by the commission.
- (3) The commission may appoint such assistant executive officers of the commission as it considers necessary to assist the chief executive officer in the performance of the functions of the chief executive officer under this Act.

18 Qualifications for appointment

A person is not eligible for appointment as a statutory officer of the commission unless he or she is a legal practitioner who holds a current unrestricted practising certificate issued under the *Legal Practitioners Act 1970*.

19 Duties of assistant executive officers

An assistant executive officer shall perform such duties in relation to the management of the operations or affairs of the commission as the chief executive officer directs.

19A Statutory officers of the commission to furnish reports

A statutory officer of the commission shall, if requested by the commission to do so, furnish a report in writing to the commission with respect to—

- (a) the exercise of the officer's powers, or the performance of the officer's duties or functions, under this Act; or
- (b) the policy the officer is pursuing, or proposes to pursue, in connection with those powers, duties or functions.

19B Statutory officers of the commission to follow directions

The commission may issue directions to a statutory officer of the commission in relation to—

- (a) the exercise of the officer's powers, or the performance of the officer's duties or functions, under this Act; or
- (b) the policy the officer is to pursue in connection with those powers, duties or functions;

and the statutory officer shall observe and carry out those directions.

20 Staff of commission

- (1) The commission may employ as members of the staff of the commission such persons as it considers necessary to enable it to properly perform its functions.
- (2) The commission, if it is practicable to do so, shall make reciprocal arrangements with other legal aid commissions for the purpose of facilitating the transfer of staff between the commission and any of those other legal aid commissions.

21 Delegation

- (1) The chief executive officer may, either generally or as otherwise provided by the delegation, by signed writing, delegate to another officer of the commission any of his or her powers under this Act, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the this Act, be deemed to have been exercised by the chief executive officer.
- (3) A delegation under this section does not prevent the exercise of a power by the chief executive officer.

22 Rights of officers of commission in relation to legal practice

- (1) A statutory officer of the commission shall not perform any functions under this Act unless he or she holds a current unrestricted practising certificate.
- (2) A member of the staff of the commission shall not perform any functions of a solicitor under this Act unless he or she holds a current practising certificate.
- (3) Subject to subsection (11), a statutory officer of the commission who holds a current unrestricted practising certificate is entitled to practise as a solicitor, and to perform the functions of a solicitor, in the ACT and in any court of the Territory and has a right of audience in any court of the Territory.
- (4) Subject to subsection (11), a member of the staff of the commission who holds a current practising certificate has such rights to practise as a solicitor, and such rights to perform the functions of a solicitor, in the ACT, and such rights of audience in any court of the Territory, as he or she would have if the chief executive officer were a solicitor lawfully practising on his or her own account in the ACT and the member of the staff were employed by that solicitor.
- (5) An officer of the commission who is a legal practitioner is entitled to practise as a barrister, and to perform the functions of a barrister, in the ACT and in any court of the Territory.
- (6) In practising as a solicitor or performing any of the functions of a solicitor under this section—
 - (a) a statutory officer of the commission has all the rights and privileges of a solicitor practising on his or her own account; and
 - (b) a member of the staff of the commission has all the rights and privileges of a solicitor employed by a person practising as a solicitor on his or her own account.

- (7) In appearing for a legally assisted person in a proceeding in a court or before a tribunal under this section, an officer of the commission has the same protection and immunity as a barrister has in appearing for a party in a proceeding in that court or before that tribunal.
- (8) This section applies in relation to a person acting in the office of a statutory officer of the commission in like manner as it applies in relation to the statutory officer of the commission concerned.
- (9) Subsections (1) to (8) have effect only for the purposes of the performance by the commission of its functions.
- (10) Nothing in this section affects any right to practise as a solicitor or perform the functions of a solicitor, or any right of audience in a court or before a tribunal, that an officer of the commission has apart from this section.
- (11) The *Legal Practitioners Act 1970*, part 8 applies to and in relation to officers of the commission who are legal practitioners within the meaning of that Act in like manner as it applies to and in relation to other persons who are legal practitioners within the meaning of that Act.

23 Legal practitioner on record

- (1) If—
 - (a) in any proceeding, a document is required or permitted to be signed by a legal practitioner for a party to the proceeding who is a legally assisted person; and
 - (b) legal services are being provided to the legally assisted person in relation to the proceeding by an officer of the commission;the signature of the chief executive officer, or of an officer of the commission authorised in writing by the chief executive officer to sign documents on behalf of the chief executive officer for this section, shall be deemed to be the signature of a legal practitioner for that party.

Part 4 Officers of commission

Section 23

(2) In this section:

chief executive officer includes a person acting in the office of chief executive officer.

Part 5 Provision of legal assistance by commission

24 Bringing services of commission to public notice

The commission may, by public advertisement or otherwise, bring the services made available by the commission to the attention of the public and any officer of the commission may, in the course of the performance of his or her duties, bring those services to the attention of the public or to the attention of particular persons.

25 Application for legal assistance

- (1) An application for legal assistance, other than legal assistance consisting of the giving of legal advice or the provision of duty lawyer services, must be made to the commission in writing.

Note If a form is approved under s 99 (Approved forms) for this subsection, the form must be used (but see s (2)).

- (2) The commission may, in special circumstances, treat an application that is not in the form approved under section 99 (Approved forms) as having been properly made.
- (3) An applicant for legal assistance to which subsection (1) applies shall furnish to the commission such declarations, certificates and other documents as the commission requires for the purpose of enabling a decision to be made as to whether legal assistance should be granted in respect of the application.
- (4) If legal advice is being provided to a person under this Act and it appears to an officer of the commission that the legal advice required by the person is likely to be of a substantial or continuing nature, the officer may require the person to make an application for legal assistance in accordance with subsections (1) and (3) and, if such a requirement is made, those subsections and sections 28 (1), (2) and (3), 31 and 35 (2) apply in relation to the application.

- (5) The commission may distribute to private legal practitioners application forms for completion by persons wishing to apply for legal assistance.

26 Determination of applications for legal assistance

- (1) An application for legal assistance shall, in accordance with the directions of the commission, be decided by a legal aid committee, by the chief executive officer or by another officer of the commission authorised by the chief executive officer to decide applications for legal assistance.
- (2) The commission shall give directions as to—
- (a) the classes of cases in which applications for legal assistance are to be decided by a legal aid committee; and
 - (b) the classes of cases in which such applications are to be decided by officers of the commission.
- (3) If a legal aid committee or an officer of the commission decides to grant an application for legal assistance, the committee or officer shall also decide, in accordance with guidelines determined by the commission under sections 11 and 12—
- (a) whether the legal assistance should be provided by making available the services of a private legal practitioner or whether the legal assistance should be provided by making available the services of an officer of the commission; and
 - (b) the nature and extent of the legal assistance to be provided; and
 - (c) whether the legal assistance is to be provided without charge or subject to all or any of the conditions referred to in section 31 (1).
- (4) The chief executive officer shall ensure that each legal aid committee is provided with such assistance as it requires for the purpose of the performance of its functions under this Act.

- (5) For the purpose of deciding an application for legal assistance, a legal aid committee or an officer of the commission may make such inquiries and obtain such advice (including the opinion of counsel) and reports as the committee or officer considers desirable.
- (6) The cost of making such inquiries or obtaining such advice or reports shall be paid—
- (a) if the committee or officer so determines—by the applicant for the legal assistance; or
 - (b) in any other case—out of the fund.

27 Termination or variation of legal assistance

A decision to provide legal assistance to a person under this Act may be varied at any time so as to—

- (a) terminate the provision of the legal assistance; or
- (b) alter the nature or extent of the legal assistance; or
- (c) make the provision of the legal assistance subject to a condition in accordance with section 31; or
- (d) alter a condition to which the provision of the legal assistance is subject in accordance with section 31;

and may be so varied—

- (e) if decision was made by a legal aid committee—by such a committee; or
- (f) if the decision was made by an officer of the commission—by the chief executive officer or by an appropriate officer of the commission in accordance with arrangements made or approved by the chief executive officer.

28 Circumstances in which legal assistance may be provided

- (1) Subject to this section, and section 28A, legal assistance, other than legal assistance consisting of the giving of legal advice or the provision of duty lawyer services, may be provided to a person under this Act if, and only if—
 - (a) the person is in need of that legal assistance by reason that he or she is unable to afford the cost of obtaining from private legal practitioners the legal services in respect of which legal assistance is sought; and
 - (b) it is reasonable in all the circumstances to provide the legal assistance.
- (2) In the making of a decision whether a person is in need of legal assistance by reason that he or she is unable to afford the cost of obtaining from private legal practitioners the legal services in respect of which the legal assistance is sought, regard shall be had to all relevant matters, including the following matters:
 - (a) the income of the person;
 - (b) the cash that is readily available to the person or can be made so available;
 - (c) the debts, liabilities and other financial obligations of the person;
 - (d) the cost of living;
 - (e) the cost of obtaining the legal services from private legal practitioners;
 - (f) any other matter affecting the ability of the person to meet the cost of obtaining the legal services from private legal practitioners.

- (3) In the making of a decision whether it is reasonable in all the circumstances to provide legal assistance to a person, regard shall be had to all relevant matters, including—
- (a) the nature and extent of any benefit that may accrue to the person, to the public or to any section of the public from the provision of the assistance or of any detriment that may be suffered by the person, by the public or by any section of the public if the assistance is not provided; and
 - (b) in the case of assistance in relation to a proceeding in a court or before a tribunal—whether the proceeding is likely to terminate in a manner favourable to the person.
- (4) Legal assistance shall not be provided under this Act to a person who is not ordinarily resident in the ACT unless the assistance relates to—
- (a) a proceeding in a court, or before a tribunal, in the ACT; or
 - (b) a matter arising under the law in force in the ACT.
- (5) Legal assistance shall not be provided under this Act to a person in or in connection with a review by a review committee under part 6.
- (6) Legal assistance may be provided under this Act to a body corporate in special circumstances determined by the commission, but not otherwise.

28A Legal assistance under the convention

- (1) If—
- (a) a person makes an application for legal assistance for the purpose of securing the recognition or enforcement of a decision given in proceedings in a contracting State within the meaning of the convention; and
 - (b) a legal aid committee, the chief executive officer or another officer of the commission authorised under section 26 is

satisfied that in accordance with the convention, article 1 the person has received legal aid for those proceedings;

the person is entitled to the provision of legal assistance.

- (2) In this section:

the convention means the Convention on International Access to Justice adopted by the Fourteenth Session of the Hague Conference on Private International Law and signed at the Hague on 25 October 1980.

29 Legal assistance—interests adverse to Territory

Legal assistance may be provided under this Act (including legal assistance provided by making available the services of officers of the commission) to a person in relation to any proceeding or matter notwithstanding that the interests of that person are, or may be, adverse to the interests of the Territory, the interests of an authority or body established for a public purpose by or under a Territory law or the interests of an incorporated company in which the Territory or such an authority or body has an interest.

30 Legal advice and duty lawyer services

- (1) Legal assistance provided under this Act, being legal assistance consisting of—
- (a) legal advice, other than legal advice mentioned in section 25 (4); or
 - (b) the provision of duty lawyer services;
- shall, subject to subsection (2), be provided without charge.
- (2) In special circumstances determined by the commission, legal assistance to which subsection (1) applies may be provided subject to a condition that the person to whom the legal assistance is to be provided pays to the commission a fixed charge determined by the commission.

- (3) In special circumstances determined by the commission, legal assistance mentioned in subsection (1) shall not be provided to a person.

31 Contribution towards costs and expenses

- (1) The granting under this Act of an application by a person for legal assistance, other than legal assistance to which section 30 (1) applies, may be on the basis that the assistance will be provided without charge or may be subject to all or any of the following conditions:
- (a) a condition that the person pays to the commission a contribution of a specified amount towards the cost to the commission of providing the assistance;
 - (b) a condition that the person makes a payment or payments to the commission in respect of any out-of-pocket expenses incurred, or to be incurred, by the commission in providing the assistance;
 - (c) a condition that the payment of an amount required to be paid by the person under this subsection, together with interest, be secured by a charge under section 31A on land of the person.
- (2) An amount required to be paid by a legally assisted person under this section shall be paid in such manner as the Commission directs.
- (3) A direction under subsection (2) may require that an amount be paid to the commission by the legally assisted person's private legal practitioner out of money recoverable on behalf of the person.
- (4) If a person who is or has been a legally assisted person has not paid an amount payable by him or her to the commission under this section, the amount is recoverable by the commission by action in a court of competent jurisdiction as a debt due and payable to the commission.

- (5) If—
- (a) the commission has directed that an amount be paid by the legally assisted person's private legal practitioner to the commission out of money recoverable by the practitioner on behalf of the person; and
 - (b) the commission has notified the practitioner of its direction; and
 - (c) the practitioner recovers an amount on behalf of the legally assisted person;
- the practitioner shall pay to the commission—
- (d) if the amount recovered is less than the amount referred to in paragraph (a)—an amount equal to the amount recovered; or
 - (e) in any other case—an amount equal to the amount referred to in paragraph (a).
- (6) An amount payable by a private legal practitioner under subsection (5) is a debt due and payable to the commission by the practitioner and recoverable in a court of competent jurisdiction.
- (7) An amount paid by or recovered from a legally assisted person's private legal practitioner under this section shall be taken, for subsection (4), to have been paid by the legally assisted person.

31A Security for payment of contribution

- (1) If the provision of legal assistance is subject to the condition referred to in section 31 (1) (c), the chief executive officer may lodge with the registrar-general for registration a notice specifying the land to be charged and certifying that an amount is payable by the proprietor of the land to the commission under this Act.
- (2) An amount payable to the commission by a person in respect of whose land a notice under subsection (1) has been registered is a charge on the land.
- (3) The registrar-general shall register a notice under subsection (1).

- (4) The chief executive officer shall notify the assisted person in writing of the lodgment of a notice under subsection (1).
- (5) The *Land Titles Act 1925*, section 48 (2) does not apply to a notice under subsection (1).
- (6) Subject to subsection (7), the commission has the same power of sale over the land charged as a mortgagee who, under the *Land Titles Act 1925*, section 94, is entitled to sell the estate and interest of the mortgagor.
- (7) The commission may not exercise its power of sale under subsection (6) unless—
- (a) if the commission has issued a direction under section 31 (2)—the legally assisted person is in breach of that direction; and
 - (b) at least 1 year before exercising the power the commission has served on the legally assisted person a notice that—
 - (i) states the amount then due to the commission by the person; and
 - (ii) demands payment of the amount payable to the commission by the person; and
 - (iii) states that, unless that amount, together with interest until the day of payment, is paid, the commission may exercise its power of sale under the charge at the expiration of the period of 12 months after the date of service of the notice; and
 - (c) at least 2 months before exercising the power the commission has served on the legally assisted person and every other person who appears to have an interest in the land a notice that states—
 - (i) the amount then due to the commission by the legally assisted person; and

(ii) that, unless that amount together with interest is paid within the period of 2 months after the date of service of the notice, the commission may exercise its power of sale.

(8) If—

- (a) an amount equal to the amount secured by a charge under this section is paid; or
- (b) the commission has exercised its power of sale under subsection (6); or
- (c) the commission determines that the charge is no longer required;

the chief executive officer shall lodge with the registrar-general a notice discharging the land from any amount due to the commission and notify the legally assisted person that he or she has done so.

(9) On the lodgment of a notice under subsection (8) the registrar-general shall make an entry in the register noting that the land is discharged.

(10) In this section:

land—see the *Land Titles Act 1925*.

proprietor—see the *Land Titles Act 1925*.

32 Arranging for services of private legal practitioners

(1) For the purpose of facilitating the making of arrangements for the services of private legal practitioners to be made available to legally assisted persons, the commission shall cause to be prepared and maintained, and to be made available to legal aid committees, a list of private legal practitioners who have notified the commission that they are willing to act as barristers or solicitors on behalf of legally assisted persons, whether generally, in particular classes of matters or in particular courts or before particular tribunals.

(2) Subject to this section, the commission may—

- (a) refuse to include in the list maintained under subsection (1) the name of a private legal practitioner who has notified the commission that he or she is willing to act as a barrister or solicitor on behalf of legally assisted persons; or
 - (b) remove the name of a private legal practitioner from the list maintained under that subsection; or
 - (c) include the name of a private legal practitioner in that list together with limitations as to the classes of matters in which the services of that private legal practitioner will be sought by the commission for this Act.
- (3) The commission shall not refuse to include the name of a private legal practitioner in the list maintained under subsection (1), remove the name of a private legal practitioner from that list or include in that list limitations as to the classes of matters in which the services of a private legal practitioner will be sought by the commission for this Act, unless the commission has—
- (a) given written notice to the private legal practitioner setting out the reasons for the proposed refusal, removal or limitation; and
 - (b) afforded the private legal practitioner a reasonable opportunity to be heard in relation to the proposed refusal, removal or limitation.
- (7) In selecting a private legal practitioner whose services are to be sought to be made available to a legally assisted person in a particular case, the paramount considerations shall be the interests of the legally assisted person and any choice expressed by him or her for the services of a particular private legal practitioner but, subject to those considerations, work shall be allocated among the private legal practitioners whose names are on the list maintained under subsection (1) in a manner that is equitable having regard to the nature of their legal practices and their expertise in particular fields of law.
- (8) In determining the fees to be offered to private legal practitioners for the performance of services on behalf of legally assisted persons,

the commission shall consult the council of the law society and the council of the bar association and shall take into account the views of those bodies.

- (9) Subject to subsection (8), the fees to be offered to private legal practitioners for the performance of services on behalf of legally assisted persons shall, so far as practicable, consist of fixed amounts in respect of the performance of particular services.
- (10) The fees to be offered to private legal practitioners for the performance of legal services under this Act shall be less than the ordinary professional cost of those services.
- (11) The chief executive officer may, in such classes of cases as the commission determines, refer to a legal aid committee any accounts from private legal practitioners in respect of fees, disbursements (including barristers' fees) or out-of-pocket expenses in connection with the provision of legal assistance for the purpose of determining whether the amounts claimed are properly payable.
- (12) The commission shall maintain a record containing particulars of the number and type of matters dealt with by specified private legal practitioners under this Act and shall make the record available for inspection on request by the law society or bar association.

32A Prohibition of additional payments to private practitioners

If a private legal practitioner performs, or has performed, legal services on behalf of a legally assisted person he or she shall not demand, take or accept payment for performing the services in respect of which the legally assisted person is receiving, or has received, legal assistance under this Act other than the payment or payments to which he or she is entitled under this Act.

33 Entitlement of legally assisted persons to costs in proceedings

- (1) For the purposes of the making or enforcement of any order for costs, or the determination of any entitlement to costs, in a proceeding before a court or tribunal to which a legally assisted person is a party, that person shall be deemed to be liable to pay the ordinary professional costs of the legal services provided to him or her in or in connection with that proceeding and any disbursements (including barristers' fees) and out-of-pocket expenses incurred in or in connection with the provision of those services.
- (2) If an amount is recoverable by a legally assisted person (whether in a proceeding or under a settlement or compromise) in respect of the matter in which the legal assistance was given, the person is liable to pay to the commission an amount equal to so much of that amount as the chief executive officer, having regard to guidelines determined by the commission under section 12 (d), determines but the amount so determined shall not exceed the amount by which the sum of—
 - (a) the ordinary professional costs (including solicitor and client costs) of the legal services provided to the person in the proceeding or matter in respect of which legal assistance was provided; and
 - (b) any disbursements (including barristers' fees) and out-of-pocket expenses incurred in or in connection with the provision of those services;

exceeds any amount, or the sum of any amounts, paid by the person to the commission under section 31 in relation to the legal assistance.

- (3) In determining the amount that a legally assisted person is liable to pay under subsection (2), the chief executive officer shall have regard to—
- (a) the amount actually recovered by the legally assisted person; and
 - (b) any failure by the legally assisted person to take action to recover the amount recoverable, including any failure to comply with a direction of the chief executive officer under subsection (4).
- (4) The chief executive officer may give directions to a legally assisted person requiring the person to take specified action to recover an amount that is recoverable by the person in respect of the matter in which legal assistance was given.
- (5) If an amount is recoverable by a legally assisted person (whether in a proceeding or under a settlement or compromise) in respect of the matter in which the legal assistance was given, the chief executive officer may, by signed writing, direct the legally assisted person to assign his or her right to recover the amount to the commission within 28 days after the day on which the direction is given.
- (6) If a legally assisted person fails to comply with a direction under subsection (5) to assign to the commission his or her right to recover an amount, the legally assisted person shall be deemed to have assigned to the commission his or her right to recover the amount at the expiration of the period during which any action by way of reconsideration or review may be taken under part 6 in relation to the decision to give the direction.
- (7) Subsection (6) does not apply if the decision to give the direction with which the legally assisted person has failed to comply has, under part 6, been—
- (a) varied so that the direction is negated; or
 - (b) set aside and replaced with a decision in accordance with which the direction is negated.

- (8) If a right to recover an amount is assigned to the commission under a direction under subsection (5), or is to be deemed to be assigned to the commission in accordance with subsection (6), the commission shall, for the purpose of recovering the amount, stand in the place of the legally assisted person and may use the name of the legally assisted person and all remedies which would, but for the assignment or the operation of subsection (6), be available to the legally assisted person in any proceedings to recover the amount.
- (9) The amount that a person is liable to pay to the commission under subsection (2) is recoverable by the commission by action in a court of competent jurisdiction as a debt due and payable to the commission.

34 Payment by commission of costs awarded against legally assisted persons

- (1) If—
- (a) legal assistance is provided under this Act to a person in relation to a proceeding (other than a cross-proceeding) instituted by that person in a court or before a tribunal; and
 - (b) the court or tribunal makes an order in the proceeding directing the legally assisted person to pay costs incurred by another party to the proceeding;

either the legally assisted person or that other party may request the commission to pay to that other party on behalf of the legally assisted person an amount representing the whole or a part of the costs that the legally assisted person was so directed to pay.

- (2) A request under subsection (1) shall be decided, in accordance with guidelines determined by the commission under section 12 (c)—
- (a) if the question whether legal assistance should be granted in relation to the proceeding was decided by an officer of the commission—by a statutory officer of the commission; or

- (b) if that question was decided by a legal aid committee—by a legal aid committee.
- (3) Subject to subsection (4), the commission shall pay so much (if any) of the amount requested to be paid as the statutory officer of the commission or the legal aid committee, as the case may be, considers just and equitable for the commission to pay.
- (4) The commission shall not pay an amount in respect of costs incurred in a proceeding at first instance unless it appears to the commission that the person who made the request will suffer substantial hardship if that amount is not paid by the commission.
- (5) Any amount paid by the commission under this section shall be deemed to have been paid by the legally assisted person.

35 Notification of decisions

- (1) If a decision in relation to the provision of legal assistance or in relation to the making of any payment in respect of costs, including a decision reconsidering or reviewing a previous decision, is made by the commission, an officer of the commission or a legal aid committee under this Act, the commission shall, with 14 days after the decision is made, communicate the decision to the person who applied for the legal assistance or for the payment, as the case may be, and, if the decision is a decision refusing to provide, or imposing a condition on the provision of, legal assistance under this Act, the commission, if requested to do so, shall cause to be furnished to the person a short statement of the reasons for the decision.
- (2) The communication to a person of a decision referred to in subsection (1), other than a decision in relation only to the provision of legal advice or duty lawyer services, shall be effected—
 - (a) if the matter to which the decision relates was dealt with on behalf of the person by a private legal practitioner—by giving to the private legal practitioner, or by sending to the private legal practitioner by post to the address of the private legal practitioner last known to the commission, a document setting

out the terms of the decision and particulars of the right of the person to have the decision reconsidered and reviewed in accordance with section 36; and

- (b) in any other case—by giving such a document to the person or by sending such a document to the person—
 - (i) by post to the address of the person last known to the commission; or
 - (ii) in any other way authorised by the person.

Part 6 Reconsideration and review of decisions

36 Reconsideration of decision

- (1) If a decision has been made—
 - (a) refusing to treat an application for legal assistance that does not comply with all the requirements of section 25 (1) as having been duly made; or
 - (b) refusing to provide legal assistance under this Act; or
 - (c) refusing to provide legal assistance under this Act of the nature, or to the extent, applied for; or
 - (d) imposing a condition on the provision of legal assistance under this Act or varying adversely to a legally assisted person a condition so imposed; or
 - (e) requiring an applicant for legal assistance to pay the expenses incurred by a legal aid committee, or by an officer of the commission, in making inquiries, or obtaining advice or reports, for the purpose of deciding an application for legal assistance; or
 - (f) terminating the provision of legal assistance under this Act; or
 - (g) altering the nature or extent of legal assistance provided to a person under this Act; or
 - (h) determining, under section 33 (2), an amount payable by a legally assisted person; or
 - (i) directing a legally assisted person to take specified action to recover an amount that is recoverable by that person in respect of a matter in which legal assistance was given; or
 - (j) directing a legally assisted person to assign to the commission his or her right to recover an amount that is recoverable by him

or her in respect of a matter in which legal assistance was given; or

- (k) refusing to pay the whole or part of any amount that the commission has been requested to pay under section 34; or
- (l) refusing to allow, under subsection (4) (b), the period applied for by a person making application for a longer period within which to request the reconsideration or review of a decision to which that paragraph applies;

the legally assisted person, or the person who applied for legal assistance or for the payment, may, by notice in writing to the commission, request that the decision be reconsidered.

- (2) If a decision has been made under section 31 (2) that a legally assisted person's private legal practitioner be directed to pay to the commission an amount payable by the legally assisted person, the practitioner may, by notice in writing to the commission, request that the decision be reconsidered.
- (3) Subsection (2) shall not be taken to limit the operation of subsection (1).
- (4) If a notice requesting that a decision be reconsidered is received by the commission, the decision shall be reconsidered—
 - (a) if the decision was made by the commission—by the commission; or
 - (b) if the decision was made by a legal aid committee—by such a committee; or
 - (c) if the decision was made by an officer of the commission—by an appropriate officer of the commission in accordance with arrangements made or approved by the chief executive officer;and may either be confirmed or varied.
- (5) If a decision is confirmed or varied following a reconsideration of the decision under subsection (4), the person who requested the

reconsideration may, by notice in writing to the commission, request the commission to refer the decision, or the decision as varied, as the case may be, to a review committee for review and the commission shall comply with any such request.

- (6) Subject to subsection (7), a request by a person for reconsideration or review of a decision (being a decision made after the commencement of this subsection) shall be made before the expiration of the period of 28 days after the person received notice of the decision or of the reconsidered decision (as the case may be).
- (7) If the commission is satisfied that the failure to make a request within the period specified in subsection (6) was due to a reasonable cause, it may extend that period by a further period not exceeding 28 days.
- (8) A person who applies for an extension of the period specified in subsection (6) shall specify the ground on which the application is made.

37 Establishment and constitution of review committees

- (1) For this Act, there shall be such review committees as the chief executive officer establishes in accordance with this part.
- (2) A review committee shall consist of—
 - (a) a person chosen in accordance with subsection (3); and
 - (b) a person chosen in accordance with subsection (4); and
 - (c) a person chosen in accordance with subsection (5).
- (3) The member of a review committee referred to in subsection (2) (a) shall be a private legal practitioner chosen by the chief executive officer—
 - (a) from a panel of not more than 9 private legal practitioners nominated by the council of the bar association and approved by the Minister; or

- (b) if that council fails to nominate such a panel within 30 days after the receipt by the council of a written request by the Minister to do so—a panel of private legal practitioners chosen by the Minister.
- (4) The member of a review committee referred to in subsection (2) (b) shall be a private legal practitioner chosen by the chief executive officer—
 - (a) from a panel of not more than 9 private legal practitioners nominated by the council of the law society and approved by the Minister; or
 - (b) if that council fails to nominate such a panel within 30 days after the receipt by the council of a written request by the Minister to do so—a panel of private legal practitioners chosen by the Minister.
- (5) The member of a review committee referred to in subsection (2) (c) shall be a person chosen by the chief executive officer from a panel of not more than 9 persons (not being legal practitioners, members of the commission or officers of the commission) chosen by the Minister, each of whom has qualifications or experience relevant to the performance of the function of a review committee.

39 Function of review committee

- (1) The function of a review committee is to review decisions referred to the committee under section 36 (5).
- (2) In reviewing a decision of a kind specified in section 36 (1) (b) to (g), or a decision of 1 of those kinds as varied under section 36 (4), a review committee shall have regard to the amount of the funds available to the commission for the provision of legal assistance, the nature and extent of the legal assistance that has been provided from those funds and the nature and extent of the legal assistance that the commission is likely to be requested to provide in the future.

39A Chief executive officer and person requesting review to have opportunity to be heard

A review committee that reviews a decision referred to it under section 36 (5) shall not make a decision on the review unless it has afforded to the chief executive officer or another officer of the commission nominated by the chief executive officer, and to the person who requested the review, a reasonable opportunity—

- (a) to attend a meeting of the review committee; and
- (b) to address the review committee in relation to the review; and
- (c) to place before the committee any document relevant to the review.

39B Power of review committees to obtain information and documents

A review committee may request the chief executive officer or another officer of the commission to—

- (a) furnish to the committee any information known to him or her, or to which he or she has access, that relates to a decision being reviewed by the committee; or
- (b) produce to the committee any document in his or her custody or control that relates to a decision being reviewed by the committee; or
- (c) furnish to the committee any information relating to the amount of the funds available to the commission for the provision of legal assistance, the nature and extent of the legal assistance that has been provided from those funds and the nature and extent of the legal assistance that the commission is likely to be requested to provide in the future;

and the chief executive officer, or the officer, as the case may be, shall provide the information or produce the documents requested.

40 Decision of review committee

- (1) A review committee that reviews a decision of the commission, an officer of the commission or a legal aid committee referred to it under section 36 (5) (a *primary decision*) shall give a decision in writing—
 - (a) confirming the primary decision; or
 - (b) varying the primary decision; or
 - (c) setting aside the primary decision and making a decision in substitution for the primary decision.
- (2) A primary decision as varied by a review committee, or a decision made by a review committee in substitution for a primary decision, shall, for this Act (other than section 36 (5)), be deemed to be a decision made by the person who, or the body which, made the primary decision.
- (3) A review committee shall cause a copy of its decision to be sent to the person who requested the review and to the commission.
- (4) A review committee shall, if requested to do so by the person who requested the review, cause a short statement in writing of the reasons for the decision to be sent to the person.
- (5) The decision of a review committee shall be final and conclusive.

40A Cessation of committee

Except for the purpose of complying with a request under section 40 (4), a review committee ceases to exist on complying with section 40 (3) in respect of each decision referred to it.

Part 7 Finances of commission

41 Establishment of fund

- (1) There is established by this section a fund to be known as the legal aid fund.
- (2) Subject to subsection (4), the fund shall consist of—
 - (a) money paid to, or recovered by, the commission under this Act (other than money received or held by the commission on trust); and
 - (b) money paid to the commission out of a statutory interest account; and
 - (c) money paid to the commission, being money appropriated by the Legislative Assembly for the commission; and
 - (d) any other money paid to the commission for the purpose of the provision of legal assistance or otherwise for the fund; and
 - (e) income derived from the investment of money forming part of the fund.
- (3) The fund shall be controlled and administered by the commission.
- (4) Money paid to the commission, being money appropriated by the Legislative Assembly for the purpose of the provision of financial assistance to voluntary legal assistance organisations, does not form part of the fund.

42 Banking accounts

- (1) The commission may open and maintain an account or accounts with an approved financial institution or approved financial institutions in the ACT and shall maintain at all times at least 1 such account.

- (2) The commission shall pay all money received by it into an account referred to in this section.
- (3) Payment of money (other than money received or held by the commission on trust and money referred to in section 41 (4)) into an account referred to in this section shall be deemed to be payment of the money into the fund.
- (4) The commission shall ensure that any money received or held by the commission on trust is paid into an account that does not, or accounts that do not, contain any money of the commission not held on trust.
- (5) The commission shall ensure that money referred to in section 41 (4) is paid into an account that does not, or accounts that do not, contain money of the commission other than money referred to in that subsection.
- (6) In this section:
approved financial institution means the Reserve Bank of Australia or another financial institution approved by the Minister.

43 Application of fund

- (1) Money in the fund shall be applied only—
 - (a) in the discharge of obligations and liabilities of the commission arising under this Act; and
 - (b) in the payment of remuneration and allowances payable under this Act.
- (2) Money in the fund derived from the following sources shall not be applied otherwise than for providing legal assistance in Territory matters:
 - (a) money appropriated by the Legislative Assembly for providing legal assistance in Territory matters;

- (b) money paid to the commission under section 31 in relation to Territory matters for which legal assistance was partly funded under this Act;
 - (c) money paid to the commission under section 33 (2) in relation to Territory matters for which legal assistance was provided under this Act;
 - (d) money paid to the commission out of a statutory interest account for the provision of legal assistance under this Act;
 - (e) any other money paid to the commission for providing legal assistance in Territory matters;
 - (f) income derived from the investment of money referred to in paragraphs (a) to (e).
- (3) Money standing to the credit of the fund may be invested by the commission in any manner in which trust funds may, for the time being, be invested under the *Trustee Act 1925*, but not otherwise.

44 Limitation on contracts

The commission shall not, except with the approval of the Minister, enter into a contract involving the payment or receipt of an amount exceeding \$100 000 or, if a higher amount is prescribed, that higher amount.

45 Estimates of expenditure

- (1) The commission shall prepare estimates, in such form as the Minister directs, of receipts and expenditure of the commission for each financial year and, if the Minister so directs, for any other period specified by the Minister, and shall submit estimates so prepared to the Minister not later than such date as the Minister directs.
- (2) Money of the commission (other than money held by the commission on trust) shall not be expended otherwise than in accordance with estimates of expenditure approved by the Minister.

46 Proper accounts to be kept by commission

The commission shall cause to be kept proper accounts and records of the transactions and affairs of the commission (including transactions and affairs relating to money held by the commission on trust) and shall do all things necessary to ensure that all payments out of the fund or out of money held by the commission on trust are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the commission and over the incurring of liabilities by the commission.

47 Audit

- (1) The Auditor-General shall inspect and audit the accounts and records of the financial transactions of the commission and the records relating to the assets of, or in the custody of, the commission and shall draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his or her doing so.
- (2) The Auditor-General may, at his or her discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).
- (3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under subsection (1).
- (4) In this section—
 - (a) a reference to *financial transactions* includes a reference to financial transactions involving or related to money or property held on trust; and
 - (b) a reference to *assets* includes a reference to property held on trust.

Part 8 Administrative provisions relating to commission

Division 8.1 Commissioners

48 Tenure of office

Subject to this division, a commissioner other than the chief executive officer holds office for such period, not exceeding—

- (a) in the case of the president of the commission—5 years; or
- (b) in the case of a commissioner other than the president—3 years;

as is specified in his or her appointment, but is eligible for reappointment.

50 Qualifications for appointment

- (1) A person is not eligible for appointment as the president of the commission unless—
 - (a) he or she is or has been a judge; or
 - (b) he or she is a legal practitioner and has been for not less than 5 years.
- (2) A person is not eligible for appointment as a commissioner referred to in section 7 (1) (f) if he or she is a legal practitioner.
- (3) A person is not eligible for appointment as a commissioner referred to in section 7 (1) (g) where, if he or she were so appointed, each of the commissioners referred to in that paragraph would be a person who is a legal practitioner.

51 Resignation

A commissioner other than the chief executive officer may resign his or her office by signed writing delivered to the Minister.

52 Removal from office

- (1) The Minister may remove a commissioner other than the chief executive officer from office for misbehaviour or physical or mental incapacity.
- (2) If a commissioner other than the chief executive officer—
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (b) is absent, except by leave of the Minister, from 3 consecutive meetings of the commission; or
 - (c) fails to comply with his or her obligations under section 55;the Minister shall remove him or her from office.
- (4) Subsection (2) does not apply to a commissioner if he or she is a judge but, if a commissioner being a judge ceases to be a judge, the Minister may terminate his or her appointment.

53 Acting president of commission

- (1) The Minister, after consultation with the commission, may appoint a person who is eligible for appointment as president of the commission to act in the office of president—
 - (a) during a vacancy in the office, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the president is, or is expected to be, absent from duty or from Australia or is, for any reason, unable to perform the duties of his or her office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

- (2) A person acting in the office of president of the commission holds office on such terms and conditions as the Minister determines.
- (3) The Minister may at any time terminate an appointment under this section.
- (4) If a person is acting in the office of president of the commission in accordance with subsection (1) (b) and the office becomes vacant while that person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months elapses from the occurrence of the vacancy, whichever first happens.
- (5) A person appointed to act in the office of president of the commission may resign his or her appointment by signed writing delivered to the Minister.
- (6) The validity of anything done by a person acting in the office of president of the commission shall not be called in question on the ground that the occasion for his or her appointment had not arisen or that the appointment had ceased to have effect or that the occasion for him or her to act had not arisen or had ceased.

54 Meetings

- (1) The commission shall hold such meetings as are necessary for the performance of its functions.
- (2) The president of the commission may at any time convene a meeting of the commission.
- (3) The president of the commission, on receipt of a request in writing signed by 3 commissioners, shall convene a meeting of the commission.
- (4) At a meeting of the commission, 4 commissioners constitute a quorum.

- (5) The president of the commission shall preside at all meetings of the commission at which he or she is present.
- (6) If the president of the commission is not present at a meeting of the commission, the commissioners present shall elect 1 of their number to preside at that meeting and the person so elected shall preside accordingly.
- (7) Questions arising at a meeting of the commission shall be determined by a majority of the votes of the commissioners present and voting.
- (8) The commissioner presiding at a meeting of the commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (9) The commission may regulate the conduct of proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.
- (10) If there is a person acting in the office of president of the commission—
 - (a) a reference in this section to the president of the commission is a reference to the person so acting; and
 - (b) a reference in this section to a commissioner includes a reference to the person so acting.

55 Interests to be disclosed

- (1) A commissioner who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the commission, otherwise than as a member of, and in common with the other members of, an incorporated company which consists of more than 25 persons and of which he or she is not a director, shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the commission.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the commission and the commissioner shall not be

present during any deliberation of the commission with respect to that matter.

- (3) In this section, a reference to a commissioner includes, if there is a person acting in the office of president of the commission, a reference to the person so acting.

Division 8.2 Officers of commission

56 Conditions of appointment

- (1) A statutory officer of the commission holds office for such period, not exceeding 7 years, as is specified in his or her appointment, but is eligible for reappointment.
- (3) A statutory officer of the commission holds office on such terms and conditions in respect of matters not provided for by this Act as are determined by the commission with the approval of the Minister.

58 Leave of absence

- (1) The commission may grant leave of absence to a statutory officer of the commission.
- (2) The commission may delegate to the president its power to grant leave to the chief executive officer.
- (3) The commission may delegate to the chief executive officer its power to grant leave to an assistant executive officer.
- (4) Leave of absence under this section shall be granted on such terms and conditions as the commission determines.

59 Resignation

A statutory officer of the commission may resign his or her office by signed writing delivered to the commission.

60 Removal from office

- (1) The commission may remove a statutory officer of the commission from office for—
 - (a) misbehaviour or physical or mental incapacity; or
 - (b) inefficiency or incompetence.
- (2) If a statutory officer of the commission—
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (b) is absent from duty, except on leave granted by the commission, for 14 consecutive days, or for 28 days in any period of 12 months;the commission shall remove him or her from office.
- (3) If a decision is made under subsection (1) to remove a statutory officer of the commission from office, the commission shall cause notice of the decision, stating the reasons for the decision, to be given to a person whose interests are affected by the decision.
- (4) A notice under subsection (3) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

60A Review of decision to remove from office

Application may be made to the administrative appeals tribunal for review of a decision of the commission under section 60 (1).

61 Outside employment

Except in the performance of the duties of his or her office or with the approval of the commission, a statutory officer of the commission shall not engage in practice as a legal practitioner or engage in paid employment.

62 Acting appointments

- (1) The commission may appoint a person who is eligible for appointment as a statutory officer of the commission to act in the office of, or to act as, a statutory officer of the commission—
 - (a) during a vacancy in the office, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the statutory officer of the commission is, or is expected to be, absent from duty or from Australia or is, for any reason, unable to perform the duties of his or her office;but a person appointed to act during a vacancy shall not continue so to act for more than 1 year.
- (2) The commission may delegate to the president its power to appoint a person to act in the office of chief executive officer.
- (3) The commission may delegate to the chief executive officer its power to appoint a person to act as an assistant executive officer.
- (4) The validity of anything done by a person acting in the office of a statutory officer of the commission shall not be called in question on the ground that the occasion for his or her appointment had not arisen or that the appointment had ceased to have effect or that the occasion for him or her to act had not arisen or had ceased.

68 Conditions of employment of staff

- (1) The commission may determine the conditions of employment of the commission's staff.
- (2) The commissioner for public administration must approve the conditions before the commission determines them.
- (3) The conditions of employment of the commission's staff are as determined under this section.

68A Personnel management

- (1) The commission's powers in relation to employment matters must be exercised—
 - (a) without patronage, favouritism or unjustified discrimination; and
 - (b) with regard to the equal employment opportunity program for the commission.
- (2) For the selection of a person for employment for longer than 3 months or for promotion, the commission's powers must also be exercised in accordance with procedures that ensure that—
 - (a) all people who are eligible have, as far as practicable, a reasonable opportunity to apply for selection; and
 - (b) the selection is made on the basis of an assessment of the relative suitability of the applicants having regard to—
 - (i) the type of duties to be exercised; and
 - (ii) the abilities, qualifications, experience, personal qualities and potential for development of each applicant that are relevant to the exercise of the duties.
- (3) For subsection (1) (b), the commission must—
 - (a) develop an equal employment opportunity program for the commission; and

- (b) review the program.
- (4) The commission must consult with each relevant staff organisation and other people the commission considers appropriate before developing or reviewing the equal employment opportunity program.
- (5) As soon as practicable after the development or review of the equal employment opportunity program, the commission must give the commissioner for public administration written particulars of the program.
- (6) The commissioner for public administration may give written guidelines to the commission about—
- (a) the matters to be included in the equal employment opportunity program; and
 - (b) the development, implementation or review of the program.
- (7) The commission must take any action necessary to give effect to the equal employment opportunity program and to comply with any guidelines given under subsection (6).
- (8) The commission must give the Minister a written report about the operation of this section during each financial year.
- (9) In this section:
- designated group*** means any of the following classes of people:
- (a) members of the Aboriginal race of Australia or people who are descendants of indigenous inhabitants of the Torres Strait Islands;
 - (b) people who have migrated to Australia and whose first language is a language other than English, and their children;
 - (c) people with physical or mental disabilities;
 - (d) any other class of people declared by the regulations to be a designated group for this definition.

employment means—

- (a) appointment as a statutory officer of the commission under section 17; or
- (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 people by the commission for employment or promotion; or
- (b) the transfer of employees; or
- (c) training and staff development for employees; or
- (d) the conditions of service of employees; or
- (e) any other matter related to the employment of people.

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 people in designated groups in relation to employment matters; and
- (b) measures are taken to enable employees who are women or people in designated groups to do the following as effectively as other people and to have equal opportunities with others in relation to other employment matters:
 - (i) to compete for employment, transfer or promotion;
 - (ii) to pursue careers.

exercise, of a power, includes making a report or recommendation in relation to the exercise of the power.

promotion means movement within the commission resulting in an employee doing work, and being paid, at a higher level than previously.

relevant staff organisation means an organisation—

- (a) within the meaning of the *Workplace Relations Act 1996* (Cwlth); and
- (b) that people employed by the commission are eligible to join; and
- (c) that is a party to an industrial award that applies in relation to the salary payable for that employment.

unjustified discrimination includes—

- (a) discrimination that is unlawful under the *Discrimination Act 1991*; and
- (b) unjustified discrimination on the ground of age or social origin; but does not include—
 - (c) discrimination that is essential for the effective exercise of the relevant duties, is not unlawful under the *Discrimination Act 1991* and is prescribed under the regulations; or
 - (d) discrimination that is not unlawful under the *Discrimination Act 1991* and is in accordance with the equal employment opportunity program for the commission or with a program prescribed under the regulations.

69 Application of Legal Practitioners Act to officers of commission

The following provisions of the *Legal Practitioners Act 1970* do not apply in relation to an officer of the commission in his or her official capacity:

- (a) part 9;
- (b) division 11.7;
- (c) parts 12, 13, 14 and 15.

Part 9 Administrative provisions relating to legal aid committees

70 Tenure of office

A member of a legal aid committee other than the chief executive officer holds office, subject to this part, for a period of 1 year, but is eligible for reappointment.

71 Senior member etc of committee

- (1) The members of a legal aid committee shall elect 1 of their number to be the senior member of the committee.
- (2) The members of a legal aid committee shall elect 1 of their number (not being the member elected as senior member) to preside at meetings of the committee at which the senior member is not present.

72 Resignation

A member of a legal aid committee other than the chief executive officer may resign his or her office by signed writing delivered to the commission.

73 Removal from office

- (1) The commission may remove a member of a legal aid committee other than the chief executive officer from office for misbehaviour or physical or mental incapacity.
- (2) If a member of a legal aid committee other than the chief executive officer—
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his or her creditors; or

(b) is absent, except by leave of the commission, from 3 consecutive meetings of the committee; or

(c) fails to comply with his or her obligations under section 75;

the Commission shall remove him or her from office.

74 Meetings of committee

- (1) A legal aid committee shall hold such meetings as are necessary for the performance of its functions.
- (2) The senior member of a legal aid committee or the member of a legal aid committee elected under section 71 (2) may at any time convene a meeting of the committee.
- (3) At a meeting of a legal aid committee, 3 members of the committee constitute a quorum.
- (4) The senior member of a legal aid committee shall preside at all meetings of the committee at which he or she is present.
- (5) If the senior member of a legal aid committee is not present at a meeting of the committee, the member elected under section 71 (2) shall preside.
- (6) Questions arising at a meeting of a legal aid committee shall be determined by a majority of the votes of members of the committee present and voting.
- (7) The member of a legal aid committee presiding at a meeting of the committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (8) A legal aid committee may regulate the conduct of proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.

75 Interests to be disclosed

- (1) A member of a legal aid committee who has a direct or indirect pecuniary interest in a matter considered or about to be considered

by the committee, otherwise than as a member of, and in common with the other members of, an incorporated company which consists of more than 25 persons and of which he or she is not a director, shall as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the committee.

- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the committee and the member shall not be present during any deliberation of the committee with respect to that matter.

Part 10 Administrative provisions relating to review committees

76 Membership of panel

A member of a panel referred to in section 37 holds membership for such period not exceeding 3 years as the Minister determines in writing and, subject to section 37, is eligible to be chosen as a member of a successive panel.

77 Resignation from panel

A member of a panel referred to in section 37 may resign by writing delivered to the Minister.

78 Removal from panel

- (1) The Minister may remove a person from a panel referred to in section 37 for misbehaviour or physical or mental incapacity.
- (2) If a member of a panel—
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his or her creditors; or
 - (b) on 3 consecutive occasions, without giving prior advice to the chief executive officer, fails to attend a meeting of a review committee of which he or she is a member; or
 - (c) fails to comply with section 81;the Minister shall remove him or her from the panel.

79 Allowances

Members of a review committee shall be paid such allowances for expenses in respect of the performance of their duties as are prescribed.

80 Meetings of review committee

- (1) A review committee shall hold such meetings as are necessary for the performance of its function.
- (2) Meetings of a review committee shall be convened by the chief executive officer.
- (3) At the first meeting of a review committee the members present shall elect 1 of their number to preside at meetings of the committee.
- (4) If, at a meeting of a review committee, the presiding member is not in attendance, the members present shall appoint 1 of their number to preside at that meeting.
- (5) Questions arising at a meeting of a review committee shall be determined by a majority of the votes of members of the review committee present and voting.
- (6) The member of a review committee presiding at a meeting of the review committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (7) A review committee may regulate the conduct of proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.
- (8) At a meeting of a review committee a member chosen under section 37 (2) (c) and another member constitute a quorum.

81 Interests to be disclosed

- (1) A member of a review committee who has a direct or indirect pecuniary interest in a matter considered or about to be considered by the review committee, otherwise than as a member of, and in common with the other members of, an incorporated company which consists of more than 25 persons and of which he or she is not a director, shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the review committee.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the review committee and the member shall not be present during any deliberation of the review committee with respect to that matter.
- (3) A member of a review committee who made, or participated in the making of, a decision that is to be reviewed by the review committee shall not be present during any deliberation of the review committee with respect to that decision.

Part 11 Consultative committees

82 Establishment of consultative committees

- (1) The Minister may establish such consultative committees as he or she thinks desirable to assist the commission in the performance of its functions.
- (2) In deciding whether to establish a consultative committee to assist the commission to perform its functions in a particular locality, the Minister shall take into account any representations received from any local community organisation or from persons living, or carrying on a business, profession or trade, in that locality.

83 Constitution of consultative committees

- (1) Each consultative committee shall consist of—
 - (a) a person who is a member of the law society or a member of the bar association; and
 - (b) an officer of the commission; and
 - (c) such other persons as the Minister considers appropriate.
- (2) In selecting persons to be appointed as members of a consultative committee to assist the commission to perform its functions in a particular locality, the Minister shall have regard to the desirability of selecting persons living, or carrying on a business, profession or trade, in that locality.
- (3) Members of a consultative committee shall be appointed by the Minister and, subject to subsection (4), shall hold office for a period of 1 year, but are eligible for reappointment.
- (4) A member of a consultative committee may resign his or her office - by signed writing delivered to the Minister.

84 General provisions relating to consultative committees

- (1) The regulations may make provision for and in relation to—
 - (a) the convening of meetings of consultative committees; and
 - (b) the procedure (including provision with respect to quorums and voting) to be followed at such meetings.
- (2) Members of consultative committees shall be paid such allowances for expenses in respect of the performance of their duties as are prescribed.

Part 11A Inquiry relating to affairs of commission

84A Definitions for pt 12

In this part:

assistant means a person approved under section 84C.

inquiry means an inquiry conducted by a prescribed person under an appointment made or to be deemed to have been made under this part.

prescribed matter means any matter relating to—

- (a) the operations and affairs of the commission; or
- (b) the exercise of a power or the performance of a duty or its functions by the commission under this Act; or
- (c) the exercise of a power or the performance of a duty or function by any person under this Act.

prescribed person means a person appointed under section 84B.

84B Appointment of person to conduct inquiry

- (1) The commission, with the approval of the Minister, may, in writing, appoint a person to inquire into and report on such of the prescribed matters as are specified in the appointment.
- (2) The Minister may, in writing, appoint a person to inquire into and report on such of the prescribed matters as are specified in the appointment.
- (3) A report under this section shall be made—
 - (a) if the appointment of the prescribed person was made by the commission—to the commission and the Minister; and

- (b) if the appointment of the prescribed person was made by the Minister—to the Minister.

84C Assistants

For the purpose of conducting an inquiry, the prescribed person may be assisted by such persons as the Minister approves.

84D Access to documents etc

- (1) For the purpose of conducting an inquiry, the prescribed person or an assistant is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of or held by the commission.
- (2) The prescribed person or an assistant may make and retain copies of, or take extracts from, any accounts, records, documents or papers referred to in subsection (1).
- (3) The prescribed person or an assistant may require any person to furnish him or her with such information in the possession of the person or to which the person has access as the prescribed person or assistant considers necessary for the effective conduct of the inquiry.
- (4) A person who refuses or fails to comply with a requirement made of him or her under subsection (3) commits an offence.

Maximum penalty: 50 penalty units.

84E Professional privilege

- (1) Section 13 shall not be taken to preclude an officer of the commission from complying with a requirement made of him or her under section 84D (3).
- (2) If, in the course of an inquiry, the prescribed person or an assistant acquires information concerning the affairs of a person who has applied for legal assistance or to whom legal assistance is being or has been provided, the privileges that arise under section 13 (2)

between that person and a statutory officer of the commission who practices as, or performs any of the functions of, a solicitor for the person shall arise between that person and the prescribed person, or assistant, as the case requires.

Part 13 Miscellaneous

91 Liabilities of commission and Territory

- (1) The commission shall indemnify an officer of the commission against any liability incurred by him for any negligent act or omission by him or her in the course of the performance of his or her duties or in good faith in the purported performance of those duties.
- (2) If a private legal practitioner provides any service without charge in connection with the provision of legal assistance under this Act, the commission shall indemnify him or her against any liability incurred by him or her for any negligent act or omission by him or her in the course of the provision of those services.
- (3) The commission has the same liability for acts or omissions by an officer of the commission in the course of the performance of his or her duties as a master has for any acts or omissions by his or her servants.
- (4) A member of the commission, of a legal aid committee, of a review committee or of a consultative committee is not liable for any act or omission of the member, of the commission, or of the committee of which he or she is a member, if the act was done, or the omission occurred, in good faith in the performance of any function under this Act.
- (5) The Territory is responsible for the payment of any money owing by the commission but nothing in this subsection authorises a person to sue the Territory in respect of a claim against the commission or an officer of the commission.

91A Grants to voluntary legal assistance organisations

- (1) In this section:

voluntary legal assistance organisation means a voluntary organisation that conducts a scheme for the provision of legal assistance in the ACT.

- (2) The commission may grant to a voluntary legal assistance organisation, on such terms and conditions as the commission thinks fit, a sum by way of financial assistance.
- (3) A grant under subsection (2) shall not be made except out of money appropriated by the Legislative Assembly for the purpose of the provision of financial assistance to voluntary legal assistance organisations.

92 Secrecy

- (1) This section applies to—

(a) every person who is or has been a commissioner, an officer of the commission, a member of a legal aid committee, a member of a review committee or a member of a consultative committee; and

(c) a person who is or has been a prescribed person or an assistant.

- (2) A person to whom this section applies shall not, either directly or indirectly, except for this Act or an inquiry—

(a) make a record of, or divulge or communicate to any person, any information concerning the affairs of another person acquired by him or her by reason of his or her office or employment under or for this Act or in the performance of a function under this Act or in the course of an inquiry; or

- (b) produce to any person a document relating to the affairs of another person furnished for this Act or in the course of an inquiry.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subject to section 39B, a person to whom this section applies shall not be required to produce before a court any document relating to the affairs of another person of which he or she has the custody, or to which he or she has access, by virtue of his or her office or employment under or for this Act or in the performance of a function under this Act, or to divulge or to communicate to any court any information concerning the affairs of another person obtained by him or her by reason of such an officer or employment or in the performance of such a function.
- (4) Nothing in this section shall operate so as to prohibit a prescribed person from referring in a report furnished under part 11A to information acquired in the course of an inquiry if the reference does not reveal the identity of an applicant for legal assistance, a person to whom legal assistance is being or was provided or any other party or prospective party to litigation.
- (5) Subsection (3) does not apply if the court considers that it is necessary in the interests of justice that the document be produced or the information be divulged or communicated.
- (6) This section does not affect any law or any rule of practice or procedure relating to the discovery of documents in a proceeding in respect of which legal assistance is provided to a person under this Act.
- (7) In this section:
court includes any tribunal.
- (8) For this section, expressions used in this section that are defined in part 11A have the same respective meanings as they have in that part.

92AA General exceptions to secrecy provisions

Sections 13 and 92 do not apply to the divulgence or communication of information, or the production of a document, concerning the affairs of a person—

- (a) for the purpose of facilitating the investigation or prosecution of an offence against this Act; or
- (b) with the express or implied consent of that person; or
- (c) in response to a summons under the *Legal Practitioners Act 1970*, section 54.

92A Power of commission to obtain information or documents

- (1) Subject to subsection (2), if the commission requires an officer of the commission to—
 - (a) furnish to the commission any information known to him or her or to which he or she has access; or
 - (b) produce to the commission any document in his or her custody or control;that is relevant to the provision of legal assistance under this Act, the officer shall comply with the requirement.
- (2) Subsection (1) does not derogate from any privilege which arises under section 13 (2).

93 Exemption from fees and taxes

- (1) No fees are payable in respect of—
 - (a) the institution in a court or before a tribunal of a proceeding on behalf of a legally assisted person; or
 - (b) the filing or lodging of a document with a court or tribunal on behalf of a legally assisted person; or

- (c) the service or execution by a member of the Australian Federal Police or by an officer of a court or tribunal of process on behalf of a legally assisted person; or
 - (d) the doing of any other act or thing in a proceeding in a court or before a tribunal on behalf of a legally assisted person.
- (2) The commission is not subject to taxation imposed by or under an Act.

94 Commission to operate as Legal Aid Office (A.C.T.)

- (1) The commission shall perform its functions under section 8 under the name of the Legal Aid Office (A.C.T.).
- (2) The *Business Names Act 1963* does not apply to or in relation to the commission.

95 False or misleading statements

- (1) If—
- (a) a person is convicted of an offence against the Criminal Code, part 3.4 (False or misleading statements, information and documents) in respect of an application for legal assistance; and
 - (b) legal assistance under this Act was granted on that application; and
 - (c) the commission incurred expenses in providing that legal assistance;

the court may, in addition to imposing a penalty in respect of the offence, order the person to pay to the commission an amount equal to the amount of those expenses incurred by the commission.

- (2) For subsection (1), a certificate in writing signed by the chief executive officer, or by a person acting in the office of chief executive officer, certifying that the commission incurred expenses of an amount specified in the certificate in providing legal

assistance on an application identified in the certificate is prima facie evidence of the matters stated in the certificate.

95A Interest on amounts due to commission

- (1) If an amount is due and payable to the commission under section 31, a further amount of interest for the period commencing when the firstmentioned amount becomes payable and ending when it is paid or judgment is entered in respect of it (whichever sooner happens) is due and payable to the commission and may be recovered as a debt in a court of competent jurisdiction.
- (2) The amount of interest must be worked out at the rate percentage per year as follows:
 - (a) if the amount under section 31 is payable on or after 15 July 1992 but before the day mentioned in paragraph (b)—
 - (i) for 15 July 1992 to and including 14 January 1993—11.5%; and
 - (ii) for 15 January 1993 to and including 31 January 1994—10%; and
 - (iii) for 1 February 1994 to and including 31 July 1995—9%; and
 - (iv) for 1 August 1995 to and including 31 March 1997—10.75%; and
 - (v) for 1 April 1997 to and including 30 April 1998—9.55%; and
 - (vi) for 1 May 1998 to and including the day before the day mentioned in paragraph (b)—8.45%;
 - (b) if the amount under section 31 is payable on or after the day the *Court Procedures Act 2004* commences—at the rate applying under the rules under that Act applying in relation to the Supreme Court.

96 Certificate as to amounts owing to commission

In any action against a person for the recovery of an amount payable to the commission under section 31 or 33, a certificate in writing signed by the chief executive officer, or by a person acting in the office of chief executive officer, certifying that the sum specified in the certificate was, at the date of the certificate, payable by the firstmentioned person to the commission under that section is prima facie evidence of the matters stated in the certificate.

98 Superannuation

Nothing in this Act authorises the provision of superannuation benefits to an officer of the commission otherwise than under the *Superannuation Act 1976* (Cwlth) or under the *Superannuation Act 1990* (Cwlth).

99 Approved forms

- (1) The commission may, in writing, approve forms for this Act.
- (2) If the commission approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

100 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Legal Aid Ordinance 1977* No 31 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

Legislation before becoming Territory enactment

Legal Aid Act 1977 No 31

notified 11 July 1977

s 3 commenced 3 July 1978 (s 2 (2) and Cwlth Gaz 1978 No S108)

remainder commenced 11 July 1977 (s 2 (1))

as amended by

Legal Aid (Amendment) Ordinance 1978 No 29

notified 26 September 1978

commenced 26 September 1978

Ordinances Revision Ordinance 1978 No 46 sch 2

notified 28 December 1978

commenced 28 December 1978

Legal Aid (Amendment) Ordinance 1980 No 15

notified 30 June 1980

commenced 30 June 1980 (s 3)

Legal Aid (Amendment) Ordinance 1982 No 84

notified 20 October 1982
commenced 11 December 1982 (s 2 and Cwlth Gaz 1982 No S242)

Legal Aid (Amendment) Ordinance 1984 No 3

notified 10 February 1984
commenced 10 February 1984

Legal Aid (Amendment) Ordinance (No 2) 1984 No 55 (as am by Legal Aid (Amendment) Ordinance 1985 No 1)

notified 19 October 1984
commenced 8 February 1985 (s 2 and Cwlth Gaz 1985 No S26)

Legal Aid (Amendment) Ordinance 1985 No 1

notified 24 January 1985
commenced 24 January 1985

Note This Act only amends the Legal Aid (Amendment) Ordinance (No 2) 1984 No 55.

Legal Aid (Amendment) Ordinance 1986 No 63

notified 21 October 1986
commenced 21 October 1986

Administrative Arrangements (Consequential Amendments) Ordinance 1988 No 17 sch 2

notified 22 April 1988
commenced 22 April 1988

Legal Aid (Amendment) Ordinance 1988 No 41

notified 20 July 1988
commenced 20 July 1988

Self-Government (Consequential Amendments) Ordinance 1989 No 38 pt 2 div 15, sch 1

notified 10 May 1989 (Cwlth Gaz 1989 No S164)
s 1, s 2 commenced 10 May 1989 (s 2 (1))
pt 2 div 15, sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

Endnotes

3 Legislation history

Legislation after becoming Territory enactment

as modified by

Self-Government (Transitional Provisions) Regulations SL 1990 No 1

notified 1 February 1990
commenced 1 February 1990

as amended by

Statutory Authorities (Audit Arrangements) Act 1990 No 25 pt 10

notified 22 June 1990 (Gaz 1990 No S29)
s 1, s 2 commenced 22 June 1990 (s 2 (1))
pt 10 commenced 22 June 1990 (s 2 (2) and Gaz 1990 No S35)

Legal Aid (Amendment) Act 1992 No 13

notified 2 June 1992 (Gaz 1992 No S62)
commenced 2 June 1992

Statute Law Revision (Miscellaneous Provisions) Act 1992 No 23

notified 4 June 1992 (Gaz 1992 No S71)
commenced 4 June 1992

Legal Aid (Amendment) Act (No 2) 1992 No 53

notified 18 September 1992 (Gaz 1992 No S158)
s 4 (b), s 16 commenced 1 March 1993 (s 2 (2))
remainder commenced 18 September 1992 (s 2 (1))

Registrar-General (Consequential Provisions) Act 1993 No 64 sch 1

notified 6 September 1993 (Gaz 1993 No S172)
s 1, s 2 commenced 6 September 1993 (s 2 (1))
sch 1 commenced 1 October 1993 (s 2 (2) and Gaz 1993 No S207)

Real Property (Consequential Provisions) Act 1993 No 90 sch

notified 17 December 1993 (Gaz 1993 No S258)
s 1, s 2 commenced 17 December 1993 (s 2 (1))
sch commenced 1 January 1994 (s 2 (2) and see Gaz 1993 No S270)

Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994 (s 2 (1))
sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994 No S250)

Legal Practitioners (Amendment) Act 1994 No 76 sch

notified 23 November 1994 (Gaz 1994 No S247)
commenced 23 November 1994 (s 2)

Statute Law Revision (Penalties) Act 1994 No 81 sch

notified 29 November 1994 (Gaz 1994 No S253)
s 1, s 2 commenced 29 November 1994 (s 2 (1))
sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

Statute Law Revision Act 1995 No 46 sch

notified 18 December 1995 (Gaz 1995 No S306)
commenced 18 December 1995 (s 2)

Land Titles (Consequential Amendments) Act 1995 No 54 sch pt 1

notified 20 December 1995 (Gaz 1995 No S313)
commenced 20 June 1996 (s 2)

Remuneration Tribunal (Consequential and Transitional Provisions) Act 1995 No 56 sch

notified 20 December 1995 (Gaz 1995 No S313)
sch commenced 21 December 1995 (s 2 and see Gaz 1995 No S315)

Financial Management and Audit (Consequential and Transitional Provisions) Act 1996 No 26 sch pt 14

notified 1 July 1996 (Gaz 1996 No S130)
commenced 1 July 1996 (s 2)

Remuneration Tribunal (Consequential Amendments) Act 1997 No 41 sch 1 (as am by Act 2002 No 49 amdt 3.222)

notified 19 September 1997 (Gaz 1997 No S264)
commenced 24 September 1997 (s 2 as am by Act 2002 No 49 amdt 3.222)

Endnotes

3 Legislation history

Financial Institutions (Removal of Discrimination) Act 1997 No 88 sch

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch commenced 31 December 1997 (s 2 (2) and Gaz 1997 No S442)

**Legal Practitioners (Consequential Amendments) Act 1997 No 96
sch 1**

notified 1 December 1997 (Gaz 1997 S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch 1 commenced 1 June 1998 (s 2 (2))

Legal Aid (Amendment) Act 1997 No 97

notified 5 December 1997 (Gaz 1997 No S392)
commenced 5 December 1997 (s 2)

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Legislation (Consequential Amendments) Act 2001 No 44 pt 218

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 218 commenced 12 September 2001 (s 2 and see Gaz 2001
No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.32

notified 5 September 2001 (Gaz 2001 No S65)
commenced 5 September 2001 (s 2 (1))

Statute Law Amendment Act 2002 (No 2) No 49 amdt 3.222

notified LR 20 December 2002
s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))
amdt 3.222 commenced 24 September 1997 (s 2 (3))

Note This Act only amends the Remuneration Tribunal
(Consequential Amendments) Act 1997 No 41.

Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.15

notified LR 11 September 2003
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))
sch 3 pt 3.15 commenced 9 October 2003 (s 2 (1))

**Criminal Code (Theft, Fraud, Bribery and Related Offences)
Amendment Act 2004 A2004-15 sch 2 pt 2.50**

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.50 commenced 9 April 2004 (s 2 (1))

**Court Procedures (Consequential Amendments) Act 2004 A2004-60
sch 1 pt 1.35**

notified LR 2 September 2004
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))
sch 1 pt 1.35 commenced 10 January 2005 (s 2 and see Court
Procedures Act 2004 A2004-59, s 2 and CN2004-29)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.2614

Repeal

s 3 om 2001 No 44 amdt 1.2614

Administration

s 4 om 1978 No 46 sch 2

Interpretation for Act

s 5 am 1978 No 29 s 3; 1997 No 97 s 4
def **approved auditor** am 1978 No 29 s 3; 1989 No 38 sch 1
om 1997 No 97 sch
def **assistant director** om 1984 No 55 sch (as am by 1985
No 1 s 4)
def **assistant executive officer** ins 1984 No 55 sch (as am by
1985 No 1 s 4)
def **chief executive officer** ins 1984 No 55 sch (as am by
1985 No 1 s 4)
def **commissioner** am 1984 No 55 sch (as am by 1985 No 1
s 4)
def **Commonwealth legal aid commission** om 1982 No 84
s 4
def **director** om 1984 No 55 sch (as am by 1985 No 1 s 4)
def **duty lawyer services** am 1997 No 96 sch 1
def **funding agreement** ins 1997 No 97 s 4
def **member of a legal aid committee** am 1984 No 55 sch (as
am by 1985 No 1 s 4)
def **member of the staff of the commission** am 1997 No 97
sch
def **previous committee** om 1997 No 97 sch
def **previous fund** om 1997 No 97 sch

Endnotes

4 Amendment history

def **remuneration tribunal** om 1997 No 41 sch 1
def **repealed Act** om 1997 No 97 sch
def **statutory interest account** am 1994 No 76 sch
def **statutory officer of the commission** sub 1984 No 55 sch
(as am by 1985 No 1 s 4)
def **Territory matter** ins 1997 No 97 s 4

Establishment and functions of legal aid commission

pt 2 hdg am 1997 No 97 sch

Constitution of commission

s 7 am 1982 No 84 s 5; 1984 No 55 sch (as am by 1985 No 1 s 4);
1986 No 63 s 3; 1988 No 17 sch 2; 1989 No 38 sch 1
mod SL 1990 No 1 reg 2
am 1992 No 53 s 4; 1997 No 97 sch; pars renum R7 LA

Functions of commission

s 8 am 1997 No 97 s 5

Funding agreements—application of Act

s 8A ins 1997 No 97 s 6

Powers of commission

s 9 am 1994 No 76 sch; 1997 No 97 sch; 2001 No 56 amdt 3.442

Duties of commission

s 10 am 1982 No 84 s 6; 1988 No 17 sch 2; 1989 No 38 sch 1;
1992 No 23 sch 1; 1997 No 97 s 7, sch; pars renum R7 LA

Guidelines for allocation of work

s 11 am 1997 No 96 sch 1

Guidelines for provision of assistance

s 12 am 1997 No 97 s 8

Professional conduct by officers of commission

s 13 am 1984 No 55 sch (as am by 1985 No 1 s 4); 1992 No 53 s 5

Constitution of committees

s 15 am 1984 No 55 sch (as am by 1985 No 1 s 4); 1997 No 96
sch 1

Chief executive officer and assistant executive officers

s 17 sub 1984 No 55 s 4

Qualifications for appointment

s 18 am 1997 No 96 sch 1

Duties of assistant executive officers

s 19 sub 1984 No 55 s 4

Statutory officers of the commission to furnish reports

s 19A ins 1982 No 84 s 7
sub 1984 No 55 s 4

Statutory officers of the commission to follow directions

s 19B ins 1982 No 84 s 7
sub 1984 No 55 s 4

Staff of commission

s 20 am 1997 No 97 sch

Delegation

s 21 am 1984 No 55 sch (as am by 1985 No 1 s 4)

Rights of officers of commission in relation to legal practice

s 22 am 1984 No 55 sch (as am by 1985 No 1 s 4); 1994 No 76
sch; 1997 No 96 sch 1; 1997 No 97 sch

Legal practitioner on record

s 23 am 1984 No 55 sch (as am by 1985 No 1 s 4); 1997 No 96 sch
1

Application for legal assistance

s 25 am 2001 No 44 amdt 1.2615, amdt 1.2616

Determination of applications for legal assistance

s 26 am 1984 No 55 sch (as am by 1985 No 1 s 4); 1992 No 53 s 6

Termination or variation of legal assistance

s 27 am 1984 No 55 sch (as am by 1985 No 1 s 4)

Circumstances in which legal assistance may be provided

s 28 am 1988 No 41 s 3

Legal assistance under the convention

s 28A ins 1988 No 41 s 4

Legal assistance—interests adverse to Territory

s 29 am 1989 No 38 s 26

Contribution towards costs and expenses

s 31 am 1992 No 53 s 7; ss renum R7 LA

Security for payment of contribution

s 31A ins 1992 No 53 s 8
am 1993 No 64 sch 1; 1993 No 90 sch; 1995 No 54 sch

Arranging for services of private legal practitioners

s 32 am 1984 No 55 sch (as am by 1985 No 1 s 4); 1997 No 97 s 9

Prohibition of additional payments to private practitioners

s 32A ins 1980 No 15 s 4

Entitlement of legally assisted persons to costs in proceedings

s 33 am 1982 No 84 s 8; 1984 No 55 sch (as am by 1985 No 1 s 4)
1992 No 53 s 9; ss renum R7 LA

Notification of decisions

s 35 am 1982 No 84 s 9

Endnotes

4 Amendment history

Reconsideration of decision

s 36 am 1982 No 84 s 10; 1984 No 55 sch (as am by 1985 No 1 s 4); 1992 No 53 s 10; ss and pars renum R7 LA

Establishment and constitution of review committees

s 37 am 1982 No 84 s 11; 1988 No 17 sch 2; 1992 No 53 s 11; 1997 No 97 sch

Appointment of members of review committees

s 38 am 1982 No 84 s 12; 1984 No 55 sch (as am by 1985 No 1 s 4); 1988 No 17 sch 2
om 1992 No 53 s 12

Function of review committee

s 39 am 1982 No 84 s 13

Chief executive officer and person requesting review to have opportunity to be heard

s 39A ins 1978 No 29 s 4
am 1982 No 84 s 14; 1984 No 55 s 6

Power of review committees to obtain information and documents

s 39B ins 1982 No 84 s 15
am 1984 No 55 sch (as am by 1985 No 1 s 4)

Decision of review committee

s 40 am 1982 No 84 s 16

Cessation of committee

s 40A ins 1992 No 53 s 13

Establishment of fund

s 41 am 1978 No 29 s 5; 1989 No 38 sch 1

Banking accounts

s 42 am 1978 No 29 s 6; 1989 No 38 sch 1; 1997 No 88 sch; ss renum R7 LA

Application of fund

s 43 am 1978 No 29 s 7; 1997 No 97 s 10; 2001 No 56 amdt 3.442; ss renum R7 LA

Limitation on contracts

s 44 am 1988 No 17 sch 2; 1992 No 53 s 14

Estimates of expenditure

s 45 am 1988 No 17 sch 2

Audit

s 47 am 1988 No 17 sch 2
sub 1990 No 25 s 12; 1996 No 26 sch pt 14

Tenure of office	
s 48	am 1984 No 55 sch (as am by 1985 No 1 s 4); 1986 No 63 s 4; 1989 No 38 sch 1; 1992 No 53 s 15
Commissioners	
div 8.1 hdg	(prev pt 8 div 1 hdg) renum R7 LA
Remuneration and allowances	
s 49	am 1984 No 55 sch (as am by 1985 No 1 s 4) om 1997 No 41 sch 1
Qualifications for appointment	
s 50	am 1982 No 84 s 17; 1984 No 55 sch (as am by 1985 No 1 s 4); 1989 No 38 sch 1; 1997 No 96 sch 1
Resignation	
s 51	am 1984 No 55 sch (as am by 1985 No 1 s 4); 1988 No 17 sch 2
Removal from office	
s 52	am 1984 No 55 sch (as am by 1985 No 1 s 4); 1986 No 63 s 5; 1988 No 17 sch 2; 1989 No 38 sch 1
Acting president of commission	
s 53	am 1984 No 55 s 6A, sch (as am by 1985 No 1 s 2, s 4); 1988 No 17 sch 2
Meetings	
s 54	am 1984 No 55 sch (as am by 1985 No 1 s 4); 1992 No 53 s 16; 1997 No 97 sch
Interests to be disclosed	
s 55	am 1984 No 55 sch (as am by 1985 No 1 s 4)
Officers of commission	
div 8.2 hdg	(prev pt 8 div 2 hdg) renum R7 LA
Conditions of appointment	
s 56	am 1984 No 55 sch (as am by 1985 No 1 s 4); 1988 No 17 sch 2; 1997 No 97 s 11
Remuneration and allowances	
s 57	om 1995 No 56 sch
Leave of absence	
s 58	sub 1992 No 53 s 17
Resignation	
s 59	am 1984 No 55 sch (as am by 1985 No 1 s 4)
Removal from office	
s 60	am 1984 No 55 s 7, sch (as am by 1985 No 1 s 2, s 4); 1989 No 38 sch 1; 1994 No 60 sch 1

Endnotes

4 Amendment history

Review of decision to remove from office

s 60A ins 1989 No 38 sch 1
am 1994 No 60 sch 1

Outside employment

s 61 am 1997 No 96 sch 1

Acting appointments

s 62 am 1992 No 53 s 18; ss renum R7 LA

Election to be employed by commission

s 63 om 1997 No 97 sch

Rate of remuneration

s 64 am 1984 No 55 sch (as am by 1985 No 1 s 4); 1989 No 38
sch 1
om 1997 No 97 sch

Prior service to be reckoned as employment with the commission

s 65 om 1997 No 97 sch

Accrued recreation leave

s 66 om 1997 No 97 sch

Special conditions of employment

s 67 om 1997 No 97 sch

Conditions of employment of staff

s 68 am 1989 No 38 sch 1
sub A2003-41 amdt 3.312

Personnel management

s 68A ins 1992 No 13 s 3
sub A2003-41 amdt 3.313

Application of Legal Practitioners Act to officers of commission

s 69 am 1980 No 15 s 5; 1994 No 76 sch
sub 1997 No 97 s 12

Tenure of office

s 70 am 1984 No 55 sch (as am by 1985 No 1 s 4)

Senior member etc of committee

s 71 am 1984 No 55 s 7A, sch (as am by 1985 No 1 s 2, s 4)

Resignation

s 72 am 1984 No 55 sch (as am by 1985 No 1 s 4)

Removal from office

s 73 am 1984 No 55 sch (as am by 1985 No 1 s 4)

Meetings of committee

s 74 am 1984 No 55 sch (as am by 1985 No 1 s 4)

Membership of panel

s 76 am 1982 No 84 s 18
sub 1992 No 53 s 19
am 1997 No 97 sch

Resignation from panel

s 77 am 1982 No 84 s 19; 1988 No 17 sch 2
sub 1992 No 53 s 19

Removal from panel

s 78 am 1982 No 84 s 20; 1988 No 17 sch 2
sub 1992 No 53 s 19

Meetings of review committee

s 80 am 1984 No 55 sch (as am by 1985 No 1 s 4); 1992 No 53 s
20

Establishment of consultative committees

s 82 am 1988 No 17 sch 2; 1997 No 97 sch

Constitution of consultative committees

s 83 am 1988 No 17 sch 2; 1997 No 97 sch

Inquiry relating to affairs of commission

pt 11A ins 1984 No 3 s 3

Definitions for pt 12

s 84A ins 1984 No 3 s 3
def **assistant** ins 1984 No 3 s 3
def **inquiry** ins 1984 No 3 s 3
def **prescribed matter** ins 1984 No 3 s 3
am 1997 No 97 sch
def **prescribed person** ins 1984 No 3 s 3
am 1997 No 97 sch

Appointment of person to conduct inquiry

s 84B ins 1984 No 3 s 3
am 1988 No 17 sch 2

Assistants

s 84C ins 1984 No 3 s 3
am 1988 No 17 sch 2

Access to documents etc

s 84D ins 1984 No 3 s 3
am 1998 No 54 sch

Professional privilege

s 84E ins 1984 No 3 s 3

Endnotes

4 Amendment history

Appointments for particular inquiry

s 84F ins 1984 No 3 s 3
am 1988 No 17 sch 2
om 1997 No 97 sch

Transitional

pt 12 om 1997 No 97 sch

Transfer of rights and liabilities

s 85 om 1997 No 97 sch

Transfer of moneys

s 86 om 1997 No 97 sch

Contracts

s 87 om 1997 No 97 sch

Previous Committee to continue for certain purposes

s 88 om 1997 No 97 sch

Previous applications for legal aid

s 89 om 1997 No 97 sch

Change of solicitor

s 90 om 1984 No 55 sch (as am by 1985 No 1 s 4)

Payment for legal assistance provided before commencing day

s 90A ins 1978 No 29 s 8
am 1997 No 96 sch 1
om 1997 No 97 sch

Liabilities of commission and Territory

s 91 am 1989 No 38 s 27, sch 1

Grants to voluntary legal assistance organisations

s 91A ins 1978 No 29 s 9
am 1989 No 38 sch 1

Review of decision to remove statutory officer of commission from office

s 91B ins 1985 No 1 s 7B (as am by 1985 No 1 s 2)
om 1989 No 38 sch 1

Secrecy

s 92 am 1982 No 84 s 21; 1984 No 3 s 4; 1992 No 53 s 21; 1994
No 81 sch; ss renum R7 LA

General exceptions to secrecy provisions

s 92AA ins 1992 No 53 s 22
am 1994 No 76 sch

Power of commission to obtain information or documents

s 92A ins 1982 No 84 s 22

Exemption from fees and taxes

s 93 am 1982 No 84 s 23

Commission to operate as Legal Aid Office (A.C.T.)

s 94 am 1978 No 29 s 10; 1997 No 97 sch

False or misleading statements

s 95 am 1984 No 55 sch (as am by 1985 No 1 s 4); 1994 No 81 sch; A2004-15 amdt 2.109, amdt 2.110; ss renum R9 LA (see A2004-15 amdt 2.111)

Interest on amounts due to commissions 95A ins 1992 No 53 s 23
am 1995 No 46 sch; A2004-60 amdt 1.171**Certificate as to amounts owing to commission**

s 96 am 1984 No 55 sch (as am by 1985 No 1 s 4)

Annual report and financial statementss 97 am 1978 No 29 s 11; 1982 No 84 s 24; 1988 No 17 sch 2;
1989 No 38 sch 1
om 1990 No 25 s 13**Superannuation**

s 98 am 1997 No 97 s 13

Approved formss 99 am 1988 No 17 sch 2; 1989 No 38 sch 1
sub 2001 No 44 amdt 1.2617**Regulation-making power**

s 100 ins 2001 No 44 amdt 1.2617

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1992 No 53	18 September 1992
2	Act 1993 No 90	31 January 1994
3	Act 1994 No 81	28 February 1995

Endnotes

5 Earlier republications

Republication No	Amendments to	Republication date
4	Act 1996 No 26	1 July 1996
5	Act 1996 No 26	30 November 1996
6	Act 1997 No 97	31 December 1997
7	Act 2001 No 56	18 February 2002
7 (RI)	A2001-56 ‡	11 February 2003
8	A2003-41	9 October 2003
9	A2004-15	9 April 2004

‡ includes retrospective amendments by A2002-49

© Australian Capital Territory 2005